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marketable title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to the County; (ii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented; (iii) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; and (iv) Permitted Encumbrances other than the Mortgage and this Agreement. The documents aforementioned shall be in form and substance satisfactory to Lessee and Lessee's counsel.

SECTION 11.3 Relative Position of Options and Mortgage.

The options respectively granted to the Lessee in this Article, except under Section 11.2 hereof, shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Lessee is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option.

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