

at its expense, before or simultaneously with the closing, all encumbrances and exceptions recited in such title binder and not permitted by Section 2c. hereof.

e. Indemnity. BKC will execute and deliver to Optionor an indemnity, substantially in the form attached hereto as Exhibit B, indemnifying Optionor from any and all continuing liability under the Lease, the Ground Lease, and the Sublease, if applicable, except for any obligations arising prior to the Purchase Date.

f. Costs. All charges incident to the conveyance, transfer and sale of the Property hereunder, including counsel fees, escrow fees, recording fees, title insurance premiums, title company costs, survey costs, and all applicable federal, state and local taxes (other than income or franchise taxes levied upon or assessed against Optionor), which may be incurred or imposed by reason of such conveyance, transfer and sale or by reason of the delivery of any deeds and/or assignments shall be paid by the respective parties hereto in accordance with the custom prevailing in the locality where the Property is located.

g. Brokerage. The parties hereto agree that no brokerage commission shall be due or payable by Optionor or BKC in connection with any purchase and sale of the Property hereunder.

h. Failure to Convey Title. If Optionor fails or refuses to convey title to the Property as required by Sections 2b. and 2c. hereof, or if the title insurance binder obtained by BKC evidences encumbrances or exceptions not permitted in Section 2c. hereof and which are not removed by Optionor, the sole remedy of BKC will be either (i) to enforce specific performance by Optionor of its duty to convey and transfer the Property upon the terms set forth herein or (ii) to refuse to purchase the Property ("the Refusal"), whereupon the parties hereto shall have no further rights or obligations hereunder to purchase or sell the Property on the Purchase Date and neither party hereto shall be liable to the other hereunder for the failure or inability to close the purchase of the Property. Provided, however, BKC shall not be prohibited as a result of the Refusal, from later exercising the Option, although it may be necessary for BKC to again refuse to purchase the Property as a result of Optionor's inability to convey title, as contemplated in this paragraph.

Section 3. Grant of Right of First Refusal.

(a) At any time during the first seven (7) years after June 1, 1982, if, as and when Optionor receives a bona fide offer from a third party to purchase the Property acceptable to Optionor, Optionor shall give BKC written notice setting forth the name and address of the prospective purchaser, the price and terms of the offer, and such other information as BKC may reasonably request

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