SPECIAL MEETING OF THE
ROWAN UNIVERSITY BOARD OF TRUSTEES

January 16, 2015

AGENDA

SCHEDULE
9:00 a.m.

PUBLIC SESSION

CALL TO ORDER

OPEN PUBLIC MEETINGS ACT STATEMENT

CLOSED SESSION (if necessary)

PUBLIC COMMENTS REGARDING PENDING RESOLUTIONS

Please Note: Individuals may speak only in reference to those resolutions under consideration for Board Action. All other comments will be heard prior to New Business if the President’s Office was properly notified.

ACTION ITEMS

2015.01.01 APPROVAL OF AMENDMENT TO AGREEMENT BETWEEN ROWAN UNIVERSITY AND BROADWAY HOUSING PARTNERS REGARDING DEVELOPMENT OF HOUSING AND RELATED GUARANTY OF RENTAL PAYMENTS
Summary Statement: This resolution authorizes an Amendment to the rent guaranty previously approved to facilitate the construction of private student housing for the medical students attending CMSRU.

2015.01.02 APPROVAL OF PREDEVELOPMENT AGREEMENT AND RELATED DOCUMENTS WITH UNIVERSITY STUDENT LIVING, LLC (OR RELATED ENTITY) AUTHORIZING PUBLIC-PRIVATE PARTNERSHIP FOR THE VILLAGE HOUSING PROJECT
Summary Statement: This resolution authorizes an initial agreement in relation to development of a public-private partnership for the construction of approximately 1,400 new dorm beds.
PUBLIC COMMENTS

Individual remarks must be consistent with the topic previously listed with the president’s office.

COMMENTS BY TRUSTEES

ADJOURNMENT
RESOLUTION #2015.01.01

APPROVAL OF AMENDMENT TO AGREEMENT BETWEEN ROWAN UNIVERSITY AND BROADWAY HOUSING PARTNERS REGARDING DEVELOPMENT OF HOUSING AND RELATED GUARANTY OF RENTAL PAYMENTS

WHEREAS, Rowan University and Broadway Housing Partners, LLC (“Developer”) previously entered into an Amended and Restated Agreement Regarding Development of Housing and Related Guaranty Payments, dated October 3, 2014, and

WHEREAS, said Agreement contemplates the provision of housing units across from the Cooper Medical School of Rowan University (“CMSRU”) to benefit the medical students at CMSRU, and

WHEREAS, said housing units will be developed and operated by a private entity without any upfront investment by Rowan, and

WHEREAS, in order to facilitate the necessary financing for said units, Rowan agreed to provide certain rent guaranties, and

WHEREAS, it is necessary to adjust said guaranties and Rowan has determined that said changes are appropriate.

THEREFORE BE IT RESOLVED by the Board of Trustees of Rowan University, at a duly advertised meeting on this 16th day of January, 2015 that

1. The First Amendment to Amended and Restated Agreement Regarding Development of Housing and Related Guaranty of Rental Payments, attached hereto and made a part hereof, is approved and the Authorized signatories for the University are hereby directed to execute same.

This action was taken at a meeting of the Board of Trustees of Rowan University on 16th day of January, 2015 and approved by a ___ to ___ vote.

SUMMARY STATEMENT/RATIONALE

This resolution authorizes an Amendment to the rent guaranty previously approved to facilitate the construction of private student housing for the medical students attending CMSRU.
FIRST AMENDMENT
TO
AMENDED AND RESTATED AGREEMENT REGARDING
DEVELOPMENT OF HOUSING AND RELATED
GUARANTY OF RENTAL PAYMENTS

THIS FIRST AMENDMENT TO AMENDED AND RESTATED AGREEMENT REGARDING DEVELOPMENT OF HOUSING AND RELATED GUARANTY OF RENTAL PAYMENTS (“the Amendment”) made as of this ___ day of January, 2015, by and between ROWAN UNIVERSITY a New Jersey State Research University (the "University") and BROADWAY HOUSING PARTNERS, LLC, having an address at 2929 Arch Street, Suite 1351, Philadelphia, PA 19104 (the “Developer”).

Background

A. University and Developer entered into a certain Amended and Restated Agreement Regarding Development of Housing and Related Guaranty of Rental Payments dated as of October 3, 2014 (the Agreement”).

B. The Agreement relates to, among other things, (i) the purchase of and redevelopment by Developer of certain Properties as residential rental housing, which housing Developer intends to lease to University students as fair market rental housing, and, with regard to any Units that are not leased to University students, to any other qualified renters, so as to maximize occupancy of the Units in the Project, and (ii) a certain guaranty given by the University in connection with the annual rental income received from the Units, all on the terms and conditions set forth in the Agreement.

C. The parties desire to amend certain provisions of the Agreement in accordance with the terms and conditions set forth herein.

D. Any capitalized terms not defined herein shall have the meaning set forth in the Agreement.

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree to amend the Agreement as follows.

1. Modifications to Rent Schedule.

The Rent Schedule attached as Exhibit A to the Agreement is hereby modified as follows.

(a) For all leases executed on or after Jan. 1, 2016, the Standard Rent set forth in the Rent Schedule is hereby increased as shown in Exhibit A, subject to the terms set forth in Section 1(d) below.

(b) Developer intends to lease some Units as unfurnished apartments and some Units as furnished apartments. With regard to furnished Units, the Standard Rent is hereby
increased by $50/month for 1-bedroom Units and $100/month for 2-bedroom and 3-bedroom Units above the Standard Rent per Unit for unfurnished apartments.

(c) In furtherance of the terms and conditions set forth in Sections 1(a) and 1(b) above:

(i) The modifications to the Standard Rent are reflected in Exhibit A attached hereto and made a part hereof, which is hereby substituted for Exhibit A attached to the Agreement for all purposes under this Agreement. Exhibit A attached to the Agreement is hereby declared null and void.

(ii) Any references in the Agreement and this Amendment to the “Rent Schedule” shall solely refer to the Rent Schedule attached hereto as Exhibit A. Consequently, any and all terms set forth in the Agreement and this Amendment that are based on the Rent Schedule, including but not limited to “Standard Rent” and “Aggregate Standard Rent,” shall be based on the Rent Schedule attached hereto as Exhibit A.

(iii) In determining the Aggregate Standard Rent under the formula set forth in the second sentence of Section 2(a) of the Agreement, the Standard Rent for each 1-bedroom, 2-bedroom, and 3-bedroom Unit shall be based on the Standard Rent for furnished and unfurnished apartments set forth in the Rent Schedule attached as Exhibit A hereto. The Aggregate Standard Rent Schedule delivered by Developer to the University under said Section 2(a) shall therefore specify those Units that are furnished and those that are unfurnished for purposes of computing the Aggregate Standard Rent. For purposes hereof, a Unit shall be deemed to be “furnished” if it contains in material respects the furniture, or furniture of similar quality, listed for a Unit of that size on Exhibit B attached hereto.

(d) If Developer is awarded at least One Million Five Hundred Thousand Dollars ($1,500,000) in grant monies and/or tax credits for the Project from the New Jersey Economic Development Authority and/or other state or local programs in excess of the grant monies and tax credits committed to Developer as of the date hereof, then the increase of $100/Unit provided for in Section 1(a) above shall be nullified when determining Standard Rents after the award of said $1,500,000 in additional grants/tax credits, i.e. the Standard Rent per Unit set forth on Exhibit A attached hereto shall thereafter decrease by $100 per Unit. Promptly following any such nullification, the parties shall execute an amended Rent Schedule setting forth the new Standard Rents reflecting such $100/Unit decrease.

2. Limitation of Guaranty/Building-Unit Mix.

Developer currently intends to develop 21 Rehab Units and 38 New Units with the Unit bedroom mixes as follows:

<table>
<thead>
<tr>
<th># of Bedrooms</th>
<th>RENOVATION</th>
<th>NEW</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>2</td>
<td>12</td>
<td>31</td>
<td>43</td>
</tr>
<tr>
<td>3</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>
Developer further intends to obtain certificates of occupancy for the 21 Rehab Units with the result that the Rehab Unit Guaranty Commencement Date for each such Unit, for which a certificate of occupancy is issued and only such Units, is August 1, 2015 in accordance with Section 3(a)(i) of the Agreement. Assuming a Rehab Unit Guaranty Commencement Date of August 1, 2015 for each such Unit, and notwithstanding any other terms in this Amendment and this Agreement to the contrary, the Shortfall Payment for the period from August 1, 2015 through July 31, 2016 shall not exceed $322,620, which is calculated by assuming a rent for the Units equal to $339,600 for such period, multiplied by 95% (and provided that the foregoing calculation shall be adjusted accordingly if an August 1, 2015 Rehab Guaranty Commencement Date is established for less than 21 Units). The foregoing statement of rent for said period shall apply solely with respect to the calculation set forth in this Section 2, and not for any other purposes under this Amendment and the Agreement, including but not limited to the use of the Standard Rent set forth in Exhibit A attached hereto when computing the CPI Adjustment.

2. Early Termination of Guaranty. In Section 3(a)(iv)(bb) of the Agreement, the words “December 31, 2014” are hereby deleted and the words “February 28, 2015” are hereby inserted in their place.

3. Miscellaneous. Except to the extent specifically set forth herein, the terms of the Agreement remain unmodified and are hereby ratified and confirmed and in full force and effect. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and part of one and the same document.

[BALANCE OF PAGE INTENTIONALLY BLANK – SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the day and year first above written.

UNIVERSITY:
ROWAN UNIVERSITY

By:______________________________

Title:____________________________

DEVELOPER:
BROADWAY HOUSING PARTNERS, LLC

By:______________________________

Title:____________________________
EXHIBIT A

Rent Schedule

1. Base Year

   (a) Standard Rents for Unfurnished Units in Base year leases signed before 12/31/2015)
      (i) 1-Bedroom Unit -- $10,800/annum ($900/month)
      (ii) 2-Bedroom Unit -- $18,000/annum ($1,500/month)
      (iii) 3-Bedroom Unit -- $24,000/annum ($2,000/month)

   (b) Standard Rents for furnished Units in Base year
      (iv) 1-Bedroom Unit -- $11,400/annum ($950/month)
      (v) 2-Bedroom Unit -- $19,200/annum ($1,600/month)
      (vi) 3-Bedroom Unit -- $25,200/annum ($2,100/month)

2. 2nd Year

   (a) Standard Rents for Unfurnished Units (leases signed on/after Jan. 1, 2016)
      (i) 1-Bedroom Unit -- $12,000/annum ($1,000/month), plus CPI Adjusted from 12/2014.
      (ii) 2-Bedroom Unit -- $19,200/annum ($1,600/month), plus CPI Adjusted from 12/2014.
      (iii) 3-Bedroom Unit -- $25,200/annum ($2,100/month), plus CPI Adjusted from 12/2014.

   (b) Standard Rents for furnished Units (leases signed on/after Jan. 1, 2016)
      (i) 1-Bedroom Unit -- $12,600/annum ($1,050/month), plus CPI Adjusted from 12/2014.
      (ii) 2-Bedroom Unit -- $20,400/annum ($1,700/month), plus CPI Adjusted from 12/2014.
      (iii) 3-Bedroom Unit -- $26,400/annum ($2,200/month), plus CPI Adjusted from 12/2014.
2) Standard Rents in Subsequent Calendar Years after Year 2 -- Standard Rent for respective Unit in immediately preceding year under Section 2 (2\textsuperscript{nd} year) above, plus CPI Adjustment for current calendar year.
## EXHIBIT B

**Furniture in Furnished Units**

<table>
<thead>
<tr>
<th>Item</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sofa</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Chair</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cocktail Table</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>End Table</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Writing Desk</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Student Chair</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Nightstand</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Chest</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Queen Headboard</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Queen Mattress</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>All-Purpose Bed Frame</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Universal Queen Box Spring</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>
WHEREAS, the University is experiencing rapid growth in its student body and requires additional on-campus capacity to house students, and

WHEREAS, the University is seeking to utilize a Public-Private Partnership approach to the development of this additional housing capacity by which the University will avoid increasing its outstanding debt, and

WHEREAS, the University has proceeded through Request for Qualification and Request for Proposal processes to invite participation from national firms with experience in the private financing, development and operation of such facilities and, after review of the proposals received, has chosen University Student Living, LLC of Marlton, NJ (“USL”) as the Developer with whom to negotiate for approximately 1,400 beds to be constructed and available for use by the Fall 2016 semester, and

WHEREAS, in order to cause USL to promptly begin the design and cost determinations necessary to enter into definitive development and financing agreements to maintain the desired schedule it is necessary and appropriate to enter into a predevelopment agreement establishing the steps to be taken by USL and the University and to establish financial responsibility therefore for the period of time prior to finalizing and executing the final development agreements (anticipated to include a Development Agreement, a Ground Lease, a Management/Operating Agreement and financing documents), and

WHEREAS, the Predevelopment Agreement attached hereto and made a part hereof provides for the initiation of critical steps to initiate the project to be known as the Village Housing providing for approximately 1,400 student beds to be available by the Fall 2016 semester.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of Rowan University on January 16, 2015, that

1. The Predevelopment Agreement attached hereto is approved subject to final terms being negotiated by University officials as approved by the President.
2. The authorized signatories for the University are authorized to execute same.
3. The appropriate University officials are authorized to negotiate and finalize the further development documents with USL and to present same to the Board of Trustees for approval.
4. The Administration shall report on the progress of this project on a regular basis through the Building and Grounds and Executive Committees of the Board.

(continued)
RESOLUTION #2015.01.02 (continued)

SUMMARY STATEMENT/RATIONALE

This resolution authorizes an initial agreement in relation to development of a public-private partnership for the construction of approximately 1,400 new dorm beds.
PRE-DEVELOPMENT AGREEMENT

Between

ROWAN UNIVERSITY

And

UNIVERSITY STUDENT LIVING, LLC

This PRE-DEVELOPMENT AGREEMENT (the "Agreement"), dated __, 2015 ("Effective Date"), is between Rowan University, a public co-educational institution of higher learning in the New Jersey State College system organized and existing under the laws of the State of New Jersey ("Rowan") and University Student Living, LLC, a New Jersey limited liability company ("USL"). Rowan and USL may together be referred to as the "parties" throughout this Agreement.

RECITALS

WHEREAS, Rowan desires to have constructed a student housing project consisting of approximately a total of 1,400 student housing beds and a student dining facility consisting of approximately 23,000 square feet (the "Project") on certain real property (the "Land") located on the campus of Rowan as more particularly described in Exhibit A attached hereto (the "Site").

WHEREAS, Rowan envisions that the best way to complete the Project is to contract with a qualified firm that is experienced in the development of student housing and related facilities, and that will develop and implement plans for the Project on the Site, pursuant to (a) a ground lease agreement (the "Ground Lease"), under which Rowan will lease the Site on which the Project is to be constructed to a not-for-profit entity agreed to by the parties, or a wholly owned limited liability company of such not-for-profit entity (the "Lessee"), and (b) a Development Agreement (as defined herein) (collectively, the "Primary Agreements"), and various other agreements (collectively, the "Other Agreements") (the Primary Agreements and the Other Agreements are sometimes collectively referred to herein as the "Project Agreements").

WHEREAS, Rowan has conducted an RFQ/RFP process, USL has submitted a proposal in response to the RFQ/RFP process (the "Proposal"), and Rowan has selected USL as the developer of the Project subject to USL and Rowan entering into the Project Agreements upon mutually acceptable terms.

WHEREAS, USL desires to perform the Services (as defined herein) with the goal of developing the Project as a high quality student housing facility, with a dining facility, for the benefit of Rowan and its students, and in a manner consistent with this Agreement and the Project Agreements to be negotiated.

WHEREAS, Rowan requires that, in the event the Financial Closing (as defined in Section 4.11 hereof) occurs, the Project be completed to ensure occupancy by Rowan students no later than August 7, 2016.

WHEREAS, Rowan and USL acknowledge that, in order to accomplish completion of the Project no later than August 7, 2016, USL has commenced and must continue to pursue certain Services (as defined and described in Section 1 hereof) on the terms and conditions set forth in this Agreement.

WHEREAS, Rowan is willing to enter into this Agreement to permit USL to continue to perform the Services while Rowan and USL continue to negotiate the terms and conditions of the Project Agreements, as a predicate to development of the Project on the Project Site, in accordance with and subject to the terms and conditions of this Agreement and the Project Agreements.
WHEREAS, the parties desire to provide for Rowan’s reimbursement of certain predevelopment costs to USL, if the Project, or USL’s involvement in the Project, is terminated prior to the execution of a development agreement between the parties with respect to the Project that supercedes this Agreement ("Development Agreement").

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Rowan and USL agree as follows.

1. USL SERVICES AND RESPONSIBILITIES

1.1. USL shall furnish or procure the following services and deliverables necessary for the Project within the budget and schedule set forth on the attached Exhibit B (collectively, the “Services”):

1.1.1 the selection of, contracting with and supervision of the design, engineering, construction and other professionals, including consultants, sub-consultants, contractors and sub-contractors (individually a "Professional" and collectively the "Professionals") necessary for the planning, design, engineering, financing, construction and development of the Project, subject to the approval by Rowan of all such design, engineering, construction and other professionals or consultants retained by USL (it being agreed that the Professionals described on Schedule 1 are hereby deemed approved by Rowan, and USL acknowledges that Rowan’s preference is to utilize, whenever feasible, Professionals who are local, and also Professionals who are small businesses, Minority Business Enterprises or Women's Business Enterprises);

1.1.2 The preparation of preliminary drawings, conceptual designs, schematic designs, preliminary specifications, design development and construction documents for the Project (collectively, the "Plans") for review and approval by Rowan and preliminary construction pricing and preliminary development analysis related to the Project;

1.1.3 Detailed assessment of the Site, including title review, boundary/topographical surveys, soil borings and testing, and/or environmental site assessment;

1.1.4 Further refinement of the Plans at the request of Rowan or otherwise as reasonably needed to progress toward Financial Closing (as defined in Section 4.11) and based upon any Project Site constraints determined by the assessment of the Site and preparation of the final and complete Plans (including final and complete specifications) for the Project for review and approval by Rowan;

1.1.5 Preparation of a detailed development schedule including sequencing of the development for review and approval by Rowan;

1.1.6 Additional preliminary construction pricing based upon actual Site conditions, refined conceptual designs, and the ultimate development schedule for the Project for review and approval by Rowan;

1.1.7 Preparation of pro forma analyses related to the development, construction, financing and operation of the Project, including projected annual cumulative cash flows available to Rowan (subject to review and approval by Rowan), which USL agrees to update periodically, including immediately prior to the proposed Financial Closing;

1.1.8 Identifying and obtaining all necessary and desirable governmental approvals and permits for the development and construction of the Project (subject to review and approval by Rowan) in each case on or before such dates as are reasonably necessary
to allow for completion of the Project and making it available for occupancy on or before August 7, 2016;

1.1.9 The preparation of a final development budget for the Project (subject to review and approval by Rowan); and

1.1.10 Following approval by Rowan of a plan for the Tax Exempt Financing (as defined in Section 4.11) for the Project, (a) endeavor to satisfy the requirements of the proposed financing; (b) negotiation of the terms of the financing documents, (c) closing the financing and (d) otherwise implementing the financing plan for the Project (all with the approval of Rowan), provided that in no event shall USL have any financial obligations with respect to the Tax Exempt Financing except to guaranty the contractor’s completion of construction.

With regard to Rowan's approval of any aspect of the Services or any other matters pertaining to the Project over which Rowan has approval rights, such approval shall not be unreasonably withheld, conditioned or delayed (and such approval shall be deemed to have been given if Rowan does not specifically disapprove such Professionals, items, materials or matters within five (5) business days after receipt by Rowan of a written request for approval, together with such information required or reasonably requested by Rowan as necessary to make such decision); provided that copies of such written request and related information are simultaneously provided to each of the following by email: Donald E. Moore, mooredo@rowan.edu, Joseph F. Scully, scullyj@rowan.edu, Steven David Weinstein, weinsteins@rowan.edu and Frank T. Cannone, fcannone@gibbonslaw.com. If Rowan disapproves of any such Professionals, items, materials or matters, USL shall promptly and in good faith work with Rowan to either attempt to resolve Rowan’s concerns as necessary to make same reasonably acceptable to Rowan, or to provide an acceptable alternative.

1.2 USL shall have the following responsibilities:

1.2.1 USL will exercise professional skill and judgment in the performance of the Services.

1.2.2 USL will make its representatives reasonably available to Rowan on a regular basis for meetings on campus or conference calls to discuss the progress and problems in order that the Services can proceed in an efficient and expeditious manner.

1.2.3 Subject to the terms of this Agreement, USL will engage and manage Professionals with respect to the Services, as authorized by Rowan. Developer shall secure assignment of all development documents to Rowan from its Professionals as provided in Section 4.5.

1.2.4 USL shall pay, and cause its Professionals to pay, each worker employed in the construction, rehabilitation, or building maintenance services of the Project not less than the prevailing wage rate for the worker’s craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L. 1963, c. 150 (N.J.S.A. 34:11-56.25, et seq.) and P.L. 2005, c. 379 (N.J.S.A. 34:11-56.58, et seq.)

1.2.5 USL shall, and shall cause its Professionals, to (a) enter into a project labor agreement that is written in a manner that enhances to the greatest extent possible employment opportunities in the county of the Project location subject to the provisions of P.L. 2002, c. 44 (N.J.S.A. 52:38-1, et seq.) and (b) be registered pursuant to P.L. 1999, c. 238 (N.J.S.A. 34:11-56.48, et seq.) and classified by the Division of Property Management and Construction to perform work on the Housing Facility (to the extent applicable).

1.2.6 USL and USL’s Professionals shall provide equal employment opportunities to their employees or applicants for employment and neither USL or its Professionals shall discriminate against any of their employees or applicants for employment because of
age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex pursuant to N.J.A.C. 19:30-3.5(c)(3).

1.2.7 USL and its Professionals shall make good faith efforts to employ minority and women workers in each construction trade consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-7.2.

1.2.8 USL shall attempt to include in all of its contracts and agreements with its Professionals a contractual provision whereby such Professional agrees to accept seventy five percent (75%) of its fees and expenses in the event that USL terminates its agreement with such Professional on account of the termination of this Agreement.

1.3 USL has provided to Rowan, and Rowan has approved, a “Preliminary Design Budget” (herein so called) and a “Preliminary Design Schedule” (herein so called) for the Services, as reflected on Exhibit B attached hereto. Occupancy of the Project on or before August 7, 2016 assumes timely resolution of team member and site selection, zoning and regulatory requirements and the occurrence of the Financial Closing. In order to meet this occupancy and opening goal, USL will use good faith efforts to diligently complete all Services no later than April 15, 2015, or such later date agreed upon by the parties, such that the Project will be available for occupancy on or before August 7, 2016.

1.4 In preparing the Proposal, USL has prepared conceptual plans for the Project and otherwise expended monies in good faith and in furtherance of the Project, all at no expense to Rowan. By its execution and delivery of this Agreement, Rowan requests that USL continue to conduct activities necessary or appropriate in furtherance of the Project, all at no expense to Rowan (except as otherwise specifically set forth in this Agreement). USL does hereby endeavor to, in a timely manner, confirm and continue to develop the assumptions and projections on which the Proposal is based and as modified by the parties discussions, and provide Rowan ongoing updates and involvement related to the Project, including updated budgets. USL will (in accordance with this Section 1.4 and subject to the terms of this Agreement) enter into appropriate contractual agreements with the Professionals, pursue the completion of the design phase of the Project, attempt to secure the necessary governmental approvals and permits for the Project, negotiate a construction contract with the general contractor, work with the general contractor to price the plans, and submit a final development budget to Rowan, all of which shall be subject to written approval by Rowan. Thereafter, USL and Rowan will cooperate with each other to cause the Financial Closing to occur so that the Project is available for occupancy no later than August 7, 2016.

1.5 USL will (A) keep Rowan reasonably apprised of any and all actions, decisions and contracts that could materially affect Rowan and/or the Project, (B) promptly deliver Rowan copies of all Plans, specifications, reports, studies, data, plans, surveys, title reports, feasibility studies, consultant reports, contracts with Professionals, and other work product, and (C) obtain the prior written approval for and with respect to any and all actions, decisions and contracts relating to the Project that could materially affect Rowan and/or the Project, and shall keep Rowan reasonably apprised of its negotiations with each of the Professionals.

2. ROWAN’S RESPONSIBILITIES

2.1 Rowan shall have the following responsibilities:

2.1.1 Rowan shall notify USL in writing in the event that Rowan reaches a decision for USL to cease providing Services. Upon USL’s receipt of such notice, USL shall (and shall cause all of its Professionals to) cease performing Services until Rowan and USL agree that such Services should be resumed.
2.1.2 Rowan shall make its representatives reasonably available to USL on a regular basis for meetings on campus or conference calls to discuss the progress and problems in order that the Services can proceed in an efficient and expeditious manner.

2.1.3 If reasonably required for the performance of the Services, Rowan will furnish information, surveys, reports, geotechnical reports, and other relevant materials in Rowan’s possession as of the date of this Agreement at Rowan’s expense.

2.1.4 Rowan will reasonably cooperate with and assist USL and its Professionals as necessary for USL to perform the Services.

2.2 Rowan hereby grants to USL a license, during the term of this Agreement, for USL and its employees and Professionals to enter upon the Site for purposes of performing the foregoing Services. Such license shall automatically terminate upon any termination of this Agreement. USL accepts such license subject to all restrictions of record, and waives all claims resulting from such condition or restrictions. USL shall provide Rowan with reasonable prior notice prior to entering the Site. To the extent that USL or its Professionals cause any damage to the Site or any adjoining property, USL shall promptly restore and repair the same, to the condition existing before such damage, at its sole cost and expense. USL’s obligation to restore and repair the Site shall survive the termination of this Agreement.

3. TERM

3.1 Term of Agreement. Subject to the other terms of this Agreement, the Agreement shall terminate (a) upon the mutual written agreement of both parties, (b) upon termination for convenience by Rowan, (c) upon termination for cause by either party as expressly provided below, (d) upon the Financial Closing, together with the execution of the Development Agreement and Ground Lease, or (e) May 1, 2015, whichever shall occur first (the “Expiration Date”). In the event that Rowan elects not to proceed with the Project, such action shall be deemed a termination for convenience pursuant to this Section 3.1. Rowan may terminate this Agreement for convenience upon giving USL written notice of such termination. The term of this Agreement may be extended by the mutual written agreement of Rowan and USL.

3.2 Rowan-Initiated Termination for Cause. If USL materially breaches this Agreement and fails to cure such breach within the time periods specified below, Rowan may terminate this Agreement for cause. This termination shall become effective if, within five (5) business days (or more, if authorized in writing by Rowan) after receipt of a notice of intention to terminate from Rowan specifying such breach, USL does not cure such breach; provided that, if such cure is commenced by USL within such initial five (5) business day period, but cannot be cured within such time period, Rowan, may, in its discretion (not to be unreasonably withheld), grant an additional five (5) calendar days for USL to complete such cure.

3.3 USL-Initiated Termination for Cause. USL may terminate this Agreement for cause if Rowan materially breaches this Agreement and fails to cure such breach within the time periods specified below. This termination shall become effective if, within five (5) business days (or more, if authorized in writing by USL) after receipt of a notice of intention to terminate from USL specifying such breach, Rowan does not cure such breach; provided that, if such cure is commenced by Rowan within such initial five (5) business day period, but cannot be cured within such time period, USL, may, in its discretion (not to be unreasonably withheld), grant an additional five (5) calendar days for Rowan to complete such cure.

3.4 Force Majeure. It will not be a breach of this Agreement for either party to fail to perform any act, if such failure is caused by acts or omissions of Rowan, its trustees, officers, employees or agents that result in delay, additional expenses or the requirement for additional services or is
caused by a Force Majeure Event. A "Force Majeure Event" is an Act of God (e.g., fire, flood, inclement weather, epidemic, earthquake); war or act of terrorism; labor dispute, lockout, strike, embargo; governmental acts, orders, or restrictions; shortage of labor or materials; or any other reason where failure to perform is beyond the reasonable control, and is not caused by the negligence, intentional conduct or misconduct of USL. If a Force Majeure Event occurs and is continuing for 30 days, either party may terminate this Agreement upon written notice to the other and, within 30 days after such termination, Rowan will compensate USL in accordance with the terms of Section 5.1.5 (B).

4. GENERAL PROVISIONS

4.1 Independent Contractor. USL shall perform the Services as an independent contractor and not as an agent or employee of Rowan.

4.2 USL Hiring. USL shall not hire any officer or employee of Rowan to perform any Service. If the Service is to be performed in connection with a federal contract or grant, USL shall not hire any employee of the United States government to perform any Service.

4.3 Other Consultants/Sub-Consultants. USL shall meet, confer and coordinate as reasonably requested with consultants employed by Rowan in the production of work related to the Services. In addition, Rowan will have the right to review and approve any agreement related to the Services between USL and a Professional. Nothing in the foregoing procedure shall create any contractual relationship between Rowan and the Professionals employed by USL under the terms and conditions of this Agreement. USL is solely responsible for payment of any Professionals that USL retains (subject to reimbursement by Rowan, if applicable, to the extent required in Section 5.1.5 hereof).

4.4 Legal and Regulatory Compliance. USL shall perform all Services and prepare documents in compliance with the applicable requirements of laws, codes, regulations, and ordinances.

4.5 Ownership and Use of Documents. On the date hereof, USL shall execute and deliver to Rowan a Collateral Assignment of Agreements Affecting Project in the form of Exhibit C hereto (the "Collateral Assignment"). Upon termination of this Agreement prior to Financial Closing, subject to payment by Rowan to USL, if applicable, to the extent required in Section 5.1.5 hereof, USL shall deliver to Rowan, at the election of Rowan, all of its rights in and to all Plans, documents, reports, surveys, renderings, exhibits, models, prints, and photographs, and other materials furnished by USL hereunder (collectively, the "Work Product"), and agrees that Rowan may exercise the rights under the Collateral Assignment to the extent that USL has not complied with its obligations hereunder. All Work Product shall be and shall remain the property of USL until such Work Product is assigned by USL to Rowan pursuant to this Section 4.5. Upon receipt by USL of all payments, reimbursements and fees owed by Rowan to USL pursuant to Article 5 hereof, USL shall assign to Rowan all right, title and interest of USL in and to the Work Product.

4.6 USL’s Accounting Records. All books and records relating to this Agreement shall be maintained in accordance with generally accepted accounting principles. Rowan or Rowan’s authorized representative, at Rowan’s expense, shall as reasonably required by Rowan, have access to and the right to audit and the right to copy all of USL’s books and records directly related to the Services. USL records related to the Services shall include but not be limited to accounting records (hard and electronic copies); contracts; payroll records; Professional agreements; vendor agreements; purchase orders; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this Agreement. All such books and records shall be preserved for a period of at least three (3) years from the date of final payment under this Agreement.
4.7 **Conflict of Interest.** USL affirms that to the best of its knowledge, there exists no actual or potential conflict between USL’s business or financial interests and the provisions of the Services.

4.8 **Successors and Assigns.** This Agreement shall be binding upon Rowan and USL and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any monies due or to become due hereunder, may be assigned by either party without the prior written consent and approval of the other.

4.9 **Designated Representative of Each Party.** The parties agree that in order to facilitate an efficient working relationship throughout the pre-development, development and construction periods, Jeremy Sunkett, Assistant Vice President of Business Operations & Real Estate, will serve as the designated representative for Rowan, and Rhonda Johannesen, Senior Vice President of Campus Development will serve in the same capacity for USL. Certain other persons will be actively involved in the process, but all official communication shall flow through these designated representatives; provided that any such written communications from (a) USL shall include a simultaneous copy of such communication to each of the following by email, and after any such oral communications between the parties USL shall promptly provide a summary of such communications by email to: Donald E. Moore, mooredo@rowan.edu, Joseph F. Scully, scullyj@rowan.edu, Steven David Weinstein, weinsteins@rowan.edu and Frank T. Cannone, fcannone@gibbonslaw.com, and (b) Rowan shall include a simultaneous copy of such communication to Ronald J. Hansen by email at Rhansen@themichaelsorg.com. Each of the Rowan and USL may change the identity of its designated representatives by written notice.

4.10 **Anticipated Tax-Exempt Bond Financing.** Both Rowan and USL acknowledge and agree that one of the most important financing and ownership components which support the economic viability of the Project is financing the Project with the Tax Exempt Financing. USL acknowledges that closing of the Tax Exempt Financing is a condition precedent to the development of the Project as contemplated by Rowan, and that proceeding with the development of the Project without such advantage shall be done only with the express written acknowledgment and consent of Rowan. Rowan agrees that in the event that Rowan instructs USL not to pursue financing of the Project under the New Jersey Economic Development Authority's program enabling private entities to perform on campus construction projects at State colleges (N.J.S.A. 18A:64-85), then USL shall not be deemed to have breached Sections 5.1.6.1 or 5.1.6.4 hereof.

4.11 **Standards of Performance.** Both USL and Rowan agree to pursue all pre-development activities pertaining to the Project with a cooperative, good faith effort with due diligence and in a commercially reasonable manner, including without limitation, the Services to be performed by USL, and various types of Project delineation and support to be provided by Rowan. It is the goal of both Rowan and USL to achieve financial closing on a tax exempt basis (except for the possible inclusion of a taxable tail to the extent that the costs of issuance exceed the tax-exempt two percent (2%) threshold limitations) (the "Tax Exempt Financing") to obtain the funding for the construction and development of the Project (the "Financial Closing") and commence construction of the Project on or about May 1, 2015, to enable the Project be completed to ensure occupancy by Rowan students no later than August 7, 2016, at a rental rate to be charged per bed that is affordable to Rowan students and is competitive/comparable with other similar newer constructed housing on campus. Notwithstanding the foregoing, in no event shall Rowan be obligated to act as guarantor for any lessee’s repayment of the bond financing or to provide any “first fill” requirements or other occupancy rate incentives or guarantees.

4.12 **Other Agreements.** Promptly after the Effective Date, USL and Rowan will undertake the negotiation of the Primary Agreements and shall endeavor to complete such negotiation no later than February 27, 2015 so that, as between USL, the Lessee and Rowan, the Primary Agreements are in substantially final form as of such date and shall be executed by the parties in such substantially final form; provided however, the Parties acknowledge and agree that the Primary Agreements, as well as the Other Agreements, shall be subject to modification as the
Project progresses toward the Financial Closing, as may be required by the issuer, underwriter, other Project transaction participants (excluding USL, the Lessee and Rowan), or as may be necessitated by other aspects of the Project. Neither of the Parties shall unreasonably withhold, condition nor delay their consent to any such modifications in the Project Agreements arising from any or all of such factors.

5. COMPENSATION

5.1 Rowan will compensate USL for the Services provided in accordance with this Agreement, as follows:

5.1.1 The maximum payment for reimbursement and compensation for the Services is specified in the Preliminary Design Budget. Rowan will have no obligation to reimburse USL for amounts in excess of that specified in the Preliminary Design Budget unless such excess has been approved in writing by Rowan. No element of the Preliminary Design Budget or the Preliminary Design Schedule shall be changed except with the prior written approval of Rowan, which approval shall not be unreasonably withheld, conditioned or delayed. If an event described in Section 3.4 of this Agreement occurs (Force Majeure event, act or omission of Rowan, etc.) that results in the need to amend the schedule or budget, the parties will in good faith negotiate an amendment to the schedule or budget as appropriate to respond to such occurrence.

5.1.2 Subject to Sections 5.1.1, 5.1.3, 5.1.4, 5.1.5 and 5.1.6 and in addition to the compensation of USL for Services, at Financial Closing, each of USL and Rowan shall be reimbursed for actual third party expenditures as described in and to the extent listed in the Preliminary Design Budget incurred by each party and its respective employees, consultants, architects, engineers and sub-consultants.

5.1.3 Notwithstanding anything to the contrary herein, in no event shall any development or similar fee be payable to USL, Rowan or any Professional in the event that the parties do not, on or before the Expiration Date, enter into a Development Agreement. Compensation for additional services, if required, shall be negotiated separately and set forth in a writing signed by both parties.

5.1.4 In order to establish USL’s entitlement to any applicable payment as a result of the expiration or termination of this Agreement, USL shall promptly after such expiration or termination deliver to Rowan a written accounting (the “Written Accounting”) of the Services performed and expenses incurred in sufficient detail to enable Rowan to determine the appropriateness of USL’s claim for payment.

5.1.5 (A) In the event that (a) USL terminates this Agreement for cause pursuant to Section 3.3, or (b) USL terminates at any time (i) after Rowan and USL approve a financial pro forma for the Project in writing and (ii) subsequent to such approval Rowan requires changes, charges or additions to the Project not included in such pro forma, the effect of which is to make the Project not feasible (with any such event being referred to herein as a “Termination Event”), then Rowan, within 30 days after delivery to Rowan of the Written Accounting, will pay USL one hundred percent (100%) of all third party expenditures described in and to the extent listed in the Preliminary Design Budget actually incurred by USL and its Professionals under and in accordance with this Agreement, up to and including the effective date of such termination. In ascertaining the Services actually rendered up to the date of termination, consideration shall be given to completed Services delivered to Rowan. No compensation shall be payable for anticipated profit on unperformed Services.
(B) In the event that Rowan terminates this Agreement for convenience pursuant to Section 3.1 (such an event being a "Rowan Convenience Termination"), then Rowan, within 30 days after delivery to Rowan of the Written Accounting, will pay USL for seventy five percent (75%) of all third party expenditures described in and to the extent listed in the Preliminary Design Budget actually incurred by USL and its Professionals under and in accordance with this Agreement, up to and including the effective date of such termination (less 25% of the amount of Rowan’s expenses set forth in the Preliminary Design Budget to the extent actually incurred by Rowan). In ascertaining the Services actually rendered up to the date of termination, consideration shall be given to completed Services delivered to Rowan. No compensation shall be payable for anticipated profit on unperformed Services.

(C) Notwithstanding anything set forth herein to the contrary, upon a termination of this Agreement, USL shall immediately assign any Work Product to Rowan pursuant to Section 4.5 hereof once Rowan has paid to USL any sums required to be paid by Rowan to USL pursuant to this Section 5.1.5.

5.1.6 In the event that Rowan terminates this Agreement for cause pursuant to Section 3.2, then Rowan shall not be obligated to pay for any Services or to reimburse USL for any expenses, and USL shall reimburse Rowan for its third party expenses included in the Preliminary Design Budget and actually incurred by Rowan through the date of such termination. Without limiting the foregoing and notwithstanding anything herein to the contrary, in no event shall Rowan be required to reimburse USL for any expenses or pay for any Services in the event that:

5.1.6.1 Prior to April 15, 2015, (A) USL has been unable to obtain a suitable commitment from a lender for financing of the construction and development of the Project which commitment (i) does not require a debt coverage ratio of more than 1.20 times, and (ii) is expected to result in the issuance of tax-exempt bonds with a minimum investment rating of at least BBB-, and (B) USL’s and Rowan’s efforts to perform Value Engineering (hereinafter defined) of the Project have not resulted in sufficient decreases in the cost of the Project to achieve such commitment. As used herein, the term "Value Engineering" means the strategic analysis of the alteration or redesign of the Project (which may include the analysis of estimated, bid, or proposed costs and/or the design of project components) in order to reduce the costs of the Project. Rowan hereby agrees to consider in good faith any Value Engineering reasonably recommended by USL, provided, however, such recommendations shall not include any deletions which in Rowan’s reasonable determination render the Project incomplete or inadequate for its intended use;

5.1.6.2 Prior to Financial Closing, USL shall have failed to obtain all necessary and desirable governmental approvals and permits for the development and construction of the Project, as a result of which the Project will not be able to be completed and available for occupancy on or before August 7, 2016, provided that Rowan has reasonably cooperated with USL in connection with the making of such applications and obtaining of such governmental approvals and permits;

5.1.6.3 USL materially breaches under this Agreement that is not cured in accordance with Section 3.2 hereof;

5.1.6.4 Prior to Financial Closing, USL shall have failed to create a non-recourse tax-exempt (other than possibly for a taxable tail component) financing
structure for the Project that fully complies with applicable State of New Jersey and federal requirements, to which financing structure bond counsel engaged with respect to the Project can provide a favorable opinion in a reasonably acceptable form to facilitate the occurrence of Financial Closing;

5.1.6.5 If, prior to Financial Closing, there shall be any material adverse change in the affairs of USL that, in the reasonable judgment of Rowan or the underwriter of the tax-exempt bonds, will or could materially and adversely affect the market price or the marketability of the tax-exempt bonds; or

5.1.6.6 The failure or refusal by USL to diligently and in good faith perform the Services or fulfill its other obligations or agreements under this Agreement prior to Financial Closing, as a result of which the Project will not be able to be completed and available for occupancy on or before August 7, 2016.

5.1.7 Intentionally Omitted.

5.1.8 Intentionally Omitted.

5.1.9 Intentionally Omitted.

5.1.10 USL shall submit to Rowan within fifteen (15) business days after the end of each month, appropriate documentation evidencing the occurrence of each of the expenses set forth in the Preliminary Design Budget in the form of copies of invoices, receipts, vouchers, or other information requested by Rowan evidencing such expenses in such form and containing such information as is reasonably necessary in order for Rowan to determine that such items constitute expenses incurred in accordance with the terms and conditions of this Agreement and, which, if applicable, will be subject to reimbursement pursuant to Section 5.1.2 at Financial Closing or pursuant to Section 5.1.5 hereof.

5.1.11 Each of USL and Rowan’s payment obligations pursuant to this Section 5.1 shall survive any termination of this Agreement.

6. INDEMNIFICATION

6.1 USL shall indemnify, defend, protect and hold harmless the State of New Jersey, Rowan, and their respective trustees, officers, employees, agents, and representatives (collectively, “Rowan Indemnitees”), against all direct liabilities, demands, claims, costs, damages, injury (including death), settlements, and expenses (including without limitation, interest and penalties, but not including any consequential damages) incurred by Rowan Indemnitees (“Losses”), but only in proportion to and to the extent such Losses were caused negligently or intentionally by USL or its officers, employees or agents or such Losses arise out of the performance of the Services or USL’s breach of this Agreement.

6.2 Nothing in this Agreement, including the provisions of this Article 6, shall constitute a waiver or limitation of any rights which either party may have under applicable law.

7. INSURANCE

7.1 USL, at its sole cost and expense, shall insure its activities in connection with this Agreement, and/or cause the Professionals to insure such activity, as appropriate. In the event that USL hires any contractors or consultants to perform any part of this Agreement, USL is responsible for ensuring that these insurance provisions shall apply to each contracting entity. USL and each of
its contractors and consultants of any tier shall obtain, keep in force and maintain insurance as follows (except that USL sub-contractors may maintain limits of $1,000,000 per occurrence with a $2,000,000 annual aggregate for the general liability insurance and with respect to Excess Liability coverage it is USL’s option to determine the limit of excess liability it will require the Professionals and contractors and consultants to maintain):

7.1.1 Comprehensive or Commercial Form General Liability Insurance (contractual liability included) as follows:

7.1.1.1 Each Occurrence $1,000,000
7.1.1.2 Products/Completed Operations Aggregate $3,000,000
7.1.1.3 Personal and Advertising Injury $1,000,000
7.1.1.4 General Aggregate $3,000,000

However, if any such insurance is written on a claims-made form, coverage shall continue for a period of not less than three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this Agreement.

7.1.2 Professional (Errors & Omissions) Liability Insurance with minimum limits of $5,000,000 for each claim and $5,000,000 in the aggregate. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of any professional services performed for this Agreement. Such coverage shall be required of each design architect, engineer, or consultant hired directly or indirectly to perform professional services for this Agreement and shall include Rowan as an indemnified party for vicarious liability caused by professional services performed for this Agreement.

7.1.3 Comprehensive Automobile Liability Insurance covering owned, non-owned, and hired vehicles. The limits of liability shall not be less than a combined single limit of one million dollars ($1,000,000) per occurrence.

7.1.4 Excess Liability, umbrella insurance form, applying excess of primary to the commercial general liability, commercial automobile liability and employer’s liability insurance shall be provided with minimum limits of five million dollars ($5,000,000) per occurrence, five million dollars ($5,000,000) general aggregate, and five million dollars ($5,000,000) products/completed operations.

7.1.5 Workers' Compensation and Employer's Liability Insurance as required by New Jersey law. Employer's Liability limits shall not be less than $1,000,000 for bodily injury for each accident, $1,000,000 bodily injury by disease each employee, and $1,000,000 policy limit for bodily injury by disease.

7.2 Insurance required under 7.1.1, 7.1.2, 7.1.3, 7.1.4 and 7.1.5 of Section 7.1 shall be issued by companies licensed to do business with a Best rating of A(XI)- or better and a financial classification of VIII or better (or an equivalent rating by Standard & Poor’s or Moody’s), or as otherwise reasonably acceptable to Rowan.

7.3 The insurance coverage referred to under 7.1.1, 7.1.2, 7.1.3 and 7.1.4 of this Section 7 shall be endorsed to include Rowan, its trustees, directors, officers, agents, employees, volunteers, consultants, representatives and representative's consultants, the State of New Jersey, and the New Jersey Higher Education Facility as additional insureds.
7.4 In the event that USL receives notice from an insurer of any modification, change or cancellation of any of the above insurance coverage, it will provide a copy of such notice to Rowan within three (3) business days thereof. If insurance policies are canceled for non-payment, Rowan reserves the right to maintain policies in effect by continuing to make the policy payments and assessing the cost of so maintaining the policies against USL.

7.5 USL, upon the execution and continuously during this Agreement, shall furnish Rowan with Certificates of Insurance acceptable in form to Rowan evidencing compliance with all requirements noted above in this Section 7.1, 7.2, 7.3, 7.4 and 7.5.

8. NONDISCRIMINATION

In connection with the performance of its obligations under this Agreement, USL will abide by all anti-discrimination laws, including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder.

9. NOTICE

All notices and demands required or allowed to be given hereunder shall be given in writing and delivered by U.S. certified mail, postage prepaid, and return receipt requested, or by personal delivery. Notices shall be considered given upon the earlier of (a) personal delivery or (b) two (2) business days after deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given to the address stated in that notice:

If to Rowan:

Rowan University
Jeremy Sunkett, Assistant Vice President of Business Operations & Real Estate
Shpeen Hall
40 North Academy Street
Glassboro, NJ  08028

with copies to:

Rowan University
Donald E. Moore, Senior Vice President, Facilities, Planning & Operations
Shpeen Hall
40 North Academy Street
Glassboro, NJ  08028

Rowan University
Joseph Scully, Senior Vice President and CFO
Bole Hall
201 Mullica Hill Road
Glassboro, NJ  08028

Rowan University
Steven David Weinstein, General Counsel
Bole Hall
201 Mullica Hill Road
Glassboro, NJ  08028
10. ADDITIONAL TERMS AND CONDITIONS:

10.1 **Performance.** TIME IS OF THE ESSENCE OF THIS AGREEMENT AND OF EACH PROVISION HEREOF.

10.2 **Calculation of Time.** The time in which any act required or permitted by this Agreement is to be performed shall be determined by excluding the day upon which the event occurs from whence the time commences. If the last day upon which performance would otherwise be required or permitted is a Saturday, Sunday or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday.

10.3 **Interest.** Any amounts not paid when due under this Agreement will earn interest at a rate equal to the lower of (a) 4% over the 3-month LIBOR as published in *The Wall Street Journal* from the date such amount is due until it is fully paid or (b) the highest rate permitted by law.
10.4 **Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or partnership or a joint venture between Rowan and USL or between either or both of them and any third party.

10.5 **Supersedence.** This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to reimbursement of costs related to the Services, and all prior agreements, understandings, representations or negotiations related to such reimbursement are hereby superseded, terminated and canceled in their entirety, and are of no further force or effect.

10.6 **Amendments.** This Agreement is not subject to modification or amendment except by a writing of the same formality as this Agreement and executed by the signatories hereto, both Rowan and USL.

10.7 **Applicable Law and Venue.** Subject to Section 10.13, this Agreement shall in all respects be governed by the laws of the State of New Jersey applicable to agreements executed and to be wholly performed within this State.

10.8 **Severability.** Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but the provisions of this Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such law.

10.9 Intentionally Omitted.

10.10 **Separate Counterparts.** This Agreement may be executed in two or more separate counterparts each of which when so executed, shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.

10.11 **Captions, Number and Gender.** The captions appearing at the commencement of the paragraphs hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the paragraph at the head of which it appears, the paragraph and not the caption shall control and govern the construction of this document. In this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so requires.

10.12 **Terminations / Remedies.** USL or Rowan may terminate this agreement by written notice thereof to the other Party at any time, with or without cause. Notwithstanding anything set forth herein to the contrary, in no event shall either Party by liable hereunder for (and each Party hereby waives the right to claim or sue for) any indirect, consequential or punitive damages.

10.13 **Dispute Resolution.** The parties acknowledge that Rowan is an agency of the State of New Jersey and all claims must be resolved in accordance with New Jersey State law. Any agreement or arrangement signed or entered into on behalf of the State of New Jersey by a State official or employee shall be subject to all of the provisions of the New Jersey Torts Claims Act, N.J.S.A. 59:1-1, et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. The State of New Jersey does not carry public liability insurance, but the liability of the State and the obligations of the State to be responsible for tort claims against its agencies and employees are covered under the terms and provisions of the New Jersey Tort Claims Act. The Act also creates a special self-insurance fund and provides for payment and claims against the State of New Jersey against its employees for which the State of New Jersey is obligated to indemnify against tort claims which arise out of the performance of their duties. Claims against Rowan or its employees should be referred for handling to the Attorney General, Division of Law, Claims Service Section, Richard Hughes Complex, Trenton, New Jersey 08625. Furthermore, the State of New Jersey self funds for Workers Compensation and Disability.
10.14  *Business Registration Certificate.*

10.14.1 USL must be authorized to do business in the State of New Jersey and obtain a Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue prior to conducting business in the State of New Jersey. USL must provide proof of a valid and current business registration with the Division of Revenue to Rowan’s Procurement Services Department before starting work on the Project. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG. can be filed online at www.state.nj.us/njbgs/services/html.

10.14.2 All sub-contractors of USL must provide USL with a copy of a current and valid Business Registration Certificate. USL must forward the Business Registration Certificates of all subcontractors to Rowan’s Procurement Services Department prior to any subcontractor starting work on the Project.

10.14.3 The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every contract entered into by USL and its Professionals, except those contracts which are not within the scope of the Act. USL guarantees that neither it nor any subcontractor it might employ to perform the work has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act.

10.14.4 USL shall, and shall require the architects designing the Project to cause the Project to comply with all provisions of the Americans With Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq. 1.4.

10.15  *Standards Prohibiting Conflicts of Interest.* The following prohibitions on USL activities shall apply to all contracts or purchase agreements made with Rowan, pursuant to Executive Order No. 189 (1988):

10.15.1 USL shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Rowan officer or employee or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such Rowan officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such Rowan officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

10.15.2 The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Rowan officer or employee from the USL shall be reported in writing forthwith by the contractor to the Attorney General and the Executive Commission on Ethical Standards.

10.15.3 USL may not, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such USL to, any Rowan officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to Rowan, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of Rowan officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.
10.15.4 USL shall not influence, or attempt to influence or cause to be influenced, any Rowan officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

10.15.5 USL shall not cause or influence, or attempt to cause or influence, any Rowan officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the USL or any other person.

10.15.6 USL shall not pay, or agree to pay any Rowan officer or employee either directly or indirectly any gift, favor, political contribution, service, employment or offer of employment or any other thing of value with the intent to influence such Rowan officer or employee in the performance of his/her public duties and responsibilities pursuant to N.J.S.A. 52:13D-14 and 52:13D-24.

10.15.7 The provisions cited above in subparagraphs (10.15.1) through (10.15.6) shall not be construed to prohibit a Rowan officer or employee from receiving gifts from or contracting with USL under the same terms and conditions as are offered or made available to members of the general public promulgate under subparagraphs (10.15.3) above.
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ROWAN UNIVERSITY

By: ________________________________

Its: ________________________________

UNIVERSITY STUDENT LIVING, LLC, a New Jersey limited liability company

By: ________________________________

Its: ________________________________
Attachments:

Exhibit A – Site(s) Map

Exhibit B – Scope of Services, Preliminary Design Schedule and Preliminary Design Budget

Exhibit C - Collateral Assignment of Agreements Affecting Project

Schedule 1 - Approved Professionals