

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Contra Costa County
Department of Conservation and Development
2530 Arnold Drive, Suite 190
Martinez, CA 94553
Attn: Deputy Director- Redevelopment

No fee for recording pursuant to
Government Code Section 27383

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
(Future Colours Corp.)

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is dated December 8, 2010, and is between the County of Contra Costa, a political subdivision of the State of California (the "County"), and Future Colours Corp., a California nonprofit public benefit corporation ("Borrower").

RECITALS

A. Defined Terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The Borrower intends to acquire real property located in the City of Clayton, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). The Property is improved with a single family home which is operated as a licensed adult residential care facility for persons with developmental disabilities.

C. The County and the Borrower are parties to a CDBG Loan Agreement of even date herewith (the "Loan Agreement"), pursuant to which the County will lend Borrower Four Hundred Fifty-Two Thousand Five Hundred Fifty Dollars (\$452,550) (the "Loan") to assist in acquisition of the Property. The Loan is funded with Community Development Block Grant funds received by the County from the United States Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

D. The County has agreed to make the Loan on the condition that the Property be maintained and operated in accordance with restrictions concerning occupancy, operation, and maintenance of the Property that are set forth in this Agreement and in the Loan Agreement.

E. In consideration of receipt of the Loan at an interest rate substantially below the market rate, Borrower agrees to observe all the terms and conditions set forth below.

The parties therefore agree as follows.

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. The following terms have the following meanings:

(a) "Adjusted Income" means the total anticipated annual income of all persons in the Tenant household as defined under the Section 8 Housing Assistance Payment programs in 24 C.F.R. 5.609 and calculated pursuant to 24 C.F.R. 5.611.

(b) "Agreement" has the meaning set forth in the first paragraph of this Agreement.

(c) "CDBG" shall mean the Community Development Block Grant Program, operated pursuant to Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(d) "County-Assisted Beds" means the six (6) beds on the Property designated as assisted by the County.

(e) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing of even date herewith by and among the Borrower, as trustor, Security Union Title Insurance Company, as trustee, and the County, as beneficiary, that will encumber the Property to secure repayment of the Loan and Borrower's performance of the covenants set forth in the Loan Agreement. The form of Deed of Trust will be provided by the County.

(f) "HUD" has the meaning set forth in Paragraph C of the Recitals.

(g) "Loan" has the meaning set forth in Paragraph C of the Recitals.

(h) "Loan Agreement" has the meaning set forth in Paragraph C of the Recitals.

(i) "Lower Income Household" means a household with an Adjusted Income that does not exceed eighty percent (80%) of Median Income, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than eighty percent (80%) of Median Income on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(j) "Median Income" means the median gross yearly income, adjusted for Actual Household Size as specified herein, in the County of Contra Costa, California, as published from time to time by HUD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide the Borrower with other income determinations that are reasonably similar with respect to methods of calculation to those previously published by HUD.

(k) "Note" means the promissory note that evidences Borrower's obligation to repay the Loan.

(l) "Property" has the meaning set forth in Paragraph B of the Recitals.

(m) "Tenant" means the tenant household that occupies a County-Assisted Bed on the Property.

(n) "Term" means the term of this Agreement, which commences on the date of this Agreement and continues until the twentieth (20th) anniversary of the date of this Agreement, unless extended by the Owner and the County pursuant to Section 2.1 of the Loan Agreement.

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

Section 2.1 Occupancy Requirements.

(a) County-Assisted Beds. All of the County-Assisted Beds shall be rented to and occupied by Lower Income Households that include a person with a developmental disability.

(b) Disabled Persons Occupancy. The Borrower shall cause the Property to be operated at all times in compliance with the provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, and (v) any other applicable law or regulation (including the Americans With Disabilities Act, to the extent applicable to the Property). Borrower shall agree to indemnify, protect, hold harmless and defend (with counsel reasonably satisfactory to County) County, and its boardmembers, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with applicable legal requirements related to housing for persons with disabilities. The provisions of this subsection will survive expiration of the Term or other termination of this Agreement, and remain in full force and effect.

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

Section 3.1 Income Certification. Borrower shall obtain, complete, and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the County-Assisted Beds. Borrower shall make a good faith effort to verify the accuracy of the income provided by the applicant or occupying household, as the case may be, in an income certification. To verify the information Borrower shall take two or more of the following steps: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the applicant's current employer; (v) obtain an income

verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (vi) if the applicant is unemployed and does not have a tax return, obtain another form of independent verification. Copies of Tenant income certifications are to be available to the County upon request.

Section 3.2 Reporting Requirements. Borrower shall submit to County (a) not later than the forty-fifth (45th) day after the close of each calendar year, or such other date as may be requested by County, a statistical report, including income and rent data for all units, setting forth the information called for therein, and (b) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by County in order to comply with reporting requirements of HUD, the State of California, and the County.

Section 3.3 Additional Information. Borrower shall provide any additional information reasonably requested by the County.

Section 3.4 Records. Borrower shall maintain complete, accurate and current records pertaining to the Property, and shall permit any duly authorized representative of the County to inspect records, including records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Property are to be at all times: (i) separate and identifiable from any other business of Borrower, (ii) maintained as required by the County, in a reasonable condition for proper audit, and (iii) subject to examination during business hours by representatives of the County. Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the units for a period of at least five (5) years. The County may examine and make copies of all books, records or other documents of Borrower that pertain to the Property

Section 3.5 On-Site Inspection. The County may perform an on-site inspection of the Property at least one (1) time per year. Borrower shall cooperate in such inspection.

ARTICLE 4 OPERATION OF THE PROPERTY

Section 4.1 Residential Use. Borrower shall operate the Property as an adult residential facility for persons with developmental disabilities licensed by the State of California. No part of the Property may be operated as transient housing.

Section 4.2 Compliance with Loan Agreement and State Licensing Requirements. Borrower shall comply with all the terms and provisions of the Loan Agreement. Borrower shall also comply with all County and State requirements necessary to obtain and retain the State of California license to operate the facility as an adult residential facility.

Section 4.3 Taxes and Assessments. Borrower shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Borrower may contest in good faith, any such taxes, assessments, or charges. In the event Borrower exercises its right to contest any tax, assessment, or charge

against it, Borrower, on final determination of the proceeding or contest, will immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

Section 5.1 Management Responsibilities. The Borrower is responsible for all management functions with respect to the Property, including without limitation the selection of Tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County has no responsibility for management of the Property.

Section 5.2 Approval of Management Policies. The Borrower shall submit its written management policies with respect to the Property to the County for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

Section 5.3 Property Maintenance. The Borrower shall maintain, for the entire Term of this Agreement, all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

County places prime importance on quality maintenance to protect its investment and to ensure that all County and County-assisted affordable housing projects within the County are not allowed to deteriorate due to below-average maintenance. The Borrower shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that the Borrower breaches any of the covenants contained in this section and such default continues for a period of five (5) days after written notice from County with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from County with respect to landscaping and building improvements, then County, in addition to whatever other remedy it may have at law or in equity, has the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, County is permitted (but is not required) to enter upon the Property and to perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by County and/or costs of such cure, which amount shall be promptly paid by the Borrower to County upon demand.

ARTICLE 6
MISCELLANEOUS

Section 6.1 Nondiscrimination.

(a) The Borrower herein covenants by and for Borrower, assigns, and all persons claiming under or through the Borrower, that there exist no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any unit nor will Borrower or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any unit or in connection with the employment of persons for the construction, operation and management of any unit.

(b) The Borrower shall accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Borrower may not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor will the Borrower apply or permit the application of management policies or lease provisions with respect to the Property which have the effect of precluding occupancy of the Property by such prospective Tenants.

(c) Term. The provisions of this Agreement apply to the Property for the entire Term even if the Loan is paid in full prior to the end of the Term. This Agreement binds any successor, heir or assign of Borrower, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by County. The County is making the Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

Section 6.2 Covenants to Run With the Land. The County and Borrower hereby declare their express intent that the covenants and restrictions set forth in this Agreement run with the land, and bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, is to be held conclusively to have been executed, delivered and accepted subject to the covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Property from the requirements of this Agreement.

Section 6.3 Enforcement by The County. If Borrower fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the County has notified Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, fails to commence to cure within thirty (30) days and thereafter diligently pursue such cure and

complete such cure within ninety (90) days, County may enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the Loan. The County may declare a default under the Note, accelerate the indebtedness evidenced by the Note, and proceed with foreclosure under the Deed of Trust.

(b) Action to Compel Performance or for Damages. County may bring an action at law or in equity to compel Borrower's performance of its obligations under this Agreement, and may seek damages.

(c) Remedies Provided Under Loan Agreement. County may exercise any other remedy provided under the Loan Agreement.

Section 6.4 Attorneys' Fees and Costs. In any action brought to enforce this Agreement, the prevailing party must be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section must be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

Section 6.5 Recording and Filing. The County and Borrower shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Contra Costa.

Section 6.6 Governing Law. This Agreement is governed by the laws of the State of California.

Section 6.7 Waiver of Requirements. Any of the requirements of this Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this Agreement extends to or affects any other provision of this Agreement, and may not be deemed to do so.

Section 6.8 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title that is duly recorded in the official records of the County of Contra Costa.

Section 6.9 Notices. Any notice requirement set forth herein will be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

County: County of Contra Costa
Department of Conservation and Development
2530 Arnold Drive, Suite 190
Martinez, CA 94553
Attn: Deputy Director- Redevelopment

Borrower: Future Colours Corp.
1579 N. Mitchell Canyon Road
Clayton, CA 94517
Attn: Executive Director

Such addresses may be changed by notice to the other party given in the same manner as provided above.

Section 6.10 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement will not in any way be affected or impaired thereby.

Section 6.11 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[Remainder of Page Left Intentionally Blank]

WHEREAS, this Agreement has been entered into by the undersigned as of the date first written above.

COUNTY:

COUNTY OF CONTRA COSTA, a political subdivision of the State of California

By: _____
James Kennedy
Deputy Director - Redevelopment

Approved as to form:

SHARON L. ANDERSON
County Counsel

BORROWER:

FUTURE COLOURS CORP., a California nonprofit public benefit corporation

By: Kathleen M. Andrus
Kathleen Andrus
Deputy County Counsel

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

STATE OF CALIFORNIA)

)

COUNTY OF CONTRA COSTA)

On _____, 2010, before me, _____, Notary Public, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

STATE OF CALIFORNIA)

)

COUNTY OF CONTRA COSTA)

On _____, 2010, before me, _____, Notary Public, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

EXHIBIT A

LEGAL DESCRIPTION

The land is situated in the State of California, County of Contra Costa, City of Clayton, and is described as follows: