

**REDEVELOPMENT AGREEMENT**

**By and Between**

**THE TOWNSHIP OF CRANFORD, as Redevelopment Entity**

**and**

**IRON ORE PROPERTIES LLC, as Redeveloper**

Dated: \_\_\_\_\_, 2022

**THIS REDEVELOPMENT AGREEMENT** ("Redevelopment Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between:

**THE TOWNSHIP OF CRANFORD**, a municipal corporation of the State of New Jersey, having its offices at 8 Springfield Avenue, Cranford, NJ 07016 in its capacity as a "redevelopment entity" pursuant to N.J.S.A. 40A:12A-4(c) (hereinafter referred as the "Township");

**A N D**

**IRON ORE PROPERTIES, LLC**, a New Jersey limited liability company, having its offices at 55 Bleeker Street, 2<sup>nd</sup> Floor, Millburn, New Jersey 07041 (together with permitted successors or assigns as hereinafter provided, referred to as the "Redeveloper"). The Township and the Redeveloper are sometimes collectively referred to as the "Parties".

**W I T N E S S E T H**

**WHEREAS**, on August 11, 2020, the Mayor and Governing Body of the Township (collectively the "Governing Body") have adopted Resolution No. 2020-270 entitled "Resolution Requesting the Planning Board to Evaluate Certain Properties on South Avenue and Chestnut Street to determine if they Should be Designated as an Area in Need of Rehabilitation." The properties referred to in this resolution are: a. 201 Walnut Avenue - Block 484, Lot 19.01 ("Walnut Avenue") b. 100-126 South Avenue E - Block 478, Lots 1.01, 1.02, 2, 3, 4, and 5; c. 32 High Street- Block- 478, Lot 6; and d. 2 Chestnut Street - Block 483, Lot 18 (\*collectively, with 100-126 South Avenue and 32 High Street "South Avenue") (collectively the "Rehabilitation Area" or the "Project Site"); and

**WHEREAS**, on September 2, 2020, upon motion, the Planning Board requested proposals to conduct the preliminary investigation pursuant to the Governing Body's Resolution No. 2020-270 and on September 16, 2020, upon motion, Planning Board hired Topology NJ, LLC to perform the preliminary investigation to determine if the Project Site should be designated as an Area in Need of Rehabilitation; and

**WHEREAS**, on February 3, 2021, the Planning Board held a public hearing wherein Topology NJ, LLC presented its Area in Need of Rehabilitation Report dated January 28, 2021 ("Topology Report") recommending that the Project Site be designated as an Area in Need of Rehabilitation to the Planning Board for review and consideration; and

**WHEREAS**, the Planning Board, by motion, adopted the conclusions in the Topology Report and recommended referral of the Topology Report to the Township Committee and adoption of a resolution designating the Project Site as an Area in Need of Rehabilitation; and

**WHEREAS**, at its February 23, 2021 meeting, the Township Committee received, reviewed and considered the Topology Report along with the Planning Board's recommendation that the Project Site be declared an Area in Need of Rehabilitation. By motion, the Township Committee approved the resolution in draft form to designate the Project Site as an Area in Need

of Rehabilitation and referred the draft resolution to the Planning Board for comment and recommendation pursuant to N.J.S.A. 40A:12A-14; and

**WHEREAS**, on March 17, 2021, the Planning Board voted to accept the Governing Body's proposed resolution without any changes agreeing that the Project Site should be designated as an Area in Need of Rehabilitation; and

**WHEREAS**, on March 30, 2021, the Governing Body adopted Resolution No. 2021-164 designating the Project Site as an area in need of rehabilitation pursuant to the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.* (the "Redevelopment Law"); and

**WHEREAS**, on February 10, 2022, the State of New Jersey, Department of Community Affairs ("DCA") issued a letter confirming that the rehabilitation area determination that is subject to Resolution 2021-164 is effective upon transmission of the Resolution to DCA; and

**WHEREAS**, pursuant to *N.J.S.A.* 40A:12A-7, the Governing Body, by and through its professional planner, Topology NJ, LLC, prepared a redevelopment plan dated January 19, 2022 for the Project Site entitled "South Avenue and Chestnut Street Redevelopment Plan" ("Redevelopment Plan") and on January 25, 2022, referred the Redevelopment Plan to the Planning Board for its review and recommendation; and

**WHEREAS**, on February 16, 2022, the Planning Board issued its report to the Governing Body advising that the Redevelopment Plan is consistent with the Master Plan; and

**WHEREAS**, on February 22, 2022, the Governing Body duly adopted Ordinance 2022-03 implementing the Redevelopment Plan in accordance with *N.J.S.A.* 40A:12A-7 (as the same may be amended and supplemented from time to time, the "Redevelopment Plan"); and

**WHEREAS**, the Governing Body acts as the redevelopment entity for such Redevelopment Plan in accordance with *N.J.S.A.* 40A:12A-4; and

**WHEREAS**, the Redeveloper either controls or through its Affiliates has 10% or more ownership interest in the entity or entities which own the properties which comprise the Project Site; and

**WHEREAS**, the Redeveloper proposes to develop, finance, construct and implement upon the Project Site, in multiple phases, the following: For the South Avenue Phase: i. New construction of approximately 55 residential dwelling units; ii. New construction of commercial/retail space of approximately 5,800 square feet in size; iii. Renovation and incorporation into the Project of the existing single-story commercial buildings located at 100-104 South Avenue to remain as commercial/retail space; iv. Conversion of 2 Chestnut Street in the Township into overflow surface parking; and v. Construction of related parking, site improvements and amenities. For the Walnut Avenue Phase: i. New construction of a single building containing approximately 37 residential dwelling units; ii. Special Needs Housing comprised of both a self-contained 4-bedroom group home within the building and 2 two-bedroom independent living units;

and iii. Construction of related parking, site improvements and amenities (collectively, the "Project"); and

**WHEREAS**, the Township has determined that the Redeveloper possesses the proper qualifications and experience to implement and complete the Project in accordance with the Redevelopment Plan, and all other applicable laws, ordinances and regulations; and

**WHEREAS**, in order to effectuate the Redevelopment Plan, the Project and the rehabilitation of the Rehabilitation Area, the Township Committee has determined to enter into this Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement designates Redeveloper as the "redeveloper" of the Project as that term is defined in the Redevelopment Law, and which specifies the respective rights and responsibilities of the Township and the Redeveloper with respect to the Project,

**NOW THEREFORE**, in consideration of the promises and mutual covenants herein contained, the Parties hereto do hereby covenant and agree, each with the other, as follows:

## **ARTICLE 1 DEFINITIONS**

1.01. Definitions. As used in this Redevelopment Agreement, the following terms shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Redevelopment Agreement shall include the corresponding masculine, feminine and neuter. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Redevelopment Agreement unless otherwise specified.

(a) The following terms shall have the meanings ascribed to them in the Preamble and Recitals to this Redevelopment Agreement:

Governing Body	Redevelopment Agreement
Fee Owner	Redevelopment Law
Parties	Redevelopment Plan
Project Site or Property	Rehabilitation Area
Project	Township
Redeveloper	Iron Ore Properties LLC

(b) The following terms shall have the definitions ascribed to them herein:

"Affiliate" means with respect to any Person, any other Person directly or indirectly Controlling or Controlled by, or under direct or indirect common Control with such Person.

"Affordable Housing Obligation" shall be as set forth at Section 4.05 hereof.

"Appeal Period" shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any Governmental Approval.

"Applicable Laws" means all federal, state and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Redevelopment Law, the MLUL, relevant construction codes including construction codes governing access for people with disabilities, and such other applicable zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, and all applicable environmental laws and applicable federal and state labor standards.

"Bond" is defined in Section 4.04(b).

"Building Permit" means a building permit issued by or on behalf of the Township for construction of the Project, excluding a demolition permit but including a footings and foundation permit.

"Business Days" means all days except Saturdays, Sundays and the days observed as public holidays by the Township.

"Certificate of Completion" means written acknowledgement by the Township in recordable form that the Redeveloper has Completed Construction of the Project in accordance with the requirements of this Redevelopment Agreement, substantially in the form annexed hereto as Exhibit D.

"Certificate of Occupancy" means a temporary or permanent certificate of occupancy as defined in the applicable ordinances of the Township and the applicable provisions of the Uniform Construction Code.

"Commencement", "Commence Construction", "Commencement of Construction", or "Commencement Date" means the undertaking of any actual physical construction of any portion of the Project, including environmental remediation, construction of Improvements or construction or upgrading of infrastructure.

"Completion", "Completion of Construction", "Complete Construction", or "Completion Date" means the completion of construction of the Project in accordance with the Redevelopment Plan and this Redevelopment Agreement, sufficient for issuance of a Certificate of Occupancy and subject only to the installation of landscaping, if the delay in completion thereof is necessitated by seasonal concerns.

"Completion Notice" means written notification to the Township of Completion of Construction of the Project and request by Redeveloper for the issuance by the Township of a Certificate of Completion.

"Construction Event of Default" means if Redeveloper (i) fails to Commence Construction within the time frame specified in Section 4.01(a)(iii) of this Redevelopment Agreement (as same may be modified pursuant to the terms hereof and subject to Force Majeure); or (ii) abandons the

Project or substantially suspends construction work after obtaining a Building Permit or Commencement of Construction without the prior knowledge and consent of the Township for more than sixty (60) days (unless such suspension arises out of a Force Majeure Event or Permitted Construction Delay Event), and any such failure, abandonment or suspension under clauses (i) or (ii) shall not be cured, ended, or remedied within thirty (30) days after receipt by the Redeveloper of notice of such failure, abandonment or suspension; provided, however, that if the failure, abandonment or suspension is one that cannot be completely cured within ninety (90) days after receipt of such notice, it shall not be a Construction Event of Default as long as the Redeveloper promptly began to take actions to correct the failure, abandonment or suspension upon its receipt of notice thereof, promptly sent a request for extension pursuant to Section 9.04 of this Redevelopment Agreement and has demonstrated to the Township that it is proceeding with due diligence to remedy the failure, abandonment or suspension as soon as reasonably practicable.

"Control" (including the correlative meanings of the terms "controlled by", "controlling" and "under common control with"), as used with respect to the Redeveloper, the power, directly or indirectly, to direct or cause the direction of the management policies of the Redeveloper, whether through the ownership of an interest in the Redeveloper, or by contract or otherwise.

"County" means Union County, New Jersey.

"Declaration of Covenants and Restrictions" or "Declaration of Restrictions" means a written instrument to be executed by Redeveloper and recorded in the Office of the Union County Register, substantially in the form annexed hereto as Exhibit B, intended to encumber the Property and to run with the land until a Certificate of Completion has been issued for the Project, except as otherwise expressly provided therein, setting forth certain statutory and contractual undertakings of and restrictions applicable to Redeveloper and its permitted successors and assigns in connection with the ownership, redevelopment or rehabilitation of the Project, all as more particularly described in Article 3.

"Effective Date" means the date this Redevelopment Agreement has been executed by all of the Township, the Redeveloper, and the Fee Owner.

"Environmental Laws" means any and all current and future federal, state and local environmental laws, rules, statutes, directives, binding written interpretations, binding written policies, ordinances and regulations issued by any governmental entity (whether federal, state, county or local) with respect to or which otherwise pertain to or affect the Project Site or its use, ownership, occupancy or operation, relating to the environment, and to any Hazardous Waste, or Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Emergency Planning And Community Right-To-Know Act of 1986 (42 U.S.C. §§ 11001 et seq.), the Industrial Site Recovery Act ("ISRA") (N.J.S.A. 13:1K-6 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1H-1 et seq.), the New Jersey Freshwater Wetlands

Protection Act (N.J.S.A. 13:9B-1 et seq.), the Brownfield and Contaminated Site Remediation Act ("Brownfield Act") (N.J.S.A. 58:10B-1 et seq.), the Hazardous Substance Discharge Reports and Notices Act (N.J.S.A. 13:1K-15 et seq.), the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), the New Jersey Spill Compensation and Control Act ("Spill Act") (N.J.S.A. 58:10-23.11 et seq.) the New Jersey Underground Storage of Hazardous Substances Act ("UST Act") (N.J.S.A. 58:10A et seq.) and the Site Remediation and Reform Act (N.J.S.A. 58:10C-1 et seq.) as said laws have been modified, supplemented or amended from time to time, the regulations now or hereafter promulgated pursuant to said laws and any other applicable laws, statutes, regulations, ordinances, rule, standard or regulation which regulates, prescribes or proscribes the use, storage, disposal, presence, remediation, removal, cleanup, transportation, discharge or threatened discharge, or release or threatened release into the environment. The term "Environmental Laws" does not include laws relating to industrial hygiene or worker safety.

"Escrow Account" is defined in Section 7.02(a).

"Escrow Deposit" is defined in Section 7.02(a).

"Estoppel Certificate" is defined in Section 8.12.

"Event of Default" is defined in Section 5.01.

"Existing Members" means the Persons owning membership interests in the Redeveloper as of the date of this Redevelopment Agreement, which Persons are set forth in Exhibit E annexed hereto.

"Force Majeure Event" means causes that are beyond the reasonable control and not substantially due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, third-party litigation that enjoins implementation of the Project; declarations of public emergency; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures, or energy shortages; governmental embargoes; strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials.

"Foreclosure" is defined in Section 6.03(b).

"Governmental Approvals" means all governmental approvals required for the Commencement of Construction, Completion of Construction, and use and occupancy of the Project, including, without limitation, site plan approval by the Planning Board; County planning board approvals, if and to the extent required; a Financial Agreement with the Township of Cranford evidencing a Payment in Lieu of Taxes for the Project; Building Permits; environmental permits, approvals, consents or authorizations from NJDEP and any other applicable governmental agencies; sewerage capacity approvals, utilities-related permits and any and all other necessary governmental permits, licenses, consents and approvals.

"Improvements" shall mean all improvements constructed as part of the Project.

"Institution" shall mean any savings and loan association, savings bank, commercial bank or trust company (whether acting individually or in any fiduciary capacity), an insurance company, a real estate investment trust, an educational institution or a state, municipal or similar public employee's welfare, pension or retirement system or any corporation or entity subject to supervision and regulation by the insurance or banking departments of the State or of the United States Treasury, or any successor department or departments hereafter exercising the same functions as said departments, or any Affiliate of the foregoing.

"MLUL" means the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*

"Mortgage" means any security interest, evidenced by a written instrument, encumbering the Property, or any portion thereof, that secures the performance of obligations or the payment of debt, including, without limitation, any grant of, pledge of, or security interest in, any collateral, or any grant, directly or indirectly, of any deed of trust, mortgage or similar instrument or any other security whatsoever.

"Mortgagee" shall mean the holder of any Mortgage and any Affiliate(s) of such holder, including entities affiliated with such holder that own or exercise control over real property.

"NJDEP" means the New Jersey Department of Environmental Protection, and any successors in interest.

"Notice" is defined in Section 8.08.

"Permitted Construction Delay Event" means issuance of building permits, other than for commencement of demolition, between the months of August through January, supply chain or material procurement related costs or delays that render commencement of the Project uneconomical in the reasonable discretion of Redeveloper, failure by any tenant or occupant to timely vacate the Project premises resulting in litigation or otherwise, or failure by any utility company to supply necessary connections or otherwise to commence or complete the Project.

"Permitted Transfers" is defined in Section 3.05(C).

"Person" means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, institution, or any other entity.

"Planning Board" means the Planning Board of the Township.

"Project Costs" means all costs of implementing and completing the Project including but not limited to, the cost of obtaining Governmental Approvals, all Remediation Costs, the cost of designing and constructing all Project Improvements, all financing costs, all leasing costs for the Project Improvements, any necessary environmental remediation costs, and all Township Costs.



"Redevelopment Entity" means the Township acting in its capacity as a redevelopment entity pursuant to the Redevelopment Law and any permitted successors or assigns.

"State" means the State of New Jersey.

"Township Costs" shall mean (i) all reasonable outside professional and consultant fees such as attorneys, technical consultants, planners, engineers, financial consultants and appraisers among others, reasonable out of pocket costs or expenses incurred by the Township arising out of or in connection with the preparation, performance, administration, or enforcement of this Redevelopment Agreement or arising out of or in connection with the Project; and (ii) any other out of pocket fee, cost or expense reasonably incurred by the Township, after the date of this Redevelopment Agreement, to satisfy its obligations under this Redevelopment Agreement or in furtherance of the Project, but shall not include any litigation costs arising out of or in connection with a dispute with a third party with respect to this Redevelopment Agreement or the Project or any and all costs incurred in connection with Redeveloper's site plan application to the Planning Board and governed by the escrow deposited by Redeveloper in connection with such application in accordance with the MLUL.

"Township Construction Official" means Frank Genova, or his successor or designee.

"Township Engineer" means Jacqueline Dirmann, P.E., C.M.E., C.F.M., or her successor or designee.

"Township Indemnified Parties" shall mean the Township, its governing body, their respective officers, employees, contractors, boards, departments, officials, agents, attorneys and consultants, representatives and employees, agents, attorneys and consultants, representatives and employees and respective successors and assigns.

"Transfer" means prior to Completion of the Project (i) a sale or re-conveyance of all or any portion of or interest in the Property or Project by Redeveloper to any other Person; (ii) a sale, pledge, joint venture, equity investment, or any other act or transaction involving or resulting in a change in Control of Redeveloper as it exists on the date of this Redevelopment Agreement, (iii) a transfer of 10% or more of the membership interest in Redeveloper to a Person other than an Institution, or (iv) any assignment of this Redevelopment Agreement to any other Person.

SECTION 1.02. Interpretation and Construction. In this Redevelopment Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Redevelopment Agreement, refer to this Redevelopment Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Redevelopment Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Redevelopment Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Redevelopment Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any Person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

## **ARTICLE 2 REPRESENTATIONS AND WARRANTIES**

2.01. Designation as Redeveloper. The Township hereby designates and appoints the Redeveloper as redeveloper of the Project on the Property. For so long as this Redevelopment Agreement and the designation hereunder remain in effect and Redeveloper has not breached or is in breach of any material term of this Redevelopment Agreement, Redeveloper shall have the exclusive right to redevelop the Property in accordance with the Redevelopment Plan, the Governmental Approvals, the Redevelopment Law and all other Applicable Laws, and the terms and conditions of this Redevelopment Agreement.

2.02. Representations and Warranties of the Township. The Township hereby makes the following representations and warranties:

(a) The Redevelopment Plan has been duly adopted in compliance with all Applicable Laws and is currently in full force and effect;

(b) The Township is a municipal corporation, duly organized and existing under the laws of the State, that has the legal power, right and authority pursuant to the Redevelopment Law to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder, and has duly executed this Redevelopment Agreement;

(c) All requisite action has been taken by the Township and all requisite consents have been obtained in connection with the entering into this Redevelopment Agreement and the instruments and documents referenced herein to which the Township is a party, and the consummation of the transactions contemplated hereby, and to the best of the Township's knowledge and belief are authorized by all Applicable Laws;

(d) To the best knowledge of the Township there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Township entering into or performing its obligations under this Redevelopment Agreement;

(e) This Redevelopment Agreement has been duly executed by the Township, and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery thereof shall not, with due effect and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Township is a party;

(f) The Township represents that, to the best of its knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which questions the validity of the Redevelopment Plan or this Redevelopment Agreement or any action or act taken or to be taken by the Township pursuant to the Redevelopment Plan or Redevelopment Agreement; and

(g) The uses of the Property, as contemplated by this Redevelopment Agreement, are authorized by the Redevelopment Law, Applicable Laws and the Redevelopment Plan.

2.03. Representations and Warranties of Redeveloper. Redeveloper hereby makes the following representations and warranties:

(a) Redeveloper has the legal capacity to enter into this Redevelopment Agreement and perform each of the obligations set forth herein and in the Redevelopment Plan as of the date of this Redevelopment Agreement.

(b) Redeveloper is a limited liability company duly organized and a validly existing legal entity under the laws of the State and all necessary consents have been duly adopted to authorize the execution and delivery of this Redevelopment Agreement and to authorize and direct the persons executing this Redevelopment Agreement to do so for and on the Redeveloper's behalf.

(c) No receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date;

(d) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Redeveloper has been filed;

(e) No indictment has been returned against Redeveloper or any officer or shareholder of Redeveloper;

(f) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or

stockholder agreement of Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party;

(g) Subject to obtaining construction financing, Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating, and maintaining the Project;

(h) To the best of Redeveloper's knowledge and belief, after diligent inquiry, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the validity of this Redevelopment Agreement or any action or act taken or to be taken by Redeveloper pursuant to this Redevelopment Agreement; (ii) is likely to result in a material adverse change in Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Redevelopment Agreement; or (iii) questions the validity of the Redeveloper's control of the Property or 10% or more ownership in the entity or entities which own the Property.

(i) Redeveloper's execution and delivery of this Redevelopment Agreement and its performance hereunder will not constitute a violation of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party;

(j) To the best of Redeveloper's knowledge and belief after diligent inquiry all information and statements included in any information submitted to the Township and its agents, including but not limited to Law Offices of Wanda Chin Monahan, LLC and (INSERT Law Firm for PILOT) are true and correct in all respects. Redeveloper acknowledges that the facts and representations contained in the information, submitted by Redeveloper are a material factor in the decision of the Township to enter into this Redevelopment Agreement; and

(k) Redeveloper is not delinquent with respect to any taxes, payments in lieu of tax, service charge, or similar obligations owed to the Township for any property situated in the Township.

### **ARTICLE 3 COVENANTS AND RESTRICTIONS**

3.01. Covenants and Restrictions. Redeveloper agrees to record the Declaration of Covenants and Restrictions in the office of the Union County Register immediately upon execution of this Redevelopment Agreement.

3.02. Description of Covenants. The following covenants and restrictions are imposed upon, and are intended to run with, the land until a Certificate of Completion has been issued for the Project, except as otherwise provided. They shall be recorded substantially in the form of a Declaration of Covenants and Restrictions annexed hereto as Exhibit B:

(a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, this Redevelopment Agreement, and all Applicable Laws and Governmental Approvals. Redeveloper shall not use the Project Site or any

part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Governmental Approvals, all Applicable Laws and this Redevelopment Agreement.;

(b) Except for Permitted Transfers as defined in Section 3.05(C), and subject to the terms hereof, prior to the issuance of a Certificate of Completion, Redeveloper shall not effect a Transfer without the written consent of the Township, which shall not be unreasonably withheld, conditioned or delayed;

(c) In connection with its use or occupancy of the Project, Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status;

(d) Subject to and in accordance with the terms hereof, Redeveloper shall, upon Completion of Construction, obtain a Certificate of Occupancy and all other Government Approvals required for the occupancy and uses of the Property for the purposes contemplated hereby;

(e) Subject to and in accordance with the terms hereof, Redeveloper shall cause the Project to be developed, financed, constructed, operated and maintained at its sole cost and expense;

(f) Subject to and in accordance with the terms hereof, Redeveloper shall develop, finance, construct, operate and maintain the Project consistent with Applicable Laws, Government Approvals, the Redevelopment Plan, and this Redevelopment Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Redevelopment Agreement;

(g) Prior to the issuance of a Certificate of Completion, Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof, as collateral for any transaction unrelated to the Project; and

(h) Redeveloper will promptly pay any and all taxes, service charges, SID special assessments or similar obligations when owed with respect to the Property and any other property owned by Redeveloper situated in the Township, except as otherwise set forth in this Agreement.

(i) Redeveloper shall, in order to effectuate the purposes of this Redevelopment Agreement, make, execute, acknowledge and deliver any commercially reasonable contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper for the acquisition, construction and development of the Rehabilitation Area in accordance with the terms of this Redevelopment Agreement, the Redevelopment Plan, all Applicable Laws and all necessary Governmental Approvals.

3.03. Effect and Duration of Covenants. It is intended and agreed that the covenants and restrictions set forth in Section 3.02 shall be covenants running with the land. All covenants in Section 3.02, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Township and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set for in Article 3.02 shall cease and terminate upon the issuance of a Certificate of Completion, substantially in the form annexed hereto as Exhibit D, provided however, that the covenants in Section 3.02(c) shall remain in effect without limitation as to time.

3.04. Enforcement by Township. In amplification, and not in restriction of the provisions of this Article 3, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 3.02 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

3.05 Prohibition Against Transfers of Interests in Redeveloper.

(a) Redeveloper recognizes the importance of the Redevelopment Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Township in entering into this Redevelopment Agreement. The Township considers that a change of Control in Redeveloper, or the transfer of 10% or more of the ownership interest in Redeveloper to any Person other than an Institution or pursuant to a Permitted Transfer, is, for practical purposes, a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Township is entering into this Redevelopment Agreement with Redeveloper, and, in so doing, the Township is relying on the obligations of Redeveloper and not some other Person for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

(b) As a result, except for Permitted Transfers as defined in Section 3.05(C), prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Township, which shall not be unreasonably withheld, conditioned or delayed, Redeveloper agrees for itself and all successors in interest shall not effect or permit any change, directly or indirectly, in the ownership or control of the Property or any portion thereof, assign or attempt to assign or convey any interest in the Redevelopment Agreement or any rights therein, or make any total or partial sale, transfer, or conveyance of the whole or any part of its interest in the Project Site or Project Improvements, except to Affiliates or entities in which Redeveloper remains a controlling party, nor shall there be any transfer of 10% or more of the ownership interest in Redeveloper to any Person other than an Institution.

(c) Consent to Permitted Transfers. The Township hereby consents, without the necessity of further approvals from any entity, to the following Transfers (each, a "Permitted Transfer"):

(i) A Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project and not any transaction or project unrelated to the Project; provided, however, that Redeveloper shall give the Township at least thirty (30) days prior written notice of such Permitted Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the Mortgagee; or

(ii) Transfers of easements or dedications of portions or interests in the Property as may be required for utilities for the Project, access by neighboring parcels, or otherwise as conditions of Governmental Approvals;

(iii) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;

(iv) a lease agreement or granting of a condominium interest to a tenant or end user of the Project or portion thereof;

(v) a Transfer to an Affiliate of the Redeveloper or to one of the Existing Members;

(vi) a Transfer pursuant to a Foreclosure, and any Transfer by any Mortgagee or any Mortgagee's successor and/or assigns after Foreclosure;

(vii) any contract or agreement with respect to any of the foregoing; and

(viii) an equity investment in Redeveloper or Person(s) that own the Project Site not by an Institution; provided that such an investment does not result in a change to the Controlling manager of the Redeveloper.

3.06 Township Covenants. Conditioned that the Redeveloper has not breached or is not in breach of any material term of this Redevelopment Agreement, the Township hereby covenants and agrees that:

(a) The Township agrees to support any applications for Governmental Approvals that are consistent with the terms of the Redevelopment Plan and this Redevelopment Agreement, and to execute and deliver any documents required to obtain such approvals and otherwise to cooperate with the Redeveloper with respect to the Governmental Approvals; provided that nothing contained in this Section 3.06(a) shall be deemed: (i) to constitute an approval of all or any portion of the Project for which applications have been submitted or are required or (ii) a waiver of the

ability of any Governmental Authority, to exercise its statutorily authorized responsibilities with respect to such applications or Governmental Approvals. Without limiting the generality of the foregoing, the Township shall (A) request that all agencies of the Township having jurisdiction over any of the Governmental Approvals expedite the processing of all applications for Governmental Approvals, (B) schedule, convene and conclude all required public hearings in an expeditious manner consistent with Applicable Laws, and (C) cause all of the planners, engineers and other consultants engaged by the Township to review and comment on all submittals by Redeveloper in an expeditious manner and request that all planners, engineers and other consultants engaged by the Township or any of its agencies review and comment on all submittals by Redeveloper in an expeditious manner.

(b) The Township shall undertake and complete, with due diligence, all of its obligations under this Redevelopment Agreement.

(c) The Redeveloper has been designated as the exclusive redeveloper of the Property and shall have the exclusive right and obligation to redevelop the Property and implement the Project in accordance with the terms and conditions of this Redevelopment Agreement.

#### **ARTICLE 4 PROJECT DETAILS**

##### **4.01. Timeline and Construction of Project.**

(a) Project Timeline.

(i) Redeveloper shall submit for Preliminary and Final Site Plan Approval for the Walnut Avenue Phase of the Project from the Planning Board by July 1, 2022 and the second South Avenue Phase by December 1, 2022. Prior to submitting an application for Preliminary and Final Site Plan Approval for the South Avenue Phase, Redeveloper shall meet with Cranford Downtown Management Corp (“DMC”) subcommittee concerning that phase of the Project. Township acknowledges that this condition has already been satisfied for the Walnut Avenue Phase of the Project;

(ii) Redeveloper shall use commercially reasonable efforts to obtain all other final and unappealable Governmental Approvals on or before the 365th day after the Effective Date;

(iii) Redeveloper agrees to use commercially reasonable efforts to Commence Construction of the Project within 120 days after the receipt of all final and unappealable Governmental Approvals for each phase; however, in the event of delays to the Commencement of Construction due to circumstances beyond Redeveloper’s control including, but not limited to, supply chain disruptions or a Permitted Construction Delay Event, Redeveloper may request an extension pursuant to Section 9.04 of this Redevelopment Agreement; and



(iv) Redeveloper will diligently implement and complete all aspects of the Project by the completion dates set forth in the Project Schedule, subject only to relief resulting from the occurrence of a tolling event or relief resulting from events of Force Majeure as provided in Section 5.03. The Parties agree and acknowledge that adherence to the Project Schedule is of the essence in this Redevelopment Agreement. Notwithstanding the Project Schedule, Redeveloper may attempt to implement each task whenever possible earlier than the dates set forth for such tasks in the Project Schedule.

(v) After Commencement of Construction, Redeveloper shall thereafter diligently and continuously prosecute the Project in accordance with the Project Schedule. In addition, Redeveloper agrees to use commercially reasonable efforts to Complete Construction of each phase of the Project within thirty (30) months after the Commencement thereof (“Project Schedule”).

(b) If, subject to the provisions of this Redevelopment Agreement, the Redeveloper fails, or determines that it will fail, to meet any relevant date for the completion of a task set forth in the Project time line set forth above, for any reason, the Redeveloper shall promptly provide written notice to the Township stating: (i) the reason for the failure or anticipated failure, (ii) the Redeveloper’s proposed method for correcting such failure, (iii) the Redeveloper’s proposal for revising the time line and (iv) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant dates set forth in the revised Project time line. Redeveloper’s proposed revisions to the Project timeline shall be subject to the Township’s approval, which shall not be unreasonably withheld, conditioned or delayed.

(c) In the event that Redeveloper does not obtain all necessary Governmental Approvals for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that the Governmental Approvals for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then prior to the Commencement of Construction, the Redeveloper shall have the right to terminate this Redevelopment Agreement, upon written notice to the Township. No Governmental Approval shall be deemed to have been obtained (i) until the Appeal Period relating thereto has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval. If this Redevelopment Agreement is terminated pursuant to the terms of this Section 4.01(c) then, except as expressly set forth herein to the contrary, this Redevelopment Agreement shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

#### 4.02. Construction of the Project.

(a) Responsibility of the Redeveloper. The Redeveloper agrees to undertake the Project. The Redeveloper further agrees that, notwithstanding the Applicable Laws, it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of existing utilities and easements therefor, if necessary to order to complete the Project as provided by this Redevelopment Agreement. Redeveloper shall cooperate with the Township to ensure that the implementation of the Project does not interfere

with the operation of the existing utilities. Redeveloper agrees to provide or cause to be provided all performance and maintenance bonds as required by law, as further described at Section 4.04 herein.

(b) Construction Hours. Construction practices and hours shall be in accordance with Township Ordinances, which are available at the Township Building Department or through the Township Clerk.

(c) Maintenance. The Property will be cleaned on a regular basis by Redeveloper; provided, however, that Redeveloper agrees to clean up the Property within 24 hours of a specific, reasonable request by the Township that Redeveloper do so or the close of the following Business Day, whichever is later. Should Redeveloper fail to comply with this obligation, the Township will undertake street cleaning and charge Redeveloper for the costs of same. The Redeveloper shall repair, at Redeveloper's cost, any damage to the streets or sidewalks or public property caused by Redeveloper during the construction of the Project.

(d) Pedestrian Access and Safety. The Township acknowledges that for safety reasons, the sidewalks adjacent to the Property may need to be closed from time to time during construction of the Project. Notwithstanding the foregoing, Redeveloper will provide appropriate signage and crosswalks to ensure the continued flow of pedestrian traffic. Redeveloper shall supply to the Township Building Department plans and specifications providing for pedestrian safety at and across the Property as applicable. The Redeveloper shall keep the sidewalks abutting the Property clean and free of debris, ice and snow during the construction of the Project.

(e) Construction Parking. The Redeveloper shall make arrangements with the Township Construction Official and the Township Police Department for off-street parking for construction vehicles and construction worker's vehicles, if such vehicles cannot be parked on the Project site itself. The Township agrees to place from time to time temporary "emergency, no parking" signs on adjacent streets as reasonably requested by Redeveloper to accommodate Redeveloper's construction activities.

(f) Preconstruction Meeting. There shall be a preconstruction meeting held at least seven (7) days prior to the Commencement of Construction, which meeting shall include the Township Construction Official, the Township Engineer, a representative from the Township Police Department, a representative from the Township Fire Department and representatives from the various utility companies.

(g) Additional Project Requirements.

(1) South Avenue Additional Requirements. The new construction will be a maximum of four stories high. The residential use will consist of a mix of one-bedroom, one-bedroom plus den, two-bedroom and three-bedroom units with indoor amenities and common areas, including fitness center and social gathering space. South Avenue shall also include outdoor amenities as well as upgraded hardscapes and landscapes, pedestrian areas and other features customarily found in a first-class suburban downtown mixed-use development. The Project shall also include parking off-site pursuant to the Township's ordinances, the Redevelopment Plan and

any Governmental Approvals. The final unit counts may be slightly adjusted to accommodate and ensure compliance with Section 4.05 of this Redevelopment Agreement.

(2) Walnut Avenue Additional Requirements. The construction will be a maximum of three stories high. The residential use will consist of a mix of “age-targeted” one-bedroom, one-bedroom plus den, two-bedroom and three-bedroom units, with indoor amenities and common areas, including a social gathering space, as well as outdoor amenities. Further, the third floor of the building fronting on Walnut Avenue facing the neighboring residential property will be further set-back to create outdoor common space. The final unit counts may be slightly adjusted to accommodate and ensure compliance with Section 4.05 of this Redevelopment Agreement.

(3) Shared Parking Between Township and Redeveloper shall be in general conformance with the Parking Plan set forth in Appendix G of the Redevelopment Plan.

(4) Stormwater Management Plan Maintenance Bond. In the event Redeveloper does not comply or show evidence of compliance within 60 days of written notice, with the stormwater maintenance plan for the stormwater management measures incorporated into the design of any Phase of the Project, the Township may require the Developer to obtain and provide the Township a maintenance bond for the maintenance and upkeep of the Project’s Stormwater Management Plan, which bonds may be individual for each phase of the Project, or consolidated and/or replaced with a single bond for all phases of the Project.

(5) Off-Site Flood Resiliency Contribution. Should a Financial Agreement between Township and Redeveloper be approved by the Township Committee and duly executed by the Township and Redeveloper, then Redeveloper shall contribute a total of \$400,000.00 towards engineering solutions related to flooding mitigation and stormwater controls located in the immediate vicinity of the Project and determined to be of benefit to the flood resiliency of the Project (“Flood Resiliency Contribution”). The Flood Resiliency Contribution shall be made by Redeveloper in four tranches of \$100,000 each upon the occurrence of each of the four following milestones:

(i) in conjunction with the issuance of Building Permits for the Walnut Avenue Phase of the Project;

(ii) in conjunction with the issuance of Building Permits for the South Avenue Phase of the Project;

(iii) within thirty (30) days of the issuance of a permanent Certificate of Occupancy or one-hundred-eighty (180) days of the issuance of a non-permanent Certificate of Occupancy, whichever occurs first, for the Walnut Avenue Phase of the Project; and

(iv) within thirty (30) days of the issuance of a Certificate of Occupancy or one-hundred-eighty (180) days of the issuance of a non-permanent Certificate of Occupancy, whichever occurs first, for the South Avenue Phase of the Project.

The Flood Resiliency Contribution payments shall be paid upon the occurrence of each and any of the foregoing milestones regardless of the order in which they occur.

(5) Use of Flood Resiliency Contribution. The Township shall use the entirety of the Flood Resiliency Contribution towards engineering solutions related to flooding mitigation and stormwater controls benefiting the Project and the immediate surrounding area ("Flood Resiliency Project"), and for no other purpose. Should the Township fail to complete the Flood Resiliency Project within two (2) years of the date of the fourth and final Flood Resiliency Contribution payment, or utilize such funds in any matter other than for the purpose of engineering solutions related to flooding mitigation and stormwater controls located in the immediate vicinity of the Project, then the Township shall return all monies to Redeveloper not expended towards the Flood Resiliency Project. Additionally, Township acknowledges that all design, construction and maintenance of any engineering solutions related to the Flood Resiliency Project shall be the responsibility of and under the control of the Township.

(6) No Special Assessments. For each phase of the Project, the Township acknowledges and agrees that Redeveloper shall be exempt from any special assessments, additional taxes or fees otherwise assessed or levied by or through the Township in connection with the Flood Resiliency Project, or any other stormwater controls and/or flooding mitigation project, for either a period of 10 years from the execution of this Agreement or the expiration of the term of the Financial Agreement between Redeveloper and the Township, whichever is shorter, so long as Redeveloper is not in Default of the terms of this Agreement.

#### 4.03. Certificates of Occupancy and Certificates of Completion.

(a) Upon Completion of Construction, Redeveloper shall apply to Township Construction Code Official for a Certificate of Occupancy.

(b) Following Completion of the Project, the Township agrees to issue a Certificate of Completion upon receipt of a Completion Notice from Redeveloper. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Redevelopment Agreement and the Redevelopment Plan. Within thirty (30) days after receipt of the Completion Notice, the Township shall provide Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to Complete the Project in accordance with the provisions of this Redevelopment Agreement or is otherwise in default hereunder.

#### 4.04. Project Costs, Financing and Performance and Maintenance Guarantees.

(a) Redeveloper agrees that all Project Costs and financing for the Project are the sole responsibility of the Redeveloper, not the Township.

(b) Redeveloper shall post performance and maintenance guarantees and review escrows in accordance with the provisions of *N.J.S.A. 40:55D-53 et seq.* of the MLUL and all Applicable Laws (collectively, the "Bond"), in the following manner:

(i) Prior to the Commencement of Construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL) for those

Improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board resolution, in an amount to be determined by the Township Engineer pursuant to the MLUL.

(ii) Prior to the release of the performance guarantee, a maintenance guarantee in respect of those Improvements required to be bonded in accordance with the MLUL, in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL) for a period not to exceed two (2) years after final acceptance of the Improvement, in an amount not to exceed 15% of the cost of the Improvement, which cost shall be determined by the Township Engineer according to the method of calculation set forth in *N.J.S.A. 40:55D-53*.

(iii) If applicable, the Bond must name the Township as an obligee and Redeveloper shall deliver a copy of the Bond to the Township prior to Commencement of Construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event any insurance company, financial institution or other entity issuing a performance guarantee herein, shall be insolvent or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby state or federal agencies have taken over the management of the entity, within thirty (30) days after notice from the Township, Redeveloper shall replace the Bond.

(iv) In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect as a result of any act or omission by Redeveloper, then until an approved replacement of the lapsed Bond has been deposited with the Township, the Township may require Redeveloper to cease and desist any and all work on the Project, unless the Improvements required to be bonded have been completed and approved by the Township. In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect through no act or omission of Redeveloper, then unless Redeveloper fails to replace the Bond within ten business (10) days of notice given to Redeveloper by the Township, the Township may require Redeveloper to cease and desist work on the Project unless the Improvements required to be bonded have been completed and approved by the Township.

#### 4.05. Affordable Housing Obligation.

(a) The Project shall include affordable housing units sufficient to create affordable housing credits that comply with the Fair Housing Act ("FHA") N.J.A.C. 5:93 and in conformance with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, equal to at least twenty-percent (20%) of the total dwelling units constructed (fractional units round up). At least 50% of all units shall be low or very low income. Very low income shall be defined pursuant to the FHA. All units shall be deed restricted for a period of at least 30 years. The Parties agree that the affordable units are to be included in the Affordable Housing Plan to be approved and credited by the Court in the Compliance Action entitled In the Matter of the Township of Cranford, County of Union, UNN-L-3976-18 and at least 55% will be treated as family affordable rental units, and that the credits will be applied as the Township deems fit. The developer shall comply with all applicable phasing requirements for the entire Project as

provided for in relevant UHAC and Council on Affordable Housing regulations including UHAC bedroom distribution requirements within each income strata, except for those units provided pursuant to Section 4.05(b) hereof, regardless of units that may be constructed offsite. Notwithstanding the foregoing, Redeveloper shall not be precluded from constructing some of the units offsite as family affordable rental units and/or special needs bedrooms, provided, however, that at least a 15% set aside is provided on site. All affordable units, shall comply with the phasing requirements on N.J.A.C. 5:93-5.6(d).

(b) The Redeveloper shall also, within the Walnut Avenue Phase of the Project, construct a four-bedroom group home that shall be operated by a non-profit organization or operator otherwise experienced to operate a group home (the "Group Home"), as well as two two-bedroom independent living units for occupants with special needs ("Independent Living Units"). The Township and Redeveloper agree and acknowledge that each dwelling room in the Group Home and Independent Living Units shall count as a dwelling unit for the Redeveloper's Affordable Housing Obligation for the Project, as set forth in Section 4.05(a) of this Redevelopment Agreement.

(c) The obligations contained at Sections 4.05(a) and (b) hereof shall collectively be referred to as the "Affordable Housing Obligation".

#### 4.06 Neighborhood Impacts.

(a) Redeveloper acknowledges that the construction of the Project may have certain impacts on the neighborhoods in the vicinity of the Project. Although it is anticipated that the Project will provide many positive effects on the community, it is also recognized that it may result in some temporary inconveniences during the time that construction takes place and for a short time thereafter. Therefore, Redeveloper shall take reasonable steps in order to minimize any potential negative effects that the construction of the Project may produce, including without limitation, dust, debris and noise.

(b) Compliance with Township Ordinances, State Laws, Regulations and Standards. Redeveloper shall comply with all applicable Township ordinances with regard to traffic, traffic safety, parking during construction, illumination, noise, pollution, and rodent, insect and animal control. Redeveloper commits to follow all applicable construction laws, regulations and standards in the industry to address these concerns and furthermore commits to having a program in place, prior to the Commencement of Construction, to reasonably address such concerns. Notwithstanding the foregoing, Township and Redeveloper agree that the Redevelopment Plan governs the landscaping and streetscape requirements for the Project, and therefore Redeveloper shall be exempt from Township Code subsection 255-26N(3) requiring any contribution to the Tree Planting and Preservation Fund.

(c) Exemption from Rent Control Laws. This Redevelopment Agreement serves as the "written statement of the owner's claim of exemption" pursuant to N.J.S.A. 2A:42-84.1 et seq, from any rent control or rent leveling ordinances currently in force in the Township of Cranford or as may be set forth in the future, regardless of any changes in the Ordinances of the Township of Cranford or the laws of the State of New Jersey, for a period of 30 years from the date of the

Temporary Certificate of Occupancy for each particular Phase of the Project. Under the authority set forth in N.J.S.A. 40A:12A-9(a), the Township considers this exemption as a covenant, provision and continuing control deemed prudent and necessary by the Township to effectuate the purposes of the Redevelopment Law, and shall survive any changes any changes in the Ordinances of the Township of Cranford or the laws of the State of New Jersey.

#### 4.06 Downtown Management Corporation (“DMC”) Requirements.

(a) With regard to the Walnut Avenue Phase, Redeveloper has met with the DMC and complied with all requested standards regarding public space, landscaping, and related design standards.

(b) With regard to the South Avenue Phase, prior to submitting plans to the Township Committee for consistency review pursuant to Section 5.5 of the Redevelopment Plan, Redeveloper shall present such plans to the DMC, including requested elevations, for the DMC’s review and comment.

### **ARTICLE 5 EVENTS OF DEFAULT EVENTS OF DEFAULT; TERMINATION**

5.01. Events of Default. Any one or more of the following shall constitute an "Event of Default" hereunder, subject to Force Majeure Extension and tolling as provided elsewhere in this Redevelopment Agreement:

(a) If at any time Redeveloper shall: (i) generally not pay its debts as such debts become due, within the meaning of such phrase under Title 11 of the United States Code (or any successor to such statute); or (ii) make an assignment for the benefit of creditors; or (iii) file a voluntary petition under Title 11 of the United States Code, as the same may be amended, or any successor to such statute; or (iv) file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal bankruptcy code or any other present or future applicable federal or state or other statute or law; or (v) seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, sequestrator, liquidator or other similar official of Redeveloper or of all or any substantial part of its property or of the Property or any interest of Redeveloper therein; or (vi) take any corporate action in furtherance of any action described in this subsection; or (vii) if at any time any proceeding against Redeveloper seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal or state or other statute or law shall not be dismissed within ninety (90) days after the commencement thereof, or if, within ninety (90) days after the appointment without the consent of Redeveloper of any custodian, trustee, receiver, sequestrator, liquidator or any other similar official of Redeveloper, or of all or any substantial part of its properties or of the Property or any interest of Redeveloper therein, such appointment shall not have been vacated or stayed on appeal or otherwise, or if any such appointment shall not have been vacated within forty five (45) days after the expiration of any such stay.

(b) Redeveloper's failure to pay or delinquency in the payment of real property taxes or assessments, which failure or delinquency is not cured within thirty (30) days after Notice by the Township.

(c) Cancellation or termination by reason of any act or omission of Redeveloper of any insurance policy, performance or completion bond, letter of credit, guaranty or other surety required hereunder to be provided by Redeveloper for the benefit of the Township, which failure or delinquency is not cured within thirty (30) days after Notice by the Township.

(d) Any Transfer (except for Permitted Transfers), without the approval (or deemed approval pursuant to Section 3.05(c)) of the Township.

(e) A Construction Event of Default as defined in this Redevelopment Agreement and subject to Section 9.04, the Extension of Time Provision.

(f) Any other default or breach by Redeveloper or the Township in the observance or performance of any covenant, condition, representation, warranty or agreement hereunder and, except as otherwise specified below, the continuance of such default or breach for a period of thirty (30) days after Notice from the non-defaulting party specifying the nature of such default or breach and requesting that such default or breach be remedied; provided, however, with respect to any non-monetary default or breach, if the default or breach is one that cannot be completely remedied within thirty (30) days after such Notice, it shall not be an Event of Default as long as the defaulting party is proceeding in good faith and with due diligence to remedy the same as soon as practicable, but in no event later than one hundred (120) days after such Notice unless this Redevelopment Agreement specifically provides otherwise.

5.02. Remedies Upon Event of Default of Redeveloper. Whenever any Event of Default of Redeveloper shall have occurred, the Township may, on written notice to Redeveloper (after applicable Notice and cure periods shall have expired) (a "Termination Notice") terminate this Redevelopment Agreement and Redeveloper's designation as Redeveloper hereunder upon which, except as expressly provided herein, this Redevelopment Agreement shall be void and of no further force and effect and neither Party shall have any further rights, liability and/or obligations hereunder. In addition, the Township may take whatever action, at law or in equity, it may deem desirable, including the seeking of damages, or institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, proceedings to compel specific performance by the party in Default or breach of its obligations. If Redeveloper fails to pay any Township Costs in accordance with the requirements of this Redevelopment Agreement, the Township may file legal action seeking payment of the Township Costs.

5.03. Force Majeure Extension. For the purposes of this Redevelopment Agreement, neither the Township nor Redeveloper shall be considered in breach or in default with respect to its obligations hereunder because of a delay in performance arising from a Force Majeure Event. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the Township or Redeveloper shall be



extended for the period of the delay; provided, however, that such delay is actually caused by or results from the Force Majeure Event. The time for completion of any specified obligation hereunder shall be tolled for a period of time up to but not exceeding the period of delay resulting from the occurrence of a Force Majeure Event. During any Force Majeure Event that affects only a portion of a Project, Redeveloper shall to the maximum extent feasible continue to perform its obligations for the balance of the Project unaffected by the Force Majeure Event. The existence of an event or occurrence of Force Majeure Event shall not prevent the Township or Redeveloper from declaring a default or the occurrence of an Event of Default by the other party if the event that is the basis of the Event of Default is not a result of the Force Majeure Event.

5.04 No Waiver. Except as otherwise expressly provided in this Redevelopment Agreement, any failure or delay by either party hereunder in asserting any of its rights or remedies as to any default by the other party, shall not operate as a waiver of such default, or of any such rights or remedies, or to deprive the Township or the Redeveloper, as the case may be, of its right to institute and maintain any actions or proceedings in accordance with this Redevelopment Agreement, which it may deem necessary to protect, assert or enforce any such rights or remedies.

5.05 Remedies Cumulative. No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

5.06 Termination Rights Related to Litigation. If third party litigation is commenced challenging the validity of (i) the designation of the Rehabilitation Area, (ii) the Redevelopment Plan, or (iii) execution of this Redevelopment Agreement by the Township, the commencement of such litigation shall be a Force Majeure Event effective as of the date of the filing of the summons and complaint if Redeveloper invokes the Force Majeure provisions this Redevelopment Agreement; provided, however, that if (a) Redeveloper may terminate this Redevelopment Agreement pursuant to Section 5.01(c) hereof, at any time prior to the Commencement of Construction, and (b) if such litigation is finally determined in favor of the plaintiff with no further opportunity for appeal, then either Party may terminate this Redevelopment Agreement prior to the Commencement of Construction by written notice to the other. Upon such termination, this Redevelopment Agreement shall be void and of no further force and effect and neither Party hereto shall have any rights, liabilities and/or obligations hereunder.

## **ARTICLE 6 FINANCING**

### **6.01. Mortgage Financing.**

(a) Redeveloper hereby agrees and acknowledges that all Project Costs associated with the development and financing for the Project is their sole responsibility.

(b) Redeveloper has obtained or will obtain financing for the Project, which financing will be a combination of debt financing and an equity contribution of the Redeveloper along with its affiliates and investors. Redeveloper, along with its affiliates and investors, shall contribute

equity in an amount equal to at least 10% of the Project Costs. Redeveloper shall submit to the Township evidence of both firm commitments for mortgage financing and any equity capital necessary to commence construction of the Project, not later than thirty (30) days prior to the date scheduled for the commencement of construction. The Township shall accept a letter, in substance acceptable to the Township, from one or more Financial Institution(s), which evidences a firm commitment to provide financing for the construction of the Project in such time and manner so as to enable Redeveloper to adhere to the Project Schedule.

(c) During the term of this Redevelopment Agreement, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage on the Project in excess of 90 percent of the cost of acquiring the Property and developing the Project (including designing, permitting and constructing the Project), except as may be approved by the Township (which approval shall not be unreasonably withheld) for the purpose of obtaining funds in connection with the construction of the Project.

(d) In the event that the Redeveloper is unable to obtain financing for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that financing for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then prior to the Commencement of Construction, Redeveloper shall have the right to terminate this Redevelopment Agreement upon written notice to the Township.

(e) If this Redevelopment Agreement is terminated pursuant to the terms of this Section 6.01 then, except as expressly set forth herein to the contrary and upon full payment of all Township Costs accruing until the date of such termination, this Redevelopment Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

(f) If the Mortgagee reasonably requires any change(s) or modification(s) to the terms of this Redevelopment Agreement, the Township shall reasonably cooperate with the Mortgagee and the Redeveloper in reviewing and approving such proposed change(s) or modification(s); provided, however, that any such proposed change or modification shall not materially and adversely alter or modify the rights and obligations of the Redeveloper or the Township, as provided in this Redevelopment Agreement.

(g) To the extent reasonably requested by the Redeveloper, the Township shall execute such other agreements and/or documents (to the extent same are in form and content reasonably acceptable to the Township) as may be requested or required by any Mortgagee (or any equity participant of the Redeveloper); provided, however, that any such agreement or document shall not materially and adversely alter any of the rights, liabilities or obligations of the Redeveloper or the Township under this Redevelopment Agreement.

6.02. Notice of Default to the Mortgagee and Right to Cure. Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Township shall at the same time deliver to each Mortgagee a copy of such notice or demand; provided that the Redeveloper has delivered

to the Township a written notice of the name and address of such Mortgagee. Each such Mortgagee (insofar as the rights of the Township are concerned) has the right at its option within sixty (60) days after the receipt of such notice (and the expiration of all applicable cure periods), to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. The Township shall not seek to enforce any of its remedies under this Agreement during the period in which any such Mortgagee is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If the Mortgagee elects to cure the Event of Default within such 60 day period, but has not completed such cure, then not later than every 60 days thereafter until such Event of Default is cured, Redeveloper shall inform the Township that the Mortgagee is proceeding diligently to cure the Redevelopment Event of Default, and briefly describing the course of action being pursued to effectuate such cure. Notwithstanding the foregoing, the Township may seek to enforce any of its remedies under this Agreement with respect to a monetary Event of Default if such monetary Event of Default is not cured within such sixty (60) day period after notice thereof. If possession of the Property is necessary to cure any default or breach, any Mortgagee will be allowed to complete any proceedings required to obtain possession of the Property.

6.03. No Guarantee of Construction or Completion by Mortgagee.

(a) A Mortgagee shall in no manner be obligated by the provisions of this Redevelopment Agreement to construct or complete the Project, or to guarantee such construction or completion; nor shall any covenant or any other provisions be construed so to obligate a Mortgagee. Nothing contained in this Redevelopment Agreement shall be deemed to permit or authorize such Mortgagee to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Mortgagee's security, including the improvements or construction already made) without the Mortgagee or Affiliate of Mortgagee first having expressly assumed the Redeveloper's obligations to the Township with respect to the Project by written agreement reasonably satisfactory to the Township.

(b) If a Mortgagee forecloses its Mortgage secured by the Project, or takes title (in its name or the name of an Affiliate) to the Project by deed-in-lieu of foreclosure or similar transaction (collectively a "Foreclosure"), the Mortgagee or its Affiliate shall have the option to either (i) sell the Project to any Person, provided Mortgagee gives the Township notice of such sale at least 20 days prior to closing and provided such Person assumes the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law, and/or (ii) assume the obligations of the Redeveloper under this Redevelopment Agreement in accordance with Applicable Law. The Mortgagee, or the entity assuming the obligations of the Redeveloper, in that event must agree to complete the Project in accordance with the terms of this Redevelopment Agreement, but subject to reasonable extensions of any deadlines hereunder. Any such Mortgagee, or other entity assuming such obligations of the Redeveloper, upon completing the Project shall be entitled, upon written request made to the Township, to a Certificate of Completion in accordance with the terms of this Agreement. Nothing in this Redevelopment Agreement shall be construed or deemed to permit or to authorize any Mortgagee, or such other entity assuming such obligations of the Redeveloper, to devote the Property, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Redevelopment Agreement and the Redevelopment Plan. The Mortgagee or

such other entity that assumes the obligations of the Redeveloper shall be entitled to develop the Property or Project in accordance herewith.

6.04 Township's Option to Pay Mortgage Debt. The Township shall have the right to pay the Mortgage Debt of any Mortgagee, if subsequent to a Construction Event of Default under the terms of this Agreement, any Mortgagee fails to exercise, its rights, pursuant to, and in accordance with, Section 6.02 and 6.03 of this Agreement, and such failure continues for a period of sixty (60) days after such Mortgagee has been notified of the occurrence of the Construction Event of Default; provided, however, that under no circumstances shall the Township have the right to pay the Mortgage Debt of any Mortgagee pursuant to this Section at any time after such Mortgagee has exercised its rights pursuant to and in accordance with Section 6.02 and 6.03 of this Agreement unless such Construction Event of Default shall not have been cured within sixty (60) days after written demand by the Township to do so unless such Construction Event of Default cannot be cured by the payment of money and cannot with due diligence be wholly cured within such sixty (60) days in which case such Mortgagee shall have such longer period as shall be necessary to cure such default, so long as such Mortgagee prosecutes such cure to completion with due diligence and advises the Township of the actions being taken and the progress being made. If the Township pays the Mortgage Debt of a Mortgagee pursuant to the terms of this Section, the Mortgagee shall discharge its Mortgage encumbering the Property. For the purposes hereof, the term "Mortgage Debt" shall mean an amount equal to the sum of: (i) the outstanding Mortgage debt at the time of the Township's acquisition (less all appropriate credits, including those resulting from collection and application of rentals or other income received by Mortgagee); (ii) all expenses with respect to foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by Mortgagee in and as a direct result of the subsequent management of the Property or relevant portion thereof; (iv) the costs of any Improvements made by Mortgagee; (v) all fees, penalties and other charges due and owing under the Mortgage; (vi) an amount equivalent to the interest that would have accrued on the aggregate of items (i) through (v) had all such amounts become part of the mortgage debt and such debt had continued in existence to maturity.

## **ARTICLE 7 PILOT & TAX AGREEMENT**

7.01. PILOT Contingency & Tax Agreement. Redeveloper has applied to the Township for approval of a tax agreement (the "Tax Agreement") providing for, among other things, payments in lieu of taxes pursuant to *N.J.S.A. 40A:21-1 et seq.* ("PILOT") for a maximum term of five (5) years. If and to the extent available under Applicable Laws, and as requested by Redeveloper, the Township agrees to consider Redeveloper's PILOT application in good faith, but Redeveloper acknowledges that the Township retains full discretion whether to grant the PILOT. In the event that the Township fails to duly approve and execute a Tax Agreement in a form acceptable to Redeveloper within 60 days following the Effective Date, then prior to the Commencement of Construction, Redeveloper may elect to terminate this Redevelopment Agreement by providing Notice to that effect to the Township (the "PILOT Contingency"). Upon such termination, this Redevelopment Agreement shall be void and of no further force and effect and neither Party hereto shall have any rights, liabilities and/or obligations hereunder.

7.02. Escrow Account to Cover Township Costs .

(a) At the time of the execution of this Redevelopment Agreement, Redeveloper shall pay the Township SEVENTY THREE THOUSAND SEVEN HUNDRED SIXTEEN and 39/100 (\$73,716.39) which is the total Township Costs incurred up until the effective date of this Redevelopment Agreement and as outlined in the Past Cost chart attached hereto as Exhibit H.

(b) Redeveloper has established with the Township an escrow account (the "Escrow Account") having an initial balance of TWENTY THOUSAND and 00/100 (\$20,000) DOLLARS to cover future Township Costs (the "Escrow Deposit") subject to Replenishment Funds as per the Escrow Agreement. Attached to this Redevelopment Agreement as Exhibit C is the Escrow Agreement which includes a description of the agreed upon procedure to be utilized in establishing, funding and replenishing the Escrow Account and in making disbursements therefrom.

## **ARTICLE 8 INDEMNIFICATION**

8.01 Indemnification.

(a) Redeveloper agrees to indemnify and hold harmless and defend the Township and hold harmless and defend the Township Indemnified Parties, and Redeveloper shall pay any and all liability, actual loss, costs, damages, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, claims for personal injury, death and property damage, as well as any claims related to any environmental claims or demands, which the Township and/or the Township Indemnified Parties may sustain, be subject to or be caused to incur relating to, based upon or arising from (i) Redeveloper's activities in connection with the Project, or any portion thereof, (ii) contracts entered into by the Redeveloper which relate to such activities, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper, its contractor(s) and subcontractors and unrelated third parties, (iii) the maintenance and functioning of the Project Improvements, or any other activities of Redeveloper within the Rehabilitation Area, (iv) the current or former environmental condition of the Rehabilitation Area and including but not limited to any third-party claim with respect to other properties alleging harm emanating from such environmental condition of the Rehabilitation Area, (v) a material breach of this Agreement by Redeveloper, or (vi) any violation of applicable law by Redeveloper, unless any such loss, liability claim or suit arising from the grossly negligent or intentional wrongful acts of the Township, its employees, agents and contractors.

(b) Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Township, and/or the Township Indemnified Parties; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend Redeveloper, the Township and any other insured named or named as an additional insured in such policy of insurance in connection with claims, suits or actions covered by such policy. Any cost for reasonable fees in situations where it is required that the Township engage its own attorneys, experts' testimony costs and all actual costs to defend the Township or any

Township Indemnified Party, agents, servants, or employees shall be reimbursed to it by Redeveloper in connection with such defense and indemnification claim.

(c) In any situation in which the Township Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, the Township Indemnified Parties shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the Township Indemnified Parties. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the Township Indemnified Parties, including the employment of counsel reasonably acceptable to the Township Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. The Township shall have the right to retain counsel of its choosing, the reasonable cost of which shall be borne by Redeveloper, subject to billable rates customarily charged by New Jersey law firms operating within Union County, New Jersey. All of the other Township Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof at their own expense. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper or the Township Indemnified Parties in any such action, Redeveloper shall indemnify and hold harmless the Township Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Further, Redeveloper shall have the right to settle any such action on behalf of itself and all Township Indemnified Parties, provided that such settlement (i) is solely a monetary payment, (ii) does not involve the entry of a judgment against Township or any Township Indemnified Parties and (iii) does not expose the Township Indemnified Parties to any liability, contingent or otherwise. Redeveloper shall indemnify and hold harmless the Township Indemnified Parties from and against any loss or liability by reason of such settlement.

8.02 Survival of Indemnity. The provisions of Section 8 shall survive the termination of this Agreement.

## **ARTICLE 9 ADDITIONAL PROVISIONS**

9.01 Maintenance and Landscaping. Redeveloper shall keep the Project Site free from any substantial accumulation of debris or waste materials and shall maintain in good condition any landscaping and amenities required under any applicable approved final site plan.

9.02 Speculative Development. Redeveloper represents its undertakings pursuant to this Redevelopment Agreement are for the purpose of Redevelopment of the Project Site and not for speculation in land holding. Redeveloper shall not use the Project Site, or any part thereof, as collateral for an unrelated transaction.

9.03 Compliance with Agreement. Redeveloper shall use reasonable efforts to ensure that all consultants, professionals, employees, agents, and contractors engaged by Redeveloper or any of Redeveloper's subcontractors shall have the skill and judgment necessary to implement the Redevelopment Project in compliance with the terms and conditions of this Agreement.

9.04 Extension of Time. In the event Redeveloper is unable to Commence Construction as defined under this Redevelopment Agreement within 120 days of receipt of all final and unappealable Government Approvals, is compelled to abandon or substantially suspend construction work for greater than 60 days as defined under the term “Construction Event of Default” or is unable to cure the abandonment or substantial suspension of construction work within 30 days written of notice of the abandonment or substantial suspension of construction, Redeveloper shall submit a written request to extend the time limits to the Township. The written request must provide a good cause justification for the extension which shall not exceed 60 days. “Good cause justification” shall mean circumstances that extend beyond the control and decision-making of the Redeveloper including, but not limited to, supply chain disruptions, seasonal limitations to construction activities, etc. The Township shall provide its written notice of approval or disapproval within 5 business days of receipt of the request which approval shall not be unreasonably withheld, conditioned, or delayed. Redeveloper agrees to keep the Township, as Redevelopment Entity, apprised on a biweekly basis of the status of the construction delay during the approved extension period upon written request. This provision does not apply to Force Majeure as defined in this Redevelopment Agreement with extensions subject to Section 5.03.

## **ARTICLE 10 MISCELLANEOUS**

10.01. No Consideration for Agreement. Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Redevelopment Agreement.

### 10.02. Non-Liability of Officials and Employees.

(a) No member, official or employee of the Township shall be personally liable to Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

(b) No member, officer, shareholder, director, partner or employee of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Township, or their successors, on any obligation under the terms of this Redevelopment Agreement.

10.03. Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and signed by Redeveloper and the Township.

10.04. Recitals and Exhibits. The Recitals and all Exhibits annexed to this Redevelopment Agreement are hereby made a part of this Redevelopment Agreement by this reference thereto.

10.05. Entire Agreement. This Redevelopment Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

10.06. Severability. The validity of any Article and Section, clause or provision of this Redevelopment Agreement shall not affect the validity of the remaining Articles and Sections, clauses or provisions hereof.

10.07. Notices. A notice, demand or other communication required to be given under this Redevelopment Agreement by any Party to the other ("Notice") shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged), or by facsimile transmission (with a hard copy and a transmission confirmation sent by a recognized overnight national carrier service for next business day delivery) to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section.

As to the Township:

Township of Cranford  
8 Springfield Avenue  
Cranford, New Jersey 07016  
ATTN: Mayor and Business Administrator

With a copy to:

Ryan J. Cooper, Esq.  
Cooper, LLC  
108 North Union Avenue, Suite 4  
Cranford, New Jersey 07016

And to:

Wanda Chin Monahan, Esq.  
Law Offices of Wanda Chin Monahan, LLC  
50 Cardinal Drive  
Suite 102  
Westfield, New Jersey 07090

As to the Redeveloper:

Iron Ore Properties LLC



55 Bleeker Street, 2<sup>nd</sup> Floor  
Millburn, New Jersey 07041  
Attn: Josh M. Mann, Esq.

From time to time, either Party may designate a different person or address for all the purposes of this Notice provision by giving the other party no less than ten (10) days Notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon the earlier of receipt or rejection of delivery by the addressee, provided, that any notice delivered by telecopy shall be deemed to have been received by such party at the time of transmission, provided that a hard copy and transmission confirmation is simultaneously sent by a recognized overnight national carrier service for next business day delivery. Any notice given by an attorney for a party shall be effective for all purposes.

10.08 Further Assurances/Cooperation. The Parties shall reasonably cooperate with each other as reasonably necessary to effectuate the Project. From time to time at the request of either Redeveloper or the Township, the other party shall execute, acknowledge and deliver such other and further documents as the requesting party may reasonably request to better effectuate the provisions of this Redevelopment Agreement.

10.09. Governing Law. This Redevelopment Agreement shall be construed and enforced in accordance with the internal laws of the State of New Jersey, without giving effect to the principles of conflicts of law.

10.10. Counterparts. This Redevelopment Agreement may be executed in one or more counterparts (which may be copies delivered electronically or by facsimile), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

10.11 Estoppel Certificates. Within fourteen (14) days following written request therefore by a Party hereto (which request may be on behalf of any Mortgagee, purchaser, tenant or other party having an interest in the Property), the other party shall issue a signed certificate ("Estoppel Certificate") stating that (i) this Redevelopment Agreement is in full force and effect, (ii) there is no Event of Default under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in an Event of Default under this Redevelopment Agreement), or stating the nature of the Event of Default or other such event, if any, and (iii) any other matter reasonably requested. No more than three (3) Estoppel Certificates per year may be requested by each Party.

10.12 Section Headings. The headings and numbering of paragraphs and sections of this Agreement are set forth for ease of reference only and are not to be construed or considered to impart meaning to any provision of this Redevelopment Agreement.

10.13 Condemnation/Casualty. In the event that all or any substantial portion of the Project Site is condemned or taken by eminent domain by any condemning authority or is damaged or destroyed by casualty prior to Commencement of Construction, Redeveloper may, at its option, terminate this Agreement by written notice to the Township within thirty (30) days after

Redeveloper is notified of the condemnation, taking, damage or casualty. For purposes of this provision “Substantial Portion” shall be defined as any portion which is equal to or in excess of ten percent (10%) of the total acreage of the Project Site or that portion which, in the reasonable opinion of Redeveloper, would prevent the successful completion of construction or operation of the Project as envisioned by this Redevelopment Agreement. The Township acknowledges that it has no right to the proceeds resulting from a condemnation of the fee simple interest in the Project Site.

10.14 Waivers. Any right or remedy which any party may have under this Redevelopment Agreement may be waived in writing by the relevant party without the execution of a new or supplemental agreement. Except as otherwise provided in this Redevelopment Agreement, said right of waiver shall include the right to waive a default. No waiver made by any party with respect to the performance, or manner or time thereof, of any obligation of any other party or any condition to its own obligation under this Redevelopment Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition of its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver.

10.15 No Significance of Party Drafting. The Parties agree that in the construction or interpretation of this Redevelopment Agreement no significance shall be attributed in presumption or otherwise to the identity of the party drafting the provision or provisions in question.

10.16 No Restriction on Police Powers. Nothing in this Redevelopment Agreement will in any way limit or affect the right of the Township or any municipal board, department, agency, authority, official, or representative to enforce any generally applicable municipal ordinance, regulation, rule, procedure or other requirement, including, but not limited to, with respect to the Project, the Project Site or Redeveloper.

10.17 Prior Agreements Superseded. This Redevelopment Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

**THE BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties have executed this Redevelopment Agreement effective as of the latest date of the signatures affixed hereto.

Attest:

TOWNSHIP OF CRANFORD

\_\_\_\_\_  
Township Clerk

By: \_\_\_\_\_  
Kathleen Prunty, Mayor

SEAL

Dated: \_\_\_\_\_

IRON ORE PROPERTIES LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Josh M. Mann  
Title: Co-Managing Member

**EXHIBIT A**

**LEGAL DESCRIPTION OF  
THE PROPERTY**

**EXHIBIT B**

**FORM OF DECLARATION OF COVENANTS AND RESTRICTIONS**

**EXHIBIT C**  
**ESCROW AGREEMENT**

**EXHIBIT D**

**FORM OF CERTIFICATE OF COMPLETION**

Record and Return to:

Prepared by:

\_\_\_\_\_

Certificate of Completion

\_\_\_\_\_, 20\_\_\_\_

Iron Ore Properties LLC  
55 Bleeker Street, 2<sup>nd</sup> Floor  
Millburn, New Jersey 07041

RE:           Certificate of Completion

To Whom It May Concern:

In accordance with Section 3.03 of the agreement entered into by the Township of Cranford (the "Township") and Iron Ore Properties LLC (the "Redeveloper"), dated as of \_\_\_\_\_, 2020 entitled "Redevelopment Agreement By and Between the Township of Cranford and Iron Ore Properties LLC" (the "Agreement"), this letter shall serve as acknowledgment that Redeveloper has performed all of its duties and obligations with respect to the Project (as such term is defined in the Agreement) under the Agreement and has completed construction of the Project in accordance with the requirements of the Agreement.

This Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the Redeveloper's obligations, responsibilities and covenants under the Agreement, except for Section 3.02 thereof, which by the terms of the Agreement shall survive such termination. The conditions that were found and determined to exist with respect to the Property (as defined in the Agreement) at the time the Property was determined to be in need of rehabilitation shall be deemed to no longer exist.

The Declaration recorded in the office of the Union County Clerk on [\_\_\_\_\_] in deed book [\_\_\_\_], page [\_\_\_\_] is hereby discharged of record and is void and of no further force and effect, except with respect to Section 2(c) thereof, which remains in effect without limitation as to time, which remains in effect in accordance with its terms.

Very truly yours,

TOWNSHIP OF CRANFORD

By: \_\_\_\_\_  
Name:  
Title:

#### ACKNOWLEDGMENT

STATE OF NEW JERSEY :  
: ss.:  
COUNTY OF UNION :

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_ before me, the subscriber, a Notary Public of New Jersey, personally appeared \_\_\_\_\_, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he/she is the \_\_\_\_\_ of the TOWNSHIP OF CRANFORD, NEW JERSEY, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Township of Cranford and said Instrument was signed and delivered by said \_\_\_\_\_ as and for the voluntary act and deed of said entity.

\_\_\_\_\_  
Notary or Attorney At Law  
The State of New Jersey



**EXHIBIT E**  
**EXISTING MEMBERS**

**EXHIBIT F**  
**FORM OF TAX AGREEMENT**