



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification requested:

Amendment to modify the existing BCA: [check one or more boxes below]

- Add applicant(s)
- Substitute applicant(s)
- Remove applicant(s)
- Change in Name of applicant(s)

Amendment to reflect a transfer of title to all or part of the brownfield site **See Exhibit A - Deed, Attached**

1a. A copy of the recorded deed must be provided. Is this attached? Yes No

1b. Change in ownership Additional owner (such as a beneficial owner)

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

See Exhibit B - Change of Use, Attached

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below) **See Exhibit C - Affordable Housing Regulatory Agreements, Attached**

2. Required: Please provide a brief narrative on the nature of the amendment:

The purpose of this BCA Amendment is to change the fee owner of the Site, add one beneficial owner of the Site, and request a determination that the Site is eligible for tangible property credits. As described on the Change of Use submitted concurrently herewith, the record fee owner of the Site is "HP Park Lane Senior Housing Development Fund Company, Inc." as of 3/31/2022. This entity will be added to the BCA as the sole fee owner of the Site. The recorded deed is appended to this amendment as Exhibit A.

"PL Sara LLC" will be added as a new beneficial owner of the Site pursuant to a nominee agreement with "HP Park Lane Senior Housing Development Fund Company, Inc."

NOTE: "PL Sara LLC" is the current Applicant and is already a party to the BCA. "PL Sara LLC" will remain the sole Remedial Party of this Site.

Please refer to the attached instructions for guidance on filling out this application

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves more than an insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.

Section I. Current Agreement Information		
BCP SITE NAME: Park Lane Senior		BCP SITE NUMBER: C203138
NAME OF CURRENT APPLICANT(S): PL Sara LLC		
INDEX NUMBER OF AGREEMENT: C203138-09-20 DATE OF ORIGINAL AGREEMENT: 11/16/20		
Section II. New Requestor Information (complete only if adding new requestor or name has changed)		
NAME		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
<p>1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 		
NAME OF NEW REQUESTOR'S REPRESENTATIVE		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
<p>2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>3. Describe Requestor's Relationship to Existing Applicant:</p>		

Section III. Current Property Owner/Operator Information (only include if new owner/operator)		
Owner below is: <input type="checkbox"/> Existing Applicant <input type="checkbox"/> New Applicant <input checked="" type="checkbox"/> Non-Applciant		
OWNER'S NAME (if different from requestor) HP Park Lane Senior Housing Development Fund Company, Inc. [fee owner]		
ADDRESS 253 West 35th Street, 3rd Floor		
CITY/TOWN New York, NY		ZIP CODE 10001
PHONE 646-217-3377	FAX	E-MAIL etoporovsky@housingpartnership.com
OPERATOR'S NAME (if different from requestor or owner)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)	
If answering "yes" to any of the following questions, please provide an explanation as an attachment.	
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Section III. Current Property Owner/Operator Information (only include if new owner/operator)
Owner below is: Existing Applicant New Applicant Non-Applicant

OWNER'S NAME (if different from requestor) PL Sara LLC [beneficial owner]

ADDRESS 70 East 55th Street, 7th Floor

CITY/TOWN New York, NY

ZIP CODE 10022

PHONE 212-527-9903

FAX

E-MAIL j.siegel@dvl.n.com

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

12. Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

13. If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

1. Property information on current agreement:

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

Parcel Address

Section No. Block No. Lot No. Acreage

Parcel Address	Section No.	Block No.	Lot No.	Acreage

2. Check appropriate boxes below:

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

2a. PARCELS ADDED:

Acreage
Added by
Parcel

Parcel Address

Section No. Block No. Lot No.

Parcel Address	Section No.	Block No.	Lot No.	Acreage

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

Acreage
Removed
by Parcel

Parcel Address

Section No. Block No. Lot No.

Parcel Address	Section No.	Block No.	Lot No.	Acreage

Total acreage to be removed: _____

Change to SBL (e.g. merge, subdivision, address change)

2c. NEW SBL INFORMATION:

Parcel Address

Section No. Block No. Lot No. Acreage

Parcel Address	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

3. TOTAL REVISED SITE ACREAGE: _____

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Park Lane Senior	BCP SITE NUMBER: C203138
NAME OF CURRENT APPLICANT(S): PL Sara LLC	
INDEX NUMBER OF AGREEMENT: C203138-09-20	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 11/16/20	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
<p>(Individual)</p> <p>I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>
<p>(Entity)</p> <p>I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.</p> <p>_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

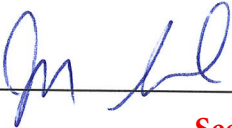
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Signatory (title) of PL Sara LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Joshua Siegel's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 5/26/22 Signature: 

Print Name: Joshua Siegel **See Exhibit D, Authorization to Sign, Attached**

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement: 11/16/20

Signature by the Department:

DATED: 10/21/2022

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: Andrew Guglielmi

Susan Edwards, P.E., Acting Director Andrew Guglielmi
Division of Environmental Remediation

Site Code: C203138

SUBMITTAL REQUIREMENTS:

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in final, non-fillable Portable Document Format (PDF) must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- **NOTE: Applications submitted in fillable format will be rejected.**

FOR DEPARTMENT USE ONLY

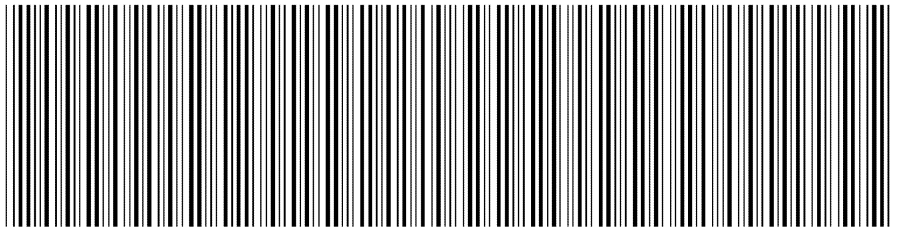
BCP SITE T&A CODE: _____ **LEAD OFFICE:** DER. Region 2

PROJECT MANAGER: Chris Allan

EXHIBIT A
Deed for 1940 Turnbull Avenue,
Bronx NY

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 8

Document ID: 2022041400997001

Document Date: 03-31-2022

Preparation Date: 04-14-2022

Document Type: DEED

Document Page Count: 6

PRESENTER:

ROYAL ABSTRACT OF NEW YORK LLC
(TITLE#915140)
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

RETURN TO:

ROYAL ABSTRACT OF NEW YORK LLC
(TITLE#915140)
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BRONX	3672	30	Entire Lot	1940 TURNBULL AVENUE
Property Type: NON-RESIDENTIAL VACANT LAND				

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

HP PARK LANE PRESERVATION HOUSING
DEVELOPMENT FUND
COMPANY INC., 253 WEST 35TH STREET, 3RD
FLOOR

Additional Parties Listed on Continuation Page

GRANTEE/BUYER:

HP PARK LANE SENIOR HOUSING DEVELOPMENT
FUND
COMPANY, INC., HOUSING PARTNERSHIP
DEVELOPMENT, CORPORATION, 253 WEST 35TH
STREET, THIRD FLOOR

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 67.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 250.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 24,534.25

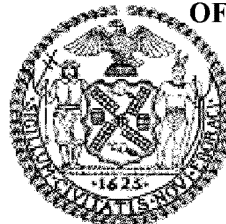
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 04-21-2022 11:21

City Register File No.(CRFN):

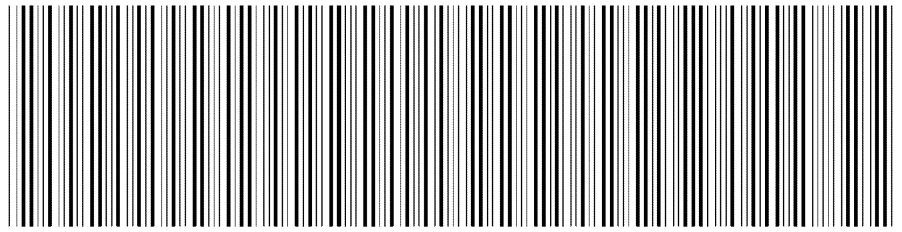
2022000166771



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022041400997001001C2637

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 8

Document ID: 2022041400997001
Document Type: DEED

Document Date: 03-31-2022

Preparation Date: 04-14-2022

PARTIES

GRANTOR/SELLER:

PL PRESERVATION LLC
C/O ATREIDES HOLDINGS LLC, 601 LEXINGTON AVE
NEW YORK, NY 10022

PARTIES

GRANTEE/BUYER:

PL SARA LLC
C/O ASHLAND CAPITAL PARTNERS LLC, 601
LEXINGTON AVE., 52ND FLOOR
NEW YORK, NY 10022

BARGAIN AND SALE DEED WITH COVENANTS

THIS INDENTURE, made ^{as of} the 31st day of March, 2022

BETWEEN

HP Park Lane Preservation Housing Development Fund Company, Inc., a New York not-for profit corporation, an entity organized pursuant to Article XI of the Private Housing Finance Law (the "**Grantor HDFC**"), with an address at 253 West 35th Street, 3rd Floor, New York, New York 10001, and **PL Preservation LLC**, a New York limited liability company (the "**Grantor LLC**"), having an address at c/o Asland Capital Partners LLC, 601 Lexington Ave., 52nd Floor, New York, New York 10022, collectively, the party of the first part, and

HP Park Lane Senior Housing Development Fund Company, Inc., a New York not-for profit corporation, an entity organized pursuant to Article XI of the Private Housing Finance Law (the "**Grantee HDFC**"), with an address at 253 West 35th Street, 3rd Floor, New York, New York 10001, and **PL SARA LLC**, a New York limited liability company (the "**Grantee LLC**"), having an address at c/o Asland Capital Partners LLC, 601 Lexington Ave., 52nd Floor, New York, New York 10022, collectively, the party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars (\$10) and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of the Bronx, City and State of New York and being more particularly described on Schedule A annexed hereto and made a part hereof;

TOGETHER with all right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above-described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

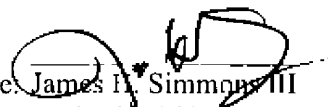
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word “party” shall be construed as if it read “parties” whenever the sense of this indenture so requires.

[The remainder of this page was intentionally left blank.]

GRANTOR LLC

PL PRESERVATION LLC, a New York
limited liability company

By: 
Name: James H. Simmons III
Title: Authorized Signatory

STATE OF NEW YORK)

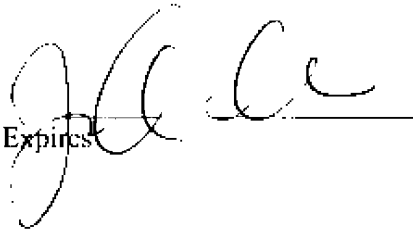
)

COUNTY OF New York)

On the 21st day of March, in the year 2022 before me, the undersigned, personally appeared James H. Simmons III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

Notary Public

My Commission Expires



Schedule A

Legal Description

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Turnbull Avenue distant 106.75 feet easterly from the intersection of the southerly side of Turnbull Avenue and the Easterly side of White Plains Road;

RUNNING THENCE southerly along a line forming an angle on the East with the southerly side of Turnbull Avenue of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to a point;

THENCE easterly along a line forming an angle on the North with the last described course of 89 Degrees 59 Minutes 51 Seconds and parallel with Turnbull Avenue a distance of 117.75 feet to a point;

THENCE northerly along a line forming an angle on the West with the last described course of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to the southerly side of Turnbull Avenue;

THENCE westerly along the southerly side of Turnbull Avenue a distance of 117.75 feet to the point or place of BEGINNING.

For Information Only: Said premises are known as 1940 Turnbull Avenue, Bronx, NY and designated as Block 3672 Lot 30 as shown on the Tax Map of the City of New York, County of the Bronx.

DEED

HP Park Lane Preservation Housing Development Fund Company, Inc., and PL Preservation LLC

To

HP Park Lane Senior Housing Development Fund Company, Inc. and PL SARA LLC

Premises: 1940 Turnbull Avenue

Block: 3672

Lot: 30

County: Bronx

Record and Return to:

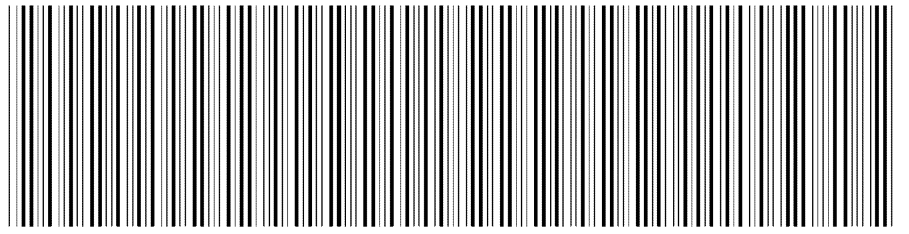
David Goldban

Starrett Companies

70 East 55th Street, 7th Floor

New York, NY 10022

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022041400997001001SEA36

SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2022041400997001
Document Type: DEED

Document Date: 03-31-2022

Preparation Date: 04-14-2022

ASSOCIATED TAX FORM ID: 2022032100053

SUPPORTING DOCUMENTS SUBMITTED:

Page Count

RP - 5217 REAL PROPERTY TRANSFER REPORT

6

FOR CITY USE ONLY

C1. County Code C2. Date Deed Recorded / /
 Month Day Year

C3. Book OR C4. Page /

C5. CRFN



REAL PROPERTY TRANSFER REPORT
 STATE OF NEW YORK
 STATE BOARD OF REAL PROPERTY SERVICES
RP - 5217NYC

PROPERTY INFORMATION

1. Property Location 1940 TURNBULL AVENUE BRONX 10473
 STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND
 LAST NAME / COMPANY FIRST NAME

PL SARA LLC
 LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)
 LAST NAME / COMPANY FIRST NAME

STREET NUMBER AND STREET NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR Part of a Parcel

5. Deed Property Size FRONT FEET DEPTH OR ACRES

4A. Planning Board Approval - N/A for NYC
 4B. Agricultural District Notice - N/A for NYC

Check the boxes below as they apply:
 6. Ownership Type is Condominium
 7. New Construction on Vacant Land

8. Seller Name HP PARK LANE PRESERVATION HOUSING DEVELOPMENT FUND
 LAST NAME / COMPANY FIRST NAME

PL PRESERVATION LLC
 LAST NAME / COMPANY FIRST NAME

9. Check the box below which most accurately describes the use of the property at the time of sale:

A One Family Residential C Residential Vacant Land E Commercial G Entertainment / Amusement I Industrial
 B 2 or 3 Family Residential D Non-Residential Vacant Land F Apartment H Community Service J Public Service

SALE INFORMATION

10. Sale Contract Date 3 / 1 / 2022
 Month Day Year

11. Date of Sale / Transfer 3 / 31 / 2022
 Month Day Year

12. Full Sale Price \$ 3,750,000
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:

A Sale Between Relatives or Former Relatives
 B Sale Between Related Companies or Partners in Business
 C One of the Buyers is also a Seller
 D Buyer or Seller is Government Agency or Lending Institution
 E Deed Type not Warranty or Bargain and Sale (Specify Below)
 F Sale of Fractional or Less than Fee Interest (Specify Below)
 G Significant Change in Property Between Taxable Status and Sale Dates
 H Sale of Business is Included in Sale Price
 I Other Unusual Factors Affecting Sale Price (Specify Below)
 J None

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

15. Building Class G, 7 16. Total Assessed Value (of all parcels in transfer) 9,945,000

17. Borough, Block and Lot / Roll Identifier(s) (If more than three, attach sheet with additional Identifier(s))
 BRONX 3672 30

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER

BUYER'S ATTORNEY

BUYER SIGNATURE
DATE
COMPANY, INC., HOUSING PARTNERSHIP DEVELOPMENT
CORPORATION, 253 WEST 35TH STREET, THIRD FLOOR

LAST NAME
FIRST NAME

STREET NUMBER
STREET NAME (AFTER SALE)

AREA CODE
TELEPHONE NUMBER

NEW YORK

NY

10001

SELLER

CITY OR TOWN

STATE

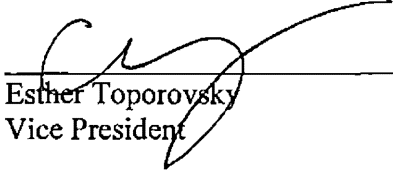
ZIP CODE

SELLER SIGNATURE

DATE

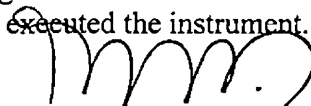
SELLER

**HP PARK LANE PRESERVATION DEVELOPMENT FUND
COMPANY, INC., a New York not-for-profit corporation**

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK }
 }
 } ss:
COUNTY OF NEW YORK }

On this 29th day of March, 2022, before me, the undersigned, personally appeared **Esther Toporovsky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires: 4/19/2022

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified In Kings County
Commission Expires April 19, 2022

SELLER

PL PRESERVATION LLC,
a New York limited liability company

By: 
James H. Simmons III
Authorized Signatory

STATE OF New York }
 }
COUNTY OF New York }

ss:

On this 21st day of March, 2022, before me, the undersigned, personally appeared **James H. Simmons III**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

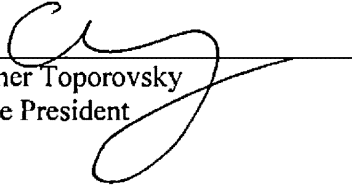


Notary Public
Commission expires: _____

JAMES A. ALLEN
Notary Public, State of New York
No. 02AL6410856
Qualified in New York County
Commission Expires Nov. 02, 2024

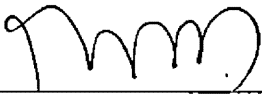
BUYER

**HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND
COMPANY, INC., a New York not-for-profit corporation**

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK)
)SS.:
COUNTY OF New York)

On this 22nd day of March, 2022, before me, the undersigned, personally appeared **Esther Toporovsky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



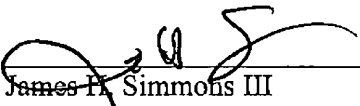
Notary Public
Commission expires:

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified in Kings County
Commission Expires April 19, 2022

BUYER

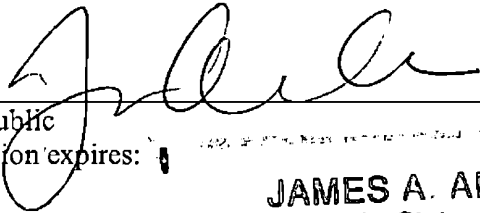
PL SARA LLC, a New York limited liability company

By: **PL SARA MANAGER LLC**,
a New York limited liability company,
its Managing Member

By: 
Name: James H. Simmons III
Title: Authorized Signatory

STATE OF NEW YORK)
)SS.:
COUNTY OF *New York*)

On this 2nd day of March, 2022, before me, the undersigned, personally appeared **James H. Simmons III**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires: _____

JAMES A. ALLEN
Notary Public, State of New York
No. 02AL6410856
Qualified in New York County
Commission Expires Nov. 02, 2024

EXHIBIT B

Change of Use



**60-Day Advance Notification of Site Change of Use, Transfer of
Certificate of Completion, and/or Ownership**
Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation, 625 Broadway
Albany NY 12233-7020

I. Site Name: Park Lane Senior **DEC Site ID No.** C203138

II. Contact Information of Person Submitting Notification:

Name: Kayley R. McGrath
Address1: 560 Lexington Avenue
Address2: 15th Floor
Phone: (646) 378-7200 E-mail: kmcgrath@sprlaw.com

III. Type of Change and Date: Indicate the Type of Change(s) (check all that apply):

- Change in Ownership or Change in Remedial Party(ies)
 Transfer of Certificate of Completion (CoC)
 Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): 03/31/2022

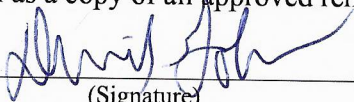
IV. Description: Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

Please see Attachment A annexed hereto.

If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name:  07/13/2022
(Signature) (Date)

David Goldban, VP, Authorized Signatory
(Print Name)

Address1: C/O PL Preservation LLC
Address2: 70 East 55th Street, 7th Floor, New York, NY 10022
Phone: 917-913-2873 E-mail: dgoldban@dvl.n.com

VI. **Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

Prospective Owner Prospective Remedial Party Prospective Owner Representative

Name: Esther Toporovsky, Authorized Signatory
Address1: C/O HP Park Lane Senior Housing Development Fund Company, Inc.
Address2: 253 West 35th Street, 3rd Floor, New York, NY 10001
Phone: 646-217-3377 E-mail: etoporovsky@housingpartnership.com

Certifying Party Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

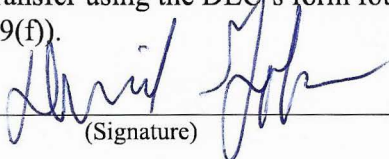
VII. Agreement to Notify DEC after Transfer: If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name:


(Signature)

(Date)

David Goldban, VP, Authorized Signatory

(Print Name)

Address1: C/O PL Preservation LLC

Address2: 70 East 55th Street, 7th Floor, New York, NY 10022

Phone: 917-913-2873

E-mail: dgoldban@dvlm.com

Continuation Sheet

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: PL Sara LLC
Address1: 70 East 55th Street, 7th Floor
Address2: New York, NY 10022
Phone: 212-350-9900 E-mail: j.siegel@dvl.n.com

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____



Instructions for Completing the 60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion (CoC), and/or Ownership Form

Submit to: Chief, Site Control Section, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany NY 12233-7020

Section I	Description
Site Name	Official DEC site name. (see http://www.dec.ny.gov/cfmx/extapps/derexternal/index.cfm?pageid=3)
DEC Site ID No.	DEC site identification number.
Section II	Contact Information of Person Submitting Notification
Name	Name of person submitting notification of site change of use, transfer of certificate of completion and/or ownership form.
Address1	Street address or P.O. box number of the person submitting notification.
Address2	City, state and zip code of the person submitting notification.
Phone	Phone number of the person submitting notification.
E-mail	E-mail address of the person submitting notification.
Section III	Type of Change and Date
Check Boxes	Check the appropriate box(s) for the type(s) of change about which you are notifying the Department. Check all that apply.
Proposed Date of Change	Date on which the change in ownership or remedial party, transfer of CoC, or other change is expected to occur.
Section IV	Description
Description	For each change checked in Section III, describe the proposed change. Provide all applicable maps, drawings, and/or parcel information. If "Other" is checked in Section III, explain how the change may affect the site's proposed, ongoing, or completed remedial program at the site. Please attach additional sheets, if needed.

Section V Certification Statement

This section must be filled out if the change of use results in a change of ownership or responsibility for the proposed, ongoing, or completed remedial program for the site. When completed, it provides DEC with a certification that the prospective purchaser has been provided a copy of any order, agreement, or State assistance contract as well as a copy of all approved remedial work plans and reports.

Name The owner of the site property or their designated representative must sign and date the certification statement. Print owner or designated representative's name on the line provided below the signature.

Address1 Owner or designated representative's street address or P.O. Box number.

Address2 Owner or designated representative's city, state and zip code.

Phone Owner or designated representative's phone number.

E-Mail Owner or designated representative's E-mail.

Section VI Contact Information for New Owner, Remedial Party, and CoC Holder (if a CoC was issued)

Fill out this section only if the site is to be sold or there will be a new remedial party. Check the appropriate box to indicate whether the information being provided is for a Prospective Owner, CoC Holder (if site was ever issued a COC), Prospective Remedial Party, or Prospective Owner Representative. Identify the prospective owner or party and include contact information. A Continuation Sheet is provided at the end of this form for additional owner/party information.

Name Name of Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

Address1 Street address or P.O. Box number for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.

Address2 City, state and zip code for the Prospective Owner, Prospective Remedial Party, or Prospective Owner Representative.

Phone Phone number for the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

E-Mail E-mail address of the Prospective Owner, Prospective Remedial Party or Prospective Owner Representative.

If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/EC), indicate who will be the certifying party(ies). Attach additional sheets, if needed.

Certifying Party Name	Name of Certifying Party.
Address1	Certifying Party's street address or P.O. Box number.
Address2	Certifying Party's city, state and zip code.
Phone	Certifying Party's Phone number.
E-Mail	Certifying Party's E-mail address.

Section VII Agreement to Notify DEC After Property Transfer/Sale

This section must be filled out for all property transfers of all or part of the site. If the site also has a CoC, then the CoC shall be transferred using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>

Filling out and signing this section of the form indicates you will comply with the post transfer notifications within the required timeframes specified on the form. If a CoC has been issued for the site, the DEC will allow 30 days for the post transfer notification so that the "Notice of CoC Transfer Form" and proof of it's filing can be included. Normally the required post transfer notification must be submitted within 15 day (per 375-1.11(d)(3)(ii)) when no CoC is involved.

Name	Current property owner must sign and date the form on the designated lines. Print owner's name on the line provided.
Address1	Current owner's street address.
Address2	Current owner's city, state and zip code.

Attachment A

IV. Description: Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

Prior to 3/31/2022, the beneficial owner of the BCP Site was “PL Preservation LLC,” which had previously transferred its record fee interest to “HP Park Lane Preservation Housing Development Fund Company, Inc.” pursuant to a Declaration of Interest and Nominee Agreement dated 5/6/2019 (attached hereto). Both “PL Preservation LLC” and “HP Park Lane Preservation Housing Development Fund Company, Inc.” then transferred title to “HP Park Lane Senior Housing Development Fund Company, Inc.” and “PL Sara LLC” on 3/31/2022 (please see attached deed, dated 3/31/2022). The deed was recorded in the Office of the City Register of the City of New York on 4/21/2022. Thereafter, “HP Park Lane Senior Housing Development Fund Company, Inc.” and “PL Sara LLC” entered into a Declaration of Interest and Nominee Agreement, which provided that PL Sara LLC will be the beneficial owner of the BCP Site, and “HP Park Lane Senior Housing Development Fund Company, Inc.” will retain legal and nominal title to the BCP Site.

The sole Remedial Party is and will remain “PL Sara LLC,” which will also be added as a beneficial owner of the BCP Site.

A BCA Application to Amend will be submitted to reflect the change in ownership of the BCP Site pursuant to the structure described above.

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

THIS AGREEMENT is made this 6th day of May, 2019, by and between **HP PARK LANE PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.** a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law of the State of New York (“Article XI”) and Section 402 of the Not-for-Profit Corporation Law of the State of New York, having its office at 253 West 35th Street, 3rd Floor, New York, New York 10001 (the “HDFC”), and **PL PRESERVATION LLC**, a New York limited liability company, having an address at c/o Atreides Holdings LLC, 601 Lexington Ave, 37th Floor, New York, NY 10022 (“Company”).

W I T N E S S E T H:

WHEREAS, a fee interest in the premises described in Schedule “A” annexed hereto and made a part hereof (the “Property”) is being acquired this day by the HDFC solely as nominee legal or record title holder on behalf of the Company, as beneficial owner of the Property, for the ownership, rehabilitation, and leasing of a residential building with approximately three hundred fifty-three (353) residential rental units including one (1) superintendent’s unit (collectively, the “Project”) in accordance with Article XI; and

WHEREAS, a portion of the development of the Project will be financed by certain loans made or to be made to the Company (the “Loans”); and

WHEREAS, Company and the HDFC desire that the HDFC hold legal or record title to the Property solely as nominee on behalf of Company, with Company retaining all of the equitable and beneficial ownership of the fee interest in the Property and the Project; and

WHEREAS, HDFC is authorized to acquire and hold legal or record title to the Property on behalf of and as nominee of Company, and Company shall possess the entire equitable and beneficial ownership interest to the Property and the Project; and

WHEREAS, the parties desire to set forth their agreement and understanding concerning all of the foregoing;

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00), as well as other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. The HDFC’s acquisition and holding of legal or record fee title of the Property were each and all effected and performed by the HDFC solely as a nominee of, and on behalf of Company. Although the HDFC will hold legal or record title to the Property such title shall only be as nominee legal or record titleholder on behalf of Company. As a result, the parties hereby acknowledge and agree that Company possesses all of the equitable and beneficial interest in the Property, and will possess all the equitable and beneficial interest in the Project, such that Company, and not the HDFC shall have an:

(a) unconditional obligation to bear all economic risk of depreciation and diminution in value of the Property and the Project due to obsolescence or exhaustion, and shall bear the risk of loss if the Project is destroyed or damaged;

(b) unconditional right to receive all economic benefits associated with the Property and the Project (i.e., appreciation and increase in value), including the right to retain all of the net proceeds from any sale or refinancing of the Property and the Project;

(c) unconditional obligation to keep the Property and the Project in good condition and repair;

(d) unconditional and exclusive right to the possession of the Property and the Project;

(e) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Property and the Project as may be required by the members of Company and/or any mortgage lenders with respect to the Property and the Project which coverage shall include the mortgage lenders and the HDFC, NYC Partnership Housing Development Fund Company, Inc. ("NYCP"), and Housing Partnership Development Corporation ("HPDC") as additional insureds;

(f) unconditional obligation to pay all taxes levied on, and assessments made with respect to the Property and the Project, as well as the right to challenge such taxes and assessments and receive refunds;

(g) unconditional and exclusive right to receive rental and any other income or profits from the operation of the Property and the Project;

(h) unconditional obligation to pay for all of the capital investment in the Property and the Project;

(i) unconditional obligation to pay for all development, financing, maintenance and operating costs in connection with the Property and the Project;

(j) unconditional and exclusive right to include all income earned from the operation of the Property and the Project and claim all deductions and credits generated with respect to the Property and the Project on its annual federal, state and local tax returns;

(k) unconditional right to develop residential and non-residential units in the Project and to operate and manage the Property and the Project in accordance with this Agreement and any and all documents executed in connection with the financing, development, operation, regulation and management of the Property and the Project, as such documents may be amended from time to time (the "Project Documents"); and

(l) unconditional and exclusive right to enter into, and/or to have the HDFC's full cooperation in entering into, easement agreements and to grant any and all easements in connection

with the development and operation of the Property and the Project, provided that such easements do not violate the Project Documents; and

(m) unconditional obligation to bear the economic risk of loss under the Loans and shall be responsible for any obligation for the repayment of principal and interest imposed on the HDFC under any of the documents in connection with the Loans.

2. The HDFC hereby agrees at the direction of Company to execute (i) any and all documents necessary to grant to the financial institution or institutions making Loans to Company a mortgage or mortgages and any similar security interests on the Property and the Project, as well as any documents required to be executed by the HDFC in connection with the financing and development of the Property and the operation and management of the Project, provided that the HDFC shall execute such documents for the sole purpose of encumbering its interest in the Property and the Project and provided further that all such mortgages and notes secured by such mortgages shall be non-recourse to the HDFC in its capacity as the legal or record title owner of the Property; and (ii) any and all construction and other contracts as required to qualify purchases pursuant to such contract for an exemption from New York State sales tax, provided further in each case that the HDFC shall not be obligated to execute any such documents that would violate the provisions of Article XI as determined by the HDFC, in its sole reasonable discretion.

3. A. Company shall fully protect, defend, indemnify, and hold the HDFC, HPDC, and each of their members, directors, employees and officers (the "Covered Parties") harmless from and against any and all liabilities, obligations, claims, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation attorneys' fees and expenses) whether incurred in disputes, both litigated and non-litigated, with Company or with third parties arising out of or in any way relating to (a) acquisition and ownership of the Property from and after the date of transfer of title to the Property to the HDFC, (b) the Project and/or the Project Documents, (c) the use or occupancy of the Project or (d) the enforcement of any obligation under any policy of insurance or indemnity provision provided in the Project Documents, except if arising from the willful misconduct or gross negligence of the Covered Parties (collectively, "Claims"). The foregoing indemnification shall include, but shall not be limited to Company's primary obligation to defend all Claims, whether or not groundless, on its own behalf and on behalf of all additional insureds, and indemnification for Claims resulting from any (i) accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (ii) use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) failure on the part of Company to perform or comply with any of the terms of the Project Documents or any applicable law, rule or regulation; (iv) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; and/or (v) defect in the construction or condition or characteristics of the Property or the Project, whoever and whatever the cause.

B. Company shall, to the fullest extent permitted by law, protect, defend, indemnify and save HDFC, HPDC, and each of their members, directors, employees and officers harmless from all liabilities, obligations, judgments, claims, damages, penalties, causes of action,

costs and expenses (including without limitation reasonable attorneys' fees and expenses, whether incurred in litigation with Company or with any third party), imposed upon or incurred by or asserted against HDFC, HPDC or each of their officers, directors, members or employees by reason of (i) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release or threatened release of any Hazardous Materials on, from or affecting the Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or relating to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials or (iv) any violation of laws, orders, rules or regulations, requirements or demands of governmental authorities, or any policies or requirements of the HDFC that are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney or consultant fees, investigation and laboratory fees, court costs and litigation expenses, except if arising out of the willful misconduct or gross negligence of the Covered Parties. Company's obligations and liabilities under this section shall survive any foreclosure involving the Property, or any part thereof, or HDFC's delivery of a deed in lieu of foreclosure. Hazardous Materials means, including by example but without limitation, any explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances (or related or similar materials), asbestos or any material containing asbestos, lead paint or any other hazardous substance or material as defined by any Federal, state or local environmental law, ordinance, rule or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.) and the rules and regulations promulgated pursuant thereto.

C. In the event that any action or proceeding is brought against the HDFC, HPDC or each of their members, directors, and officers with respect to which indemnity may be sought under this Section, the Company shall assume the investigation and defense of such action or proceeding, including the employment of counsel selected by the HDFC, and shall assume the payment of all expenses related thereto. The HDFC shall have the right, if it shall conclude in good faith that a conflict of interest exists, to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Company shall pay all reasonable fees and expenses of such separate counsel.

This Section 3 shall survive the termination of this Agreement.

4. The HDFC agrees that all proceeds of any insurance policies and condemnation proceeds received by it, which relate to its ownership of the Property shall be received in its capacity as nominee of Company and shall be immediately deposited in Company's name in Company's accounts, including, but not limited to, liability, property, casualty and title insurance proceeds.

5. The HDFC hereby irrevocably and unconditionally agrees, promptly upon the request of Company, to execute and deliver to Company a deed in proper recordable form transferring and conveying to Company or its designee all of the HDFC's right, title and interest in and to the Property. The HDFC hereby unconditionally and unequivocally constitutes and appoints Company to be its lawful and true agent and attorney-in-fact coupled with an interest,

with full power of substitution to execute and record any such deed and any other documents or instruments required to convey the Property on behalf of the HDFC, in the name, place and stead of the HDFC with the same force and effect as if such deed was executed, delivered and recorded by the HDFC on the following conditions: (i) Company shall advise the HDFC of the need to execute such documents on not less than ten (10) business days' notice; and (ii) should the HDFC fail to comply with Company's request based upon a failure to respond to Company within such ten (10) business days' notice of such request, Company shall then have the right to execute all such documents in the name and on behalf of the HDFC as if the HDFC were the party executing the same. The parties agree that the HDFC's failure to comply with the provisions of this Paragraph 5 shall cause irreparable harm to Company for which no adequate remedy at law will be available and, in addition to any other available remedies, Company shall be entitled to the right of specific performance in the event of a breach by the HDFC of the provisions of this Paragraph 5. Notwithstanding anything to the contrary herein, the HDFC shall be under no obligation to execute and/or deliver any deeds or other documents which violate the Project Documents, the Not-for-Profit Corporation Law of the State of New York, Article XI of the Private Housing Finance Law of the State of New York and/or the HDFC's Certificate of Incorporation and by-laws

6. Company acknowledges and agrees that the HDFC's Certificate of Incorporation (the "HDFC COI") prohibits the HDFC from causing or permitting any vacant dwelling unit in the Project, with the exception of one superintendent's unit, and except as may be specifically authorized in writing by the City of New York, by and through its Department of Housing Preservation and Development ("HPD"), to be rented to, subleased to, or occupied by, anyone other than a Person of Low Income. "Person Of Low Income" shall mean a household which, on the date of its initial occupancy, has an Annual Income that does not exceed the lesser of 165% of AMI or such lower income as may be required at any time pursuant to an agreement with the HPD or with any other governmental agency or instrumentality. Company expressly represents, warrants, and covenants that it shall not cause or permit any leasing, subleasing, or occupation of any dwelling unit in the Project which violates the provisions of the HDFC COI cited in this Section 6. Company shall fully protect, defend, indemnify, and hold the HDFC, HPDC, and each of their members, directors, and officers and employees harmless from and against any and all liabilities, obligations, claims, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation attorneys' fees and expenses) whether incurred in disputes, both litigated and non-litigated, with Company or with third parties arising out of or in any way relating to any failure of the Company to comply with this Section 6. If the HDFC determines that the use of the Property does not comply with the HDFC COI or applicable regulatory agreements, the HDFC shall have the right to convey the Property to the Company or the Company's designee for nominal consideration at the Company's expense in the same state of title as exists as of the date hereof and return all reports, information and documents, relating to the Property and Project to the Company and this Agreement shall be terminated and of no further force and effect.

7. Company and the HDFC on behalf of themselves and their respective successors and assigns, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

(a) So long as the HDFC shall hold legal title to the Property, Company shall have complete and exclusive possession and control of the Property and the HDFC shall not have any right to possess or control the Property;

(b) Company is the “owner” and the HDFC is not in any respects an “owner,” as such term is defined in Section 2 of the New York Lien Law and for federal tax purposes, with respect to the Property;

(c) The HDFC is not, and shall not be, entitled to receive any proceeds of any of the Loans to Company and/or otherwise have any rights, title, interests or benefits from, of, to and/or under any of the Loans;

(d) Except as expressly provided in Paragraph 2 and Paragraph 6 hereof, the HDFC shall not have any power, right and/or authority to encumber, lien, and/or create or grant any rights and/or interests in or to the Property or the Project, and/or any part or parts thereof, and any encumbrance, lien, right and/or interest purported to be created, granted, permitted and/or resulting from any action of the HDFC in connection with the Property and the Project and/or any part or parts thereof shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon Company;

(e) HDFC shall not have any power, right and/or authority to employ, and/or agree to employ, any persons and/or entities in connection with and/or with respect to the Property, and/or any part or parts thereof and/or to purchase, and/or agree to purchase any goods, materials and/or services in connection with any of the Property and/or any part or parts thereof, and any such employment, purchase and/or agreement to employ or purchase purported to be made by the HDFC shall be void, unenforceable and of no force or effect and shall not be binding upon Company;

(f) The HDFC shall, at Company’s request and at Company’s sole cost and expense, join in and be a party to any legal action or proceeding commenced against or relating to the Property or the Project, provided that the HDFC be entitled to separate counsel of its choice, whose expenses, costs and reasonable legal fees, including appeals, shall be paid by the Company, and the Company shall indemnify the HDFC, NYCP, and HPDC against any and all claims arising from any such fees, costs and expenses in connection with any and all legal actions or proceedings to the extent not caused by the HDFC’s gross negligence or willful misconduct;

(g) The HDFC shall not commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; shall not consent to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the HDFC of any substantial part of its property; shall not make any general assignment for the benefit of creditors; shall not fail generally to pay its debts as such debts become due; and shall not take any action in furtherance of any of the foregoing; and

(h) Except as explicitly provided for in Section 7 of this Agreement, no actions may be taken by the HDFC nor may the HDFC permit any other person to take any actions which

relate to, impact, or otherwise affect the Property or the Project or any part or parts thereof or of any interest therein, except with the prior written consent of the Company, which may be withheld in its sole reasonable discretion. Further, any and all actions taken by the HDFC with respect to the Property or any parts thereof shall be taken solely in its capacity as nominee for the Company and not for its own ends or purposes.

8. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(b) If any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

(c) This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and no amendment, change or modification shall be effective unless in writing and signed by the parties hereto.

(d) No party may assign this Agreement, or its rights and/or obligations hereunder, without the express written consent of the other parties. Any assignment without such express written consent shall be void.

(e) The waiver of a breach of any provision of this Agreement by any party shall not operate or be construed as a waiver of any subsequent breach.

(f) Unless otherwise specified, notices or consents required to be given by any party to the others under this Agreement shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or overnight mail to the undersigned representative of the recipient at its address first stated above, or as changed pursuant to a notice served as prescribed by this Section. Such notices shall be deemed to be effective on the date when they are mailed or personally delivered.

A copy of any notice to the Company should be sent to:

Atreides Holdings LLC
601 Lexington Ave, 37th Floor
New York, NY 10022

Attn: James Simmons with a copy to:

Pembroke Residential Holdings, LLC
70 East 55th Street, 7th Floor
New York, New York 10022
Attn: David Goldban, Esq.

with a copy to:

Nixon Peabody LLP
Tower 46
55 West 46th Street
New York, New York 10036
Attn: Aaron J. Yowell, Esq.

(g) No party is authorized to act as agent for the other or to incur any liability or dispose of any assets in the name of or on behalf of the others unless provided in this Agreement or specifically authorized by the party which will be responsible for the obligation.

(h) Any third party may rely on this Agreement with respect to the rights and obligations of Company and the HDFC hereunder.

(i) So long as the HDFC shall hold record title to the Property and the Project, any and all notices, statements and communications received by the HDFC, as holder of record title with respect to the Property and the Project, shall be promptly delivered to the Company.

(j) If Company consists of more than one person or entity, the obligations of those persons or entities under this Agreement shall be joint and several.


(k) This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

[SIGNATURES SET FORTH ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date and year first written above.

HP PARK LANE PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY INC., a New York not-for-
profit corporation

By:



Name: Daniel Marks Cohen
Title: Vice President

PL PRESERVATION LLC
a New York limited liability company

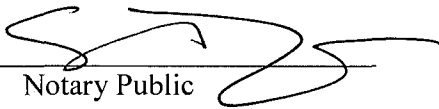
By:

Name: David Goldban
Title: Vice President

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 26 day of April, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared Daniel Marks Cohen personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

SHELBEY S TAMAYO
NOTARY PUBLIC-STATE OF NEW YORK
No. 02TA6359831
Qualified in Queens County
My Commission Expires 06-05-2021



Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the ___ day of _____, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

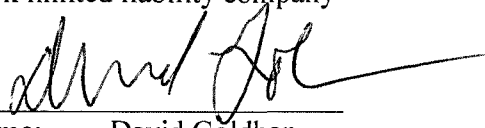
Notary Public

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date and year first written above.

HP PARK LANE PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY INC., a New York not-for-profit corporation

By: _____
Name: Daniel Marks Cohen
Title: Vice President

PL PRESERVATION LLC
a New York limited liability company

By:  _____
Name: David Goldban
Title: Vice President

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

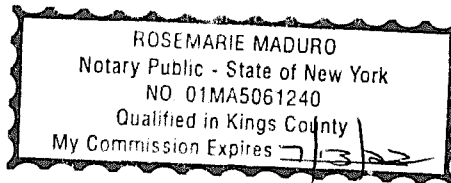
On the ___ day of _____, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 26 day of Apr. 1, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared DAVID GOINSAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.


Notary Public



SCHEDULE "A"

[Description of the Land]

ALL THAT CERTAIN plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Lafayette Avenue with the easterly side of White Plains Road;

RUNNING THENCE Northerly along the easterly side of White Plains Road 200.03 feet to the southerly side of Turnbull Avenue;

THENCE Easterly along the southerly side of Turnbull Avenue 789.36 feet to the westerly side of Pugsley Avenue;

THENCE Southerly along the westerly side of Pugsley Avenue 200.03 feet to the northerly side of Lafayette Avenue;

THENCE Westerly along the northerly side of Lafayette Avenue 789.37 feet to the easterly side of White Plains Road the point or place of BEGINNING.

TOGETHER with all right, title and interest of the mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;

AND SAID PREMISES being known as and by the street number 1921/1965 Lafayette Avenue a/k/a 801 Pugsley Avenue a/k/a 1920/1986 Turnbull Avenue a/k/a 800/826 White Plains Road, Bronx, New York.

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

**HP PARK LANE PRESERVATION
HOUSING DEVELOPMENT FUND COMPANY INC.,**

AND

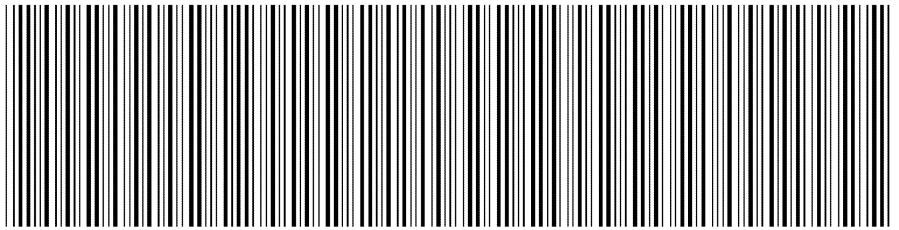
PL PRESERVATION LLC

Block 3672
Lot 1
Bronx, New York

Record and Return to:
Housing Partnership Development Corporation
253 West 35th Street, 3rd Floor
New York, New York 10001
Attn: General Counsel

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 8

Document ID: 2022041400997001

Document Date: 03-31-2022

Preparation Date: 04-14-2022

Document Type: DEED

Document Page Count: 6

PRESENTER:

ROYAL ABSTRACT OF NEW YORK LLC
(TITLE#915140)
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

RETURN TO:

ROYAL ABSTRACT OF NEW YORK LLC
(TITLE#915140)
125 PARK AVENUE, SUITE 1610
NEW YORK, NY 10017
212-376-0900
MBASALATAN@ROYALABSTRACT.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BRONX	3672	30	Entire Lot	1940 TURNBULL AVENUE

Property Type: NON-RESIDENTIAL VACANT LAND

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

HP PARK LANE PRESERVATION HOUSING
DEVELOPMENT FUND
COMPANY INC., 253 WEST 35TH STREET, 3RD
FLOOR

Additional Parties Listed on Continuation Page

GRANTEE/BUYER:

HP PARK LANE SENIOR HOUSING DEVELOPMENT
FUND
COMPANY, INC., HOUSING PARTNERSHIP
DEVELOPMENT, CORPORATION, 253 WEST 35TH
STREET, THIRD FLOOR

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 67.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 250.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 24,534.25

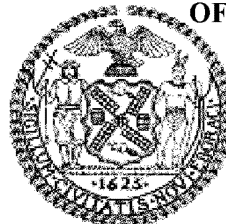
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 04-21-2022 11:21

City Register File No.(CRFN):

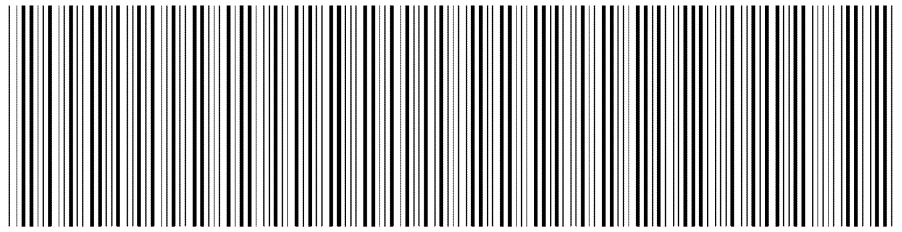
2022000166771



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022041400997001001C2637

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 8

Document ID: 2022041400997001
Document Type: DEED

Document Date: 03-31-2022

Preparation Date: 04-14-2022

PARTIES

GRANTOR/SELLER:

PL PRESERVATION LLC
C/O ATREIDES HOLDINGS LLC, 601 LEXINGTON AVE
NEW YORK, NY 10022

PARTIES

GRANTEE/BUYER:

PL SARA LLC
C/O ASHLAND CAPITAL PARTNERS LLC, 601
LEXINGTON AVE., 52ND FLOOR
NEW YORK, NY 10022

BARGAIN AND SALE DEED WITH COVENANTS

THIS INDENTURE, made ^{as of} the 31st day of March, 2022

BETWEEN

HP Park Lane Preservation Housing Development Fund Company, Inc., a New York not-for profit corporation, an entity organized pursuant to Article XI of the Private Housing Finance Law (the "**Grantor HDFC**"), with an address at 253 West 35th Street, 3rd Floor, New York, New York 10001, and **PL Preservation LLC**, a New York limited liability company (the "**Grantor LLC**"), having an address at c/o Asland Capital Partners LLC, 601 Lexington Ave., 52nd Floor, New York, New York 10022, collectively, the party of the first part, and

HP Park Lane Senior Housing Development Fund Company, Inc., a New York not-for profit corporation, an entity organized pursuant to Article XI of the Private Housing Finance Law (the "**Grantee HDFC**"), with an address at 253 West 35th Street, 3rd Floor, New York, New York 10001, and **PL SARA LLC**, a New York limited liability company (the "**Grantee LLC**"), having an address at c/o Asland Capital Partners LLC, 601 Lexington Ave., 52nd Floor, New York, New York 10022, collectively, the party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars (\$10) and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of the Bronx, City and State of New York and being more particularly described on Schedule A annexed hereto and made a part hereof;

TOGETHER with all right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above-described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word “party” shall be construed as if it read “parties” whenever the sense of this indenture so requires.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

GRANTOR HDFC

**HP PARK LANE PRESERVATION
HOUSING DEVELOPMENT FUND
COMPANY, INC.**, a New York not-for-profit corporation

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

On the 29th day of March, in the year 2022 before me, the undersigned, personally appeared Esther Toporovsky, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

Notary Public 

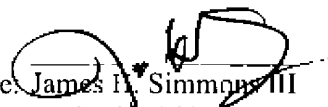
My Commission Expires 4/19/2022

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified in Kings County
Commission Expires April 19, 2022

[The remainder of this page was intentionally left blank.]

GRANTOR LLC

PL PRESERVATION LLC, a New York
limited liability company

By: 
Name: James H. Simmons III
Title: Authorized Signatory

STATE OF NEW YORK)

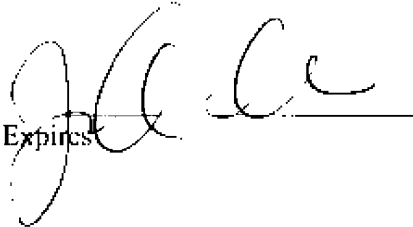
)

COUNTY OF New York)

On the 21st day of March, in the year 2022 before me, the undersigned, personally appeared James H. Simmons III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

Notary Public

My Commission Expires



Schedule A

Legal Description

ALL THAT CERTAIN plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Turnbull Avenue distant 106.75 feet easterly from the intersection of the southerly side of Turnbull Avenue and the Easterly side of White Plains Road;

RUNNING THENCE southerly along a line forming an angle on the East with the southerly side of Turnbull Avenue of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to a point;

THENCE easterly along a line forming an angle on the North with the last described course of 89 Degrees 59 Minutes 51 Seconds and parallel with Turnbull Avenue a distance of 117.75 feet to a point;

THENCE northerly along a line forming an angle on the West with the last described course of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to the southerly side of Turnbull Avenue;

THENCE westerly along the southerly side of Turnbull Avenue a distance of 117.75 feet to the point or place of BEGINNING.

For Information Only: Said premises are known as 1940 Turnbull Avenue, Bronx, NY and designated as Block 3672 Lot 30 as shown on the Tax Map of the City of New York, County of the Bronx.

DEED

HP Park Lane Preservation Housing Development Fund Company, Inc., and PL Preservation LLC

To

HP Park Lane Senior Housing Development Fund Company, Inc. and PL SARA LLC

Premises: 1940 Turnbull Avenue

Block: 3672

Lot: 30

County: Bronx

Record and Return to:

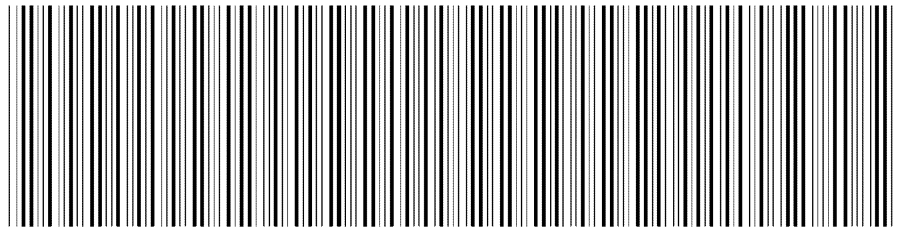
David Goldban

Starrett Companies

70 East 55th Street, 7th Floor

New York, NY 10022

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022041400997001001SEA36

SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2022041400997001
Document Type: DEED

Document Date: 03-31-2022

Preparation Date: 04-14-2022

ASSOCIATED TAX FORM ID: 2022032100053

SUPPORTING DOCUMENTS SUBMITTED:

Page Count

RP - 5217 REAL PROPERTY TRANSFER REPORT

6

FOR CITY USE ONLY

C1. County Code C2. Date Deed Recorded / /
 Month Day Year

C3. Book OR C4. Page /

C5. CRFN



REAL PROPERTY TRANSFER REPORT
 STATE OF NEW YORK
 STATE BOARD OF REAL PROPERTY SERVICES
RP - 5217NYC

PROPERTY INFORMATION

1. Property Location 1940 TURNBULL AVENUE BRONX 10473
 STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND
 LAST NAME / COMPANY FIRST NAME

PL SARA LLC
 LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)
 LAST NAME / COMPANY FIRST NAME

STREET NUMBER AND STREET NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR Part of a Parcel

5. Deed Property Size FRONT FEET X DEPTH OR ACRES

4A. Planning Board Approval - N/A for NYC
 4B. Agricultural District Notice - N/A for NYC

Check the boxes below as they apply:
 6. Ownership Type is Condominium
 7. New Construction on Vacant Land

8. Seller Name HP PARK LANE PRESERVATION HOUSING DEVELOPMENT FUND
 LAST NAME / COMPANY FIRST NAME

PL PRESERVATION LLC
 LAST NAME / COMPANY FIRST NAME

9. Check the box below which most accurately describes the use of the property at the time of sale:

A One Family Residential C Residential Vacant Land E Commercial G Entertainment / Amusement I Industrial
 B 2 or 3 Family Residential D Non-Residential Vacant Land F Apartment H Community Service J Public Service

SALE INFORMATION

10. Sale Contract Date 3 / 1 / 2022
 Month Day Year

11. Date of Sale / Transfer 3 / 31 / 2022
 Month Day Year

12. Full Sale Price \$ 3,750,000
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:

A Sale Between Relatives or Former Relatives
 B Sale Between Related Companies or Partners in Business
 C One of the Buyers is also a Seller
 D Buyer or Seller is Government Agency or Lending Institution
 E Deed Type not Warranty or Bargain and Sale (Specify Below)
 F Sale of Fractional or Less than Fee Interest (Specify Below)
 G Significant Change in Property Between Taxable Status and Sale Dates
 H Sale of Business is Included in Sale Price
 I Other Unusual Factors Affecting Sale Price (Specify Below)
 J None

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

15. Building Class G, 7 16. Total Assessed Value (of all parcels in transfer) 9,945,000
 Borough, Block and Lot / Roll Identifier(s) (If more than three, attach sheet with additional Identifier(s))

BRONX 3672 30

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER

BUYER'S ATTORNEY

BUYER SIGNATURE
DATE
COMPANY, INC., HOUSING PARTNERSHIP DEVELOPMENT
CORPORATION, 253 WEST 35TH STREET, THIRD FLOOR

LAST NAME FIRST NAME

STREET NUMBER STREET NAME (AFTER SALE)

AREA CODE TELEPHONE NUMBER

NEW YORK

NY

10001

SELLER

CITY OR TOWN

STATE

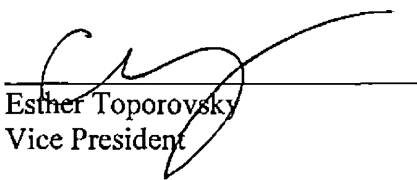
ZIP CODE

SELLER SIGNATURE

DATE

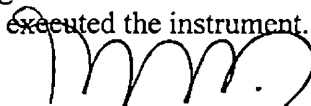
SELLER

**HP PARK LANE PRESERVATION DEVELOPMENT FUND
COMPANY, INC., a New York not-for-profit corporation**

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK }
 }
 } ss:
COUNTY OF NEW YORK }

On this 29th day of March, 2022, before me, the undersigned, personally appeared **Esther Toporovsky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires: 4/19/2022

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified In Kings County
Commission Expires April 19, 2022

SELLER

PL PRESERVATION LLC,
a New York limited liability company

By: 
James H. Simmons III
Authorized Signatory

STATE OF New York }
 }
COUNTY OF New York }

ss:

On this 21st day of March, 2022, before me, the undersigned, personally appeared **James H. Simmons III**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

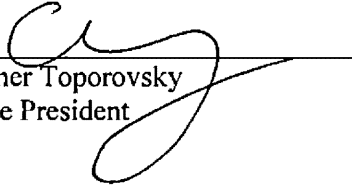


Notary Public
Commission expires: _____

JAMES A. ALLEN
Notary Public, State of New York
No. 02AL6410856
Qualified in New York County
Commission Expires Nov. 02, 2024

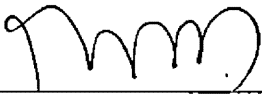
BUYER

**HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND
COMPANY, INC., a New York not-for-profit corporation**

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK)
)SS.:
COUNTY OF New York)

On this 22nd day of March, 2022, before me, the undersigned, personally appeared **Esther Toporovsky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



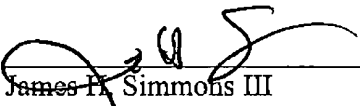
Notary Public
Commission expires:

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified in Kings County
Commission Expires April 19, 2022

BUYER

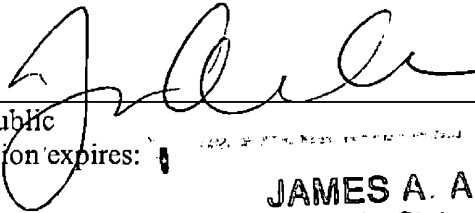
PL SARA LLC, a New York limited liability company


By: **PL SARA MANAGER LLC**,
a New York limited liability company,
its Managing Member

By: 
Name: James H. Simmons III
Title: Authorized Signatory

STATE OF NEW YORK)
)SS.:
COUNTY OF *New York*)

On this 2nd day of March, 2022, before me, the undersigned, personally appeared **James H. Simmons III**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their capacity and that by her/his/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires: 

JAMES A. ALLEN
Notary Public, State of New York
No. 02AL6410856
Qualified in New York County
Commission Expires Nov. 02, 2024

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

THIS DECLARATION OF INTEREST AND NOMINEE AGREEMENT (this “Agreement”) is made this 31st day of March, 2022, by and between **HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law of the State of New York (“Article XI”) and Section 402 of the Not-for-Profit Corporation Law of the State of New York, having its office at 253 West 35th Street, 3rd Floor, New York, New York 10001 (the “HDFC”), and **PL SARA LLC**, a New York limited liability company, having an address at c/o Pembroke Residential Holdings LLC, 70 East 55th Street, New York, New York 10022 (the “Company”).

WITNESSETH:

WHEREAS, a fee interest in the premises described in Schedule “A” annexed hereto and made a part hereof (the “Property”) is being acquired this day by the HDFC solely as nominee legal or record title holder on behalf of the Company, as beneficial and equitable owner of the Property, for the ownership, rehabilitation, and leasing of a residential building, which is comprised of approximately one hundred fifty-four (154) residential rental units including one (1) superintendent’s unit (collectively, the “Project”) in accordance with Article XI; and

WHEREAS, a portion of the development of the Project will be financed by certain loans made or to be made to the Company (the “Loans”); and

WHEREAS, the Company and the HDFC desire that the HDFC hold legal or record title to the Property solely as nominee on behalf of the Company, with the Company retaining all of the equitable and beneficial ownership of the fee interest in the Property and the Project; and

WHEREAS, the HDFC is authorized to acquire, own and hold legal or record title to the Property on behalf of and as nominee of the Company, and the Company shall possess the entire equitable and beneficial ownership interest in and to the Property and the Project; and

WHEREAS, the parties desire to set forth their agreement and understanding concerning all of the foregoing;

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00), as well as other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. The HDFC’s acquisition and holding of legal or record fee title of the Property were each and all effected and performed by the HDFC solely as a nominee of, and on behalf of the Company. Although the HDFC will hold legal or record title to the Property such title shall only be as nominal legal or record titleholder on behalf of the Company. As a result, the parties hereby acknowledge and agree that the Company possesses all of the equitable and beneficial interest in the Property, and will possess all the equitable and beneficial interest in the Project, such that the Company, and not the HDFC shall have an:

(a) unconditional obligation to bear all economic risk of depreciation and diminution in value of the Property and the Project due to obsolescence or exhaustion, and shall bear the risk of loss if the Project is destroyed or damaged;

(b) unconditional right to receive all economic benefits associated with the Property and the Project (i.e., appreciation and increase in value), including the sole right to place any financing on the Property, sell the Property, retain all of the net proceeds from any sale or refinancing of the Property and the Project;

(c) unconditional obligation to keep the Property and the Project in good condition and repair subject to the HDFC's compliance with any and all applicable laws or legal requirements;

(d) unconditional and exclusive right to the possession of the Property and the Project;

(e) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Property and the Project as may be required by the members of the Company and/or any mortgage lenders with respect to the Property and the Project which coverage shall include the mortgage lenders and the HDFC, NYC Partnership Housing Development Fund Company, Inc. ("NYCP"), and Housing Partnership Development Corporation ("HPDC") as named or additional insureds;

(f) unconditional obligation to pay all taxes levied on, and assessments made with respect to the Property and the Project, as well as the right to challenge such taxes and assessments and receive refunds;

(g) unconditional and exclusive right to receive rental and any other income or profits from the operation or beneficial ownership of the Property and the Project;

(h) unconditional obligation to pay for all of the capital investment in the Property and the Project;

(i) unconditional obligation to pay for all development, financing, maintenance and operating costs in connection with the Property and the Project;

(j) unconditional and exclusive right to include all income earned from the operation of the Property and the Project and claim all deductions and credits generated with respect to the Property and the Project on its annual federal, state and local tax returns;

(k) unconditional right to develop residential and non-residential units in the Project and to operate and manage the Property and the Project in accordance with this Agreement and any and all documents executed in connection with the financing, development, operation,

regulation and management of the Property and the Project, as such documents may be amended from time to time (the “Project Documents”);

(l) unconditional and exclusive right to enter into, and/or to have the HDFC’s full cooperation in entering into, easement agreements and to grant any and all easements in connection with the development and operation of the Property and the Project, provided that such easements do not violate the Project Documents;

(m) unconditional obligation to bear the economic risk of loss under the Loans and Company shall be responsible for any obligation for the repayment of principal and interest imposed on the HDFC under any of the documents in connection with the Loans;

(n) right to enjoy any and all benefits of beneficial ownership relative to the Property and or the Project not enumerated above; and

(o) unconditional and exclusive right to make all decisions to exercise all rights and to perform all obligations as declarant and/or unit owner pursuant to any condominium declaration and by-laws to which the Property or the Project as well as carry out and enact all decisions and elections of actions relative to the Property and/or the Project.

2. The HDFC hereby agrees at the direction of Company to execute any and all documents necessary to grant any governmental entity or financial institution or institutions making Loans to the Company a mortgage or mortgages and any similar security interests on the Property and the Project, as well as any documents required to be executed by the HDFC in connection with the financing and development of the Property and the operation and management of the Project, provided that the HDFC shall execute such documents for the sole purpose of encumbering its interest in the Property and the Project, provided further that the HDFC shall not be obligated to execute any such documents that would violate the provisions of Article XI and provided further that all such mortgages and notes secured by such mortgages shall be non-recourse to the HDFC in its capacity as the legal or record title owner of the Property.

3. A. The Company shall fully protect, defend, indemnify, and hold the HDFC, NYCP, HPDC, and each of their members, directors, employees and officers (singularly an “Indemnified Party” and collectively, “Indemnified Parties”) harmless from and against any and all liabilities, obligations, claims, losses, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation, attorneys’ fees and expenses of counsel selected by the HDFC, NYCP, and/or HPDC) whether incurred in disputes, both litigated and non-litigated, with the Company or with any third parties arising out of or in any way relating to (a) acquisition and ownership of the Property from and after the date of transfer of title to the Property to the HDFC, (b) the Project and/or the Project Documents, (c) the use or occupancy of the Project or (d) the enforcement of any obligation under any policy of insurance or indemnity provision provided in the Project Documents, except if arising from the willful misconduct or gross negligence of the HDFC (collectively, “Claims”). The foregoing indemnification shall include, but shall not be limited to the Company’s primary obligation to defend all Claims, whether or not groundless, on its own behalf and on behalf of all additional insureds, and indemnification for Claims resulting

from any (i) accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (ii) use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) failure on the part of the Company to perform or comply with any of the terms of the Project Documents or any applicable law, rule or regulation; (iv) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; and/or (v) defect in the construction or condition or characteristics of the Property or the Project, whoever and whatever the cause.

B. The Company shall, to the fullest extent permitted by law, protect, defend, indemnify and save an Indemnified Party harmless from and against all liabilities, losses, obligations, judgments, claims, damages, penalties, causes of action, costs and expenses (including without limitation, attorneys' fees and expenses of counsel selected by the HDFC, NYCP, and/or HPDC, whether incurred in litigation with the Company or with any third parties), imposed upon or incurred by or asserted against an Indemnified Party by reason of (i) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release or threatened release of any Hazardous Materials on, from or affecting the Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or relating to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials or (iv) any violation of laws, orders, rules or regulations, requirements or demands of governmental authorities, or any policies or requirements of the HDFC that are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney or consultant fees, investigation and laboratory fees, court costs and litigation expenses, except if arising out of the willful misconduct or gross negligence of the HDFC. The Company's obligations and liabilities under this section shall survive any foreclosure involving the Property, or any part thereof, or HDFC's delivery of a deed in lieu of foreclosure. Hazardous Materials means, including by example but without limitation, any explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances (or related or similar materials), asbestos or any material containing asbestos, lead paint or any other hazardous substance or material as defined by any Federal, state or local environmental law, ordinance, rule or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.) and the rules and regulations promulgated pursuant thereto.

C. In the event that any action or proceeding is brought against an Indemnified Party with respect to which indemnity may be sought under this Section, the Company shall assume the investigation and defense of such action or proceeding, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto. The HDFC shall have the right, if it shall conclude in good faith that a conflict of interest exists, to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Company shall pay all reasonable fees and expenses of such separate counsel.

Notwithstanding any provision to the contrary in this Section 3, should the Company fail to comply with an Indemnified Party's request to retain counsel for defense of a Claim pursuant to this Section 3, such Indemnified Party shall have the right to employ counsel of its choosing in defense of such Claim, and the Company shall assume the payment of all expenses related thereto.

This Section 3 shall survive the expiration, amendment and restatement or termination of this Agreement.

4. The HDFC agrees that all proceeds of any insurance policies and condemnation proceeds received by it, which relate to its ownership of the Property shall be received in its capacity as nominee of the Company and shall be immediately deposited in the Company's name in Company's accounts, including, but not limited to, liability, property, casualty and title insurance proceeds.

5. The HDFC hereby irrevocably and unconditionally agrees, promptly upon the request of the Company, to execute and deliver to the Company a deed in proper recordable form transferring and conveying to the Company all of the HDFC's right, title and interest in and to the Property. The HDFC hereby unconditionally and unequivocally constitutes and appoints the Company to be its lawful and true agent and attorney-in-fact coupled with an interest, with full power of substitution to execute and record any such deed and any other documents or instruments required to convey the Property on behalf of the HDFC, in the name, place and stead of the HDFC with the same force and effect as if such deed was executed, delivered and recorded by the HDFC on the following conditions: (i) the Company shall advise the HDFC of the need to execute such documents on not less than ten (10) business days' notice; and (ii) should the HDFC fail to comply with the Company's request based upon a failure to respond to the Company within such ten (10) business days' notice of such request, the Company shall then have the right to execute all such documents in the name and on behalf of the HDFC as if the HDFC were the party executing the same. The parties agree that the HDFC's failure to comply with the provisions of this Section 5 shall cause irreparable harm to Company for which no adequate remedy at law will be available and, in addition to any other available remedies, the Company shall be entitled to the right of specific performance in the event of a breach by the HDFC of the provisions of this Section 5. Notwithstanding anything to the contrary herein, the HDFC shall be under no obligation to execute and/or deliver any deeds or other documents which violate the Project Documents, the Not-for-Profit Corporation Law of the State of New York, Article XI of the Private Housing Finance Law of the State of New York and/or the HDFC's Certificate of Incorporation and by-laws.

6. The Company acknowledges and agrees that the HDFC's Certificate of Incorporation (the "HDFC COI") prohibits the HDFC from causing or permitting any vacant dwelling unit in the Project, with the exception of one superintendent's unit, to be rented to, subleased to, or occupied by, anyone other than a Person of Low Income. "Person Of Low Income" shall mean a household which, on the date of its initial occupancy, has an Annual Income that does not exceed the lesser of 165% of AMI or such lower income as may be required at any time pursuant to an agreement with the City of New York, by and through its Department of Housing Preservation and Development ("HPD") or with any other governmental agency or

instrumentality. The Company expressly represents, warrants, and covenants that it shall not cause or permit any leasing, subleasing, or occupation of any dwelling unit in the Project which violates the provisions of the HDFC COI cited in this Section 6. The Company shall fully protect, defend, indemnify, and hold an Indemnified Party harmless from and against any and all liabilities, obligations, claims, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation, attorneys' fees and expenses of counsel selected by the HDFC, NYCP, and/or HPDC) whether incurred in disputes, both litigated and non-litigated, with the Company or with any third parties arising out of or in any way relating to any failure of the Company to comply with this Section 6. If the HDFC determines that the use of the Property does not comply with the HDFC COI, applicable regulatory agreements or the Project Documents, the HDFC shall have the right to convey the Property to the Company or the Company's designee for nominal consideration at the Company's expense in the same state of title as exists as of the date hereof and shall return all reports, information and documents, relating to the Property and Project to the Company and this Agreement shall be terminated and of no further force and effect, except however to the extent there is any change in the condition of title as a result of liens, judgments or assessments that accrue or vest between the date hereof up to and including the date of the re-conveyance of title to Company or Company's Designee, the HDFC shall be not be liable for or in any way obligated to satisfy such liens, judgments or assessments or restore title to its condition on the date hereof, unless the change in condition came about through the willful misconduct or gross negligence of the HDFC.

The Company expressly represents, warrants, and covenants that it shall not cause or permit any leasing, subleasing, or occupation of any dwelling unit in the Project, which violates the provisions of the HDFC COI cited in this Section 6. The Company shall fully protect, defend, indemnify, and hold the Indemnified Party harmless from and against any and all liabilities, obligations, claims, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation, attorneys' fees and expenses of counsel selected by the HDFC, NYCP, and/or HPDC) whether incurred in disputes, both litigated and non-litigated, with the Company or with any third parties arising out of or in any way relating to any failure of the Company to comply with this Section 6.

7. The Company and the HDFC on behalf of themselves and their respective successors and assigns, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

(a) So long as the HDFC shall hold legal title to the Property, the Company shall have complete and exclusive possession and control of the Property and the HDFC shall not have any right to possess or control the Property;

(b) The Company is the "owner" and the HDFC is not in any respects an "owner," as such term is defined in Section 2 of the New York Lien Law and for federal tax purposes, with respect to the Property;

(c) The HDFC is not, and shall not be, entitled to receive any proceeds of any of the Loans to Company and/or otherwise have any rights, title, interests or benefits from, of, to and/or under any of the Loans;

(d) Except as expressly provided in Section 2 and Section 6 hereof, the HDFC shall not have any power, right and/or authority to encumber, lien, and/or create or grant any rights and/or interests in or to the Property or the Project, and/or any part or parts thereof, and any encumbrance, lien, right and/or interest purported to be created, granted, permitted and/or resulting from any action of the HDFC in connection with the Property and the Project and/or any part or parts thereof shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon the Company;

(e) The HDFC shall not have any power, right and/or authority to employ, and/or agree to employ, any persons and/or entities in connection with and/or with respect to the Property, and/or any part or parts thereof and/or to purchase, and/or agree to purchase any goods, materials and/or services in connection with any of the Property and/or any part or parts thereof, and any such employment, purchase and/or agreement to employ or purchase purported to be made by the HDFC shall be void, unenforceable and of no force or effect and shall not be binding upon Company;

(f) The HDFC shall, at the Company's request and at the Company's sole cost and expense, join in and be a party to any legal action or proceeding commenced against or relating to the Property or the Project, provided that such participation by the HDFC is necessary to protect or enforce the HDFC's and/or the Company's respective interests in the Property and/or the Project. The HDFC shall be entitled to separate counsel of its choice, whose expenses, costs and reasonable legal fees, including appeals, shall be paid by the Company, and the Company shall indemnify the Indemnified Parties against any and all claims arising from any such fees, costs and expenses in connection with any and all legal actions or proceedings to the extent not caused by the HDFC's gross negligence or willful misconduct;

(g) The HDFC shall not commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; shall not consent to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the HDFC of any substantial part of its property; shall not make any general assignment for the benefit of creditors; shall not fail generally to pay its debts as such debts become due; and shall not take any action in furtherance of any of the foregoing;

(h) Except as explicitly provided for in Section 7 of this Agreement, no actions may be taken by the HDFC nor may the HDFC permit any other person to take any actions which relate to, impact, or otherwise affect the Property or the Project or any part or parts thereof or of any interest therein, except with the prior written consent of the Company, which may be withheld in its sole reasonable discretion. Further, any and all actions taken by the HDFC with respect to the Property or any parts thereof shall be taken solely in its capacity as nominee for the Company and not for its own ends or purposes;

(i) So long as the HDFC shall own record fee title to the Property, the Company and the HDFC shall operate the Project in accordance with Article XI, any applicable Regulatory Agreement, and otherwise in accordance with any applicable laws, rules, and regulations; and

(j) So long as the HDFC shall hold record fee title to the Property, the Company shall prepare and file the annual federal and state tax returns (and, if determined to be required by the HDFC, the NYS CHAR410 form, and the annual NYS CHAR500 form), on behalf of the HDFC, and provide such tax returns (and, if applicable, such CHAR forms) to the HDFC for execution, at no expense to the HDFC; and

(k) Except as set forth herein and in any other written agreement by and between HDFC and Company or an affiliated party, so long as the HDFC shall hold record fee title to the Property, the HDFC shall not have the right or ability to transfer or convey or encumber the Property in any way, nor shall it modify the deed of the Property in any way without the prior written consent of the Company.

8. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(b) If any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

(c) This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and no amendment, change or modification shall be effective unless in writing and signed by the parties hereto.

(d) No party may assign this Agreement, or its rights and/or obligations hereunder, without the express written consent of the other parties. Any assignment without such express written consent shall be void.

(e) The waiver of a breach of any provision of this Agreement by any party shall not operate or be construed as a waiver of any subsequent breach.

(f) Unless otherwise specified, notices or consents required to be given by any party to the others under this Agreement shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or overnight mail to the undersigned representative of the recipient at its address first stated above, or as changed pursuant to a notice served as prescribed by this Section. Such notices shall be deemed to be effective on the date when they are mailed or personally delivered.

A copy of any notice to the Company should be sent to:

PL SARA LLC
c/o Asland Capital Partners LLC
601 Lexington Ave, 52nd Floor
New York, New York 10022
Attn: James H. Simmons III

with a copy to:

Nixon Peabody LLP
55 West 46th Street
New York, New York 10036
Attn: Aaron Yowell

(g) No party is authorized to act as agent for the other or to incur any liability or dispose of any assets in the name of or on behalf of the others unless provided in this Agreement or specifically authorized by the party which will be responsible for the obligation.

(h) Any third party may rely on this Agreement with respect to the rights and obligations of the Company and the HDFC hereunder.

(i) So long as the HDFC shall hold record title to the Property and the Project, any and all notices, statements and communications received by the HDFC, as holder of record title with respect to the Property and the Project, shall be promptly delivered to the Company.

(j) If the Company consists of more than one person or entity, the obligations of those persons or entities under this Agreement shall be joint and several.

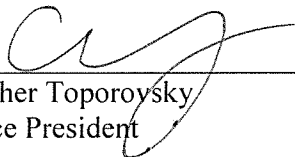
(k) This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

[SIGNATURES SET FORTH ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date first set forth above.

HDFC:

**HP PARK LANE SENIOR HOUSING DEVELOPMENT
FUND COMPANY, INC.**, a New York not-for-profit corporation

By: 
Name: Esther Toporoysky
Title: Vice President

COMPANY:

PL SARA LLC, a New York limited liability company

By: **PL SARA MANAGER**, a New York limited liability
company, its Managing Member

By: _____
Name: James H. Simmons III
Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date first set forth above.

HDFC:

**HP PARK LANE SENIOR HOUSING DEVELOPMENT
FUND COMPANY, INC.**, a New York not-for-profit corporation

By: _____
Name: Esther Toporovsky
Title: Vice President

COMPANY:

PL SARA LLC, a New York limited liability company

By: **PL SARA MANAGER**, a New York limited liability
company, its Managing Member

By: 
Name: James H. Simmons III
Title: Authorized Signatory

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 22nd day of March, 2022, before me, the undersigned, a Notary Public in and or said State, personally appeared Esther Toporovsky, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.



MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified in Kings County
Commission Expires April 19, 2022

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF _____)

On the ___ day of _____, 2022, before me, the undersigned, a Notary Public in and or said State, personally appeared James H. Simmons III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the ___ day of _____, 2022, before me, the undersigned, a Notary Public in and or said State, personally appeared Esther Toporovsky, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF New York)

On the 21st day of March, 2022, before me, the undersigned, a Notary Public in and or said State, personally appeared James H. Simmons III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.



Notary Public

JAMES A. ALLEN
Notary Public, State of New York
No. 02AL6410856
Qualified in New York County
Commission Expires Nov. 02, 2024

SCHEDULE "A"

All that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Turnbull Avenue distant 106.75 feet easterly from the intersection of the southerly side of Turnbull Avenue and the Easterly side of White Plains Road;

RUNNING THENCE southerly along a line forming an angle on the East with the southerly side of Turnbull Avenue of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to a point;

THENCE easterly along a line forming an angle on the North with the last described course of 89 Degrees 59 Minutes 51 Seconds and parallel with Turnbull Avenue a distance of 117.75 feet to a point;

THENCE northerly along a line forming an angle on the West with the last described course of 90 Degrees 0 Minutes 9 Seconds and parallel with White Plains Road a distance of 108.50 feet to the southerly side of Turnbull Avenue;

THENCE westerly along the southerly side of Turnbull Avenue a distance of 117.75 feet to the point or place of BEGINNING.

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

HP PARK LANE SENIOR HOUSING DEVELOPMENT FUND COMPANY, INC.

AND

PL SARA LLC

Block 3672
Lot 30
Bronx, New York

Record and Return to:
Housing Partnership Development Corporation
253 West 35th Street, 3rd Floor
New York, New York 10001
Attn: General Counsel

EXHIBIT C
Affordable Housing Regulatory
Agreements

Affordable Housing Regulatory Agreement

among:

PL SARA LLC

HP Park Lane Senior Housing Development Fund Company, Inc.

and

The City of New York, acting by and through its
Department of Housing Preservation and Development

March 31, 2022

Borough: Bronx

Block: 3672

Lot: 30

Record and return to:

New York City Department of
Housing Preservation and Development
Office of Legal Affairs
100 Gold Street, Room 5-S5 (TW)
New York, NY 10038

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AFFORDABLE HOUSING REGULATORY AGREEMENT (“**Agreement**”) entered into as of March 31, 2022, between:

PL SARA LLC, a New York limited liability company having an address at c/o Asland Capital Partners LLC, 601 Lexington Ave, 52nd Floor, New York, NY 10022 (“**Beneficial Owner**”);

HP Park Lane Senior Housing Development Fund Company, Inc., a New York not-for-profit corporation having an address at c/o Housing Partnership Development Corporation, 253 West 35th Street, 3rd Floor, New York, NY 10001 (“**Legal Owner**”, and together with the Beneficial Owner, “**Owner**”);

The City of New York, a New York municipal corporation having its principal office at City Hall, New York, NY 10007, acting by and through its **Department of Housing Preservation and Development**, having its principal office at 100 Gold Street, New York, NY 10038.

RECITALS

- A. Capitalized terms have the meanings given in Section 1.01.
- B. The Owner intends to own and operate the housing project described in Exhibit B (“**Project**”) on the real property identified in Exhibit A (“**Property**”). Exhibit A and Exhibit B are annexed to this Agreement and made a part of this Agreement.
- C. The Beneficial Owner has entered into a Declaration of Interest and Nominee Agreement with the Legal Owner (together with any other nominee agreement with respect to the Property, “**Nominee Agreement**”), pursuant to which the Beneficial Owner is the beneficial and equitable owner of the Property and the Legal Owner retains the nominal record title to the Property.
- D. HPD is providing financing to the Owner pursuant to Article XI of the Private Housing Finance Law (“**HPD Financing**”).
- E. The Owner expects that the Project will receive real property tax benefits pursuant to Section 420-c of the Real Property Tax Law (“**Real Property Tax Benefits**”).
- F. The Project has been allocated federal low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code (“**LIHTC**”).
- G. The Owner intends to provide an Affordable Independent Residence for Seniors, as defined in Section 12-10 of the Zoning Resolution, on the Property.
- H. The Agency requires that the Owner and the Project comply with this Agreement as a condition to participation in the Agency’s affordable housing program.

In consideration of the foregoing, and for other good and valuable consideration, the parties to this Agreement agree as follows:

[Continues on next page]

ARTICLE 1
DEFINITIONS

1.01 Certain Definitions.

“**Actual Rent**” has the meaning set forth in Section 5.01(b).

“**Agency**” means HPD.

“**Agreement**” has the meaning set forth in the preamble to this Agreement.

“**AMI**” means two times the Section 8 income limit for “very low-income families” (families with incomes that do not exceed 50% of median family income), as determined by HUD for the New York, NY HUD Metropolitan Fair Market Rent Area (or any successor area covering New York City), and adjusted for family size. If HUD stops publishing the Section 8 income limit for very low-income families, the Agency shall establish an alternative method for determining AMI. If HUD publishes an income limit for a different percentage of median family income, the Agency or Law may require the Owner to use the HUD-published income limit, as adjusted for family size, to determine rent or income limits at a corresponding percentage of AMI under this Agreement, instead of an adjustment to the Section 8 income limit for very low-income families. Unless otherwise noted, AMI refers to the amount in effect on the date of the applicable determination.

“**Annual Income**” means current annual gross income, calculated in accordance with the method for determining income eligibility specified in the Marketing Handbook or as otherwise may be required by Law.

“**Beneficial Owner**” has the meaning set forth in the preamble to this Agreement.

“**Change in Ownership**” has the meaning set forth in Section 8.02(a).

“**City**” means The City of New York.

“**Default**” has the meaning set forth in Section 10.01(b).

“**Default Rate**” means an interest rate that is the lower of (a) the highest interest rate permitted by Law, or (b) 16% per annum.

“**Destabilization**” has the meaning set forth in Section 5.02(e).

“**DHCR**” means the State’s Division of Housing and Community Renewal, or any successor administering Rent Stabilization.

“**Eligible Household**” means, with respect to any Unit, a prospective or existing Tenant who meets the income, asset, and other requirements of this Agreement and the Marketing Handbook to occupy the Unit.

"Equipment" means all fixtures, fittings, appliances, apparatus, equipment, machinery, furniture, and other personal property (other than that which is owned by Tenants or any non-residential tenants of the Property) now or in the future attached to, located upon, or used in the operation of the Property, and all replacements, additions, proceeds, products, and accessions of or to the foregoing.

"FMR" means the fair market rent published by HUD for the New York, NY HUD Metropolitan Fair Market Rent Area (or any successor area covering the Property) and in effect on the date of the applicable rent determination.

"HDC" means the New York City Housing Development Corporation (or any successor).

"Homeless Units" has the meaning set forth in Section 4.01(c).

"Household" means all individuals who occupy, or will occupy, a Unit.

"HPD" means the City, acting by and through its Department of Housing Preservation and Development (or any successor).

"HPD Financing" has the meaning set forth in the Recitals.

"HUD" means the U.S. Department of Housing and Urban Development (or any successor).

"Improvements" means all buildings, structures, sidewalks, parking lots, and other physical improvements currently existing or at any time in the future constructed, installed, or placed upon the land in any part of the Property.

"Income-Restricted Unit" means any Unit that the Owner is required to lease upon initial occupancy to an Eligible Household whose Annual Income does not exceed an income limit for the Unit that is required by this Agreement.

"Institutional Lender" has the meaning set forth in Section 8.03(e).

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, and any regulations, rules, and procedures issued pursuant to such code.

"Law" means any applicable federal, state, or local law, code, ordinance, regulation, rule, ruling, or requirement in effect, including, but not limited to, executive orders, court orders, and City Council resolutions, regardless of whether it was applicable or in effect on the date of this Agreement or became applicable or effective after such date.

"Legal Owner" has the meaning set forth in the preamble to this Agreement.

"Legal Rent" has the meaning set forth in Section 5.01(b).

"LIHTC" has the meaning set forth in the Recitals.

“LIHTC Building” means any “building” (within the meaning of Section 42 of the Internal Revenue Code) containing Units that are designated as low-income units pursuant to Section 42 of the Internal Revenue Code.

“Management Agreement” has the meaning set forth in Section 6.07.

“Managing Agent” has the meaning set forth in Section 6.07.

“Marketing Handbook” means the Agency’s Marketing Handbook, as amended, or any successor document designated in writing by the Agency.

“Maximum Program Rent” has the meaning set forth in Section 5.01(b).

“MCI Increase” has the meaning set forth in Section 5.02(c)(i).

“Nominee Agreement” has the meaning set forth in the Recitals.

“Operating Reserve” has the meaning set forth in Section 7.02.

“Owner” has the meaning set forth in the preamble to this Agreement.

“Permanent Loan Conversion” means the date of the conversion of HPD Financing from the construction phase to the permanent phase.

“Permitted Mortgage” has the meaning set forth in Section 8.03(d).

“Prohibited Person” means any individual or entity that is or has been subject to, or that has a principal that is or has been subject to, one or more of the following: (a) conviction, civil judgment, pending litigation, or active investigation for harassment, arson, fraud, bribery, grand larceny, any felony or crime of dishonesty, or any material violation of environmental or building safety Laws, (b) suspension or debarment by any government entity, (c) a finding of material tax arrears, tax foreclosure, or enforcement proceedings, or the sale of tax liens, or (d) negative findings by the City’s Department of Investigation.

“Project” has the meaning set forth in the Recitals.

“Property” has the meaning set forth in the Recitals.

“Property Transfer” has the meaning set forth in Section 8.01.

“Real Property Tax Benefits” has the meaning set forth in the Recitals.

“Records” has the meaning set forth in Section 6.04.

“Renewal Lease Adjustment” has the meaning set forth in Section 5.01(b).

“Rent Stabilization” means, collectively, the Rent Stabilization Law of 1969, the Emergency Tenant Protection Act of 1974, and the Rent Stabilization Code, all as amended, together with any successor Laws addressing substantially the same matters.

“Rental Assistance” means Section 8, similar rental subsidies provided by the City, or any other rental subsidy program approved in writing by the Agency.

“Rental Assistance Contract” means any contract providing project-based Rental Assistance to the Project.

“Rental Assistance Rent” has the meaning set forth in Section 5.01(b).

“Rental Assistance Unit” has the meaning set forth in Section 5.01(b).

“Replacement Reserve” has the meaning set forth in Section 7.01.

“Restriction Period” has the meaning set forth in Section 2.01(a).

“Section 8” means rental subsidies provided under Section 8 of the United States Housing Act of 1937, as amended (or any successor federal rental subsidy program).

“State” means the State of New York.

“Superintendent Unit” means a Unit that is occupied by a resident superintendent or porter of the Project.

“Tenant” means, collectively, (a) one or more individuals occupying or entitled to occupy a Unit who is either a party to a lease or rental agreement for such Unit or is a statutory tenant pursuant to the Emergency Housing Rent Control Law, the City Rent and Rehabilitation Law, or Article 7-C of the Multiple Dwelling Law, and (b) the entire Household of such individuals.

“Unit” means a dwelling unit within the Project.

[Continues on next page]

ARTICLE 2

TERM OF RESTRICTIONS

2.01 Restriction Period.

- (a) **Length of Period.** The Owner shall comply, and shall cause the Project to comply, with this Agreement during the period that begins on the date of this Agreement and ends on the latest of the following dates ("**Restriction Period**"):
- (i) The date identified as the Agency Program Termination Date in Exhibit B.
 - (ii) The date on which (1) the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or HDC, and (2) the Owner does not owe any indebtedness to the City or HDC with respect to the Project.
 - (iii) The date on which the Real Property Tax Benefits expire by their stated term and not due to any early voluntary or involuntary termination, revocation, or suspension.
 - (iv) Intentionally omitted.
 - (v) Intentionally omitted.
- (b) **Intentionally omitted.**
- (c) **Intentionally omitted.**

2.02 After the Restriction Period.

- (a) **Termination.** This Agreement terminates when the Restriction Period ends for all Units, except as provided in Section 2.02(b). No party may terminate this Agreement prior to the end of the Restriction Period without the prior written consent of the Agency.
- (b) **Surviving Provisions.** After the termination of this Agreement, or after the Restriction Period ends for any Unit prior to the termination of this Agreement, the Owner shall continue to comply, and shall cause the Project to comply, with the provisions of this Agreement that are specifically identified in this Agreement as applying after the Restriction Period, or as surviving the termination of this Agreement (or words of similar meaning). All such provisions survive the termination of this Agreement. The Agency may continue to enforce this Agreement after its termination with respect to (i) any surviving provision of this Agreement and (ii) any matter that occurred before the termination of this Agreement. In addition, the termination of this Agreement will not affect the Agency's ability to enforce any Law that the Agency would be able to enforce in the absence of this Agreement.

- (c) **Release.** After the termination of this Agreement, and upon the request of the Owner, the Agency shall provide the Owner with a release of this Agreement in recordable form. The Agency may refer to its surviving rights under this Agreement in any such release, but neither the release of this Agreement nor the failure to describe the survival of rights under this Agreement in any such release will limit the Agency's exercise of these rights as provided in Section 2.02(b).

2.03 Intentionally omitted.

2.04 Intentionally omitted.

[Continues on next page]

ARTICLE 3

GENERAL REQUIREMENTS

3.01 Compliance with Law; Agreements.

The Owner shall comply, and shall cause the Project to comply, with the Law. The Owner shall also comply, and shall cause the Project to comply, with (a) any other agreement entered into by the Owner with the Agency or any other government agency with respect to the Project, (b) any restrictive covenant entered into by the Owner for the benefit of the Agency or any other government agency with respect to the Project, or (c) any permit issued by the Agency or any other government agency with respect to the Project.

3.02 More Restrictive Provisions Control.

If this Agreement conflicts with any Law or with any other agreement, restrictive covenant, or permit with, entered into for the benefit of, or issued by a government agency with respect to the Project, or if any provision of this Agreement conflicts with any other provision of this Agreement, the more restrictive provision, as determined by the Agency, controls.

3.03 Real Property Tax Benefits.

The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of the Real Property Tax Benefits, including, but not limited to, the Law under which the Real Property Tax Benefits have been, or will be, granted, all related Laws, and any related agreements and restrictive covenants.

- (a) **Section 420-c Tax Exemption.** In order to obtain Real Property Tax Benefits under Section 420-c of the Real Property Tax Law, in addition to any other requirements of Law, the Owner shall comply, and shall cause the Project to comply, with the Tax Credit Regulatory Agreement, dated as of March 31, 2022, between the Owner and New York State Housing Finance Agency, and to be recorded against the Property in the land records, which agreement serves as the “extended low-income housing commitment” required by Section 42(h)(6) of the Internal Revenue Code.

3.04 Rental Assistance.

The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of any Rental Assistance to the Project, as administered by the government agency providing the Rental Assistance, including, but not limited to, all related Laws and any related agreements and restrictive covenants.

- (a) **Notice of Defaults.** The Owner shall provide the Agency with notice of any default or material adverse change with respect to a Rental Assistance Contract that covers any of the Units (including, but not limited to, any termination or

material reduction of Rental Assistance with respect to one or more Units, and any event that would allow the Owner to terminate a Rental Assistance Contract, or fail to extend or renew the contract, with respect to one or more Units pursuant to Section 3.04(b)) no later than 30 days after the date on which the Owner obtains evidence in writing that the default or material adverse change has occurred or is reasonably likely to occur.

- (b) **Obligation to Maintain Rental Assistance Contract.** The Owner shall keep in effect any Rental Assistance Contract that covers any of the Units, shall timely exercise any right to extend or renew any such contract, and shall not cause or permit, by act or omission, the contract to be terminated with respect to one or more Units, unless one of the following conditions is satisfied, or the Owner has otherwise obtained the Agency's prior written consent:
 - (i) **Replacement Rental Assistance.** The contract is immediately replaced by other Rental Assistance that is substantially equivalent in all material respects to the terminated contract, as reasonably determined by the Agency.
 - (ii) **No Fault Termination.** The contract terminates with respect to one or more Units through no fault of the Owner (including, but not limited to, any termination by the Owner that is permitted under the Rental Assistance program after a reduction in funding for the Rental Assistance Contract that is not caused by the Owner), and the Owner has been unable, after making commercially reasonable efforts, to replace the contract with other Rental Assistance that is substantially equivalent in all material respects to the terminated contract, as reasonably determined by the Agency.
 - (iii) **Intentionally omitted.**
- (c) **Mitigation of Loss of Rental Assistance.**
 - (i) **Financial Projections.** No later than 10 business days after the date on which the Agency receives notice from the Owner of any termination or material reduction of a Rental Assistance Contract with respect to one or more Units, or any event that would allow the Owner to terminate a Rental Assistance Contract, or fail to extend or renew the contract, with respect to one or more Units pursuant to Section 3.04(b), the Owner shall provide the Agency with current financial statements and reasonably detailed financial projections for the Project, in addition to any other information that the Agency may reasonably request in writing in response to the Owner's notice.
 - (ii) **Mitigation Measures.** Upon receipt of a notice from the Owner pursuant to Section 3.04(c)(i), the Agency may assist the Owner to identify alternative forms of Rental Assistance and propose other measures to mitigate the loss of Rental Assistance. The Agency may also propose a plan to minimize the displacement of affected Tenants. If the Agency proposes any such measures or plan, and the proposal is commercially

reasonable, the Owner shall use good faith efforts to assist the Agency in implementing the proposed measures or plan.

3.05 Intentionally omitted.

3.06 HPD Financing.

- (a) **Statutory Authority.** The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of the statutory authority under which HPD is providing the HPD Financing, and any other Laws related to the HPD Financing.
- (b) **Loan Documents.** The Owner shall also comply, and shall cause the Project to comply, with all documents evidencing, securing, or otherwise signed and delivered by the Owner to HPD in connection with the HPD Financing, including, but not limited to, commitment letters, notes, and mortgages. This covenant does not independently obligate any party under a note or other agreement, however, if the party has not signed the agreement.
- (c) **Intentionally omitted.**
- (d) **Intentionally omitted.**
- (e) **Intentionally omitted.**
- (f) **Required Statutory Covenants (Article 11 Loan).** HPD is providing all or a portion of the HPD Financing under the authority of Article 11 of the Private Housing Finance Law. Section 576-c of the Private Housing Finance Law requires that for so long as any part of the Article 11 loan remains unpaid:
 - (i) **Occupancy.** The Owner shall provide housing accommodations exclusively for persons and families of low income (as defined in the Private Housing Finance Law).
 - (ii) **Ownership.** The Owner shall remain a non-profit housing development fund company, a wholly-owned subsidiary of such company, a partnership the controlling interest of which is held by such company and which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by such company, or a private developer which has agreed to limit profits or rate of return of investors in accordance with a formula established or approved by such company.
 - (iii) **Homeless Unit Requirement.** The Owner shall provide not less than the minimum number of Homeless Units required by Section 576-c of the Private Housing Finance Law, as further described in Section 4.01(c).

(g) **Intentionally omitted.**

(h) **Intentionally omitted.**

3.07 Intentionally omitted.

3.08 Intentionally omitted.

3.09 Intentionally omitted.

3.10 NYCHA Requirements.

(a) **In General.** The Owner shall comply, and shall cause the Project to comply, with the requirements of the New York City Housing Authority (“**NYCHA**”) set forth as the “NYCHA Requirements” in Exhibit B.

(b) **Third-Party Beneficiary.** NYCHA is a third-party beneficiary of this Section 3.10. This Agreement may not be materially amended or terminated without the prior written consent of NYCHA, if the amendment or termination affects the “NYCHA Requirements” in Exhibit B. NYCHA shall not unreasonably withhold its consent to any such amendment or termination.

3.11 Affordable Independent Residence for Seniors.

(a) **Zoning Resolution Definitions.** Capitalized terms used in this Section 3.11 and not defined in this Agreement have the meanings given to them in the Zoning Resolution.

(b) **AIRS Units.**

(i) **Senior Housing Restriction.** The Units that will comprise a portion of the Affordable Independent Residence for Seniors (except for any Superintendent Unit) are identified as senior housing Units and “AIRS” Units in Exhibit B. The Owner shall lease each such Unit in accordance with this Agreement, including but not limited to the senior housing restriction contained in Section 4.01(d).

(ii) **Affordability Requirements.** In addition to any other restriction contained in this Agreement, which may be more restrictive, the Owner shall lease any Unit that comprises a portion of the Affordable Independent Residence for Seniors (except for any Superintendent Unit) in compliance with the Zoning Resolution, including but not limited to the definitions of Affordable Independent Residence for Seniors and Income-Restricted Housing Unit in Section 12-10 of the Zoning Resolution. Without limiting the foregoing sentence, the Owner shall lease each such Unit (1) to an Eligible Household whose Annual Income upon initial occupancy does not exceed 80% of AMI; and (2) for an Actual Rent that does not exceed a Maximum Program Rent of 80% of AMI, unless the Unit is a Rental Assistance Unit, in which case the Owner may lease the

Unit for an Actual Rent that does not exceed the Rental Assistance Rent, as long as the Owner neither charges nor collects from any Tenant of any such Unit any amount that is greater than a Maximum Program Rent of 80% of AMI.

- (c) **Accessory Social and Welfare Facilities.** Pursuant to the definition of Affordable Independent Residence for Seniors in Section 12-10 of the Zoning Resolution, the Owner shall allocate not less than 4% of the total Floor Area of the Affordable Independent Residence for Seniors at the Project to related Accessory social and welfare facilities primarily for residents, such as cafeterias or dining halls, community rooms, workshops, and other essential service facilities, which may also be made available to the community, and otherwise in compliance with the Zoning Resolution.
- (d) **Term of AIRS Restrictions.** The Owner shall comply, and shall cause the Project to comply, with the provisions governing an Affordable Independent Residence for Seniors in Section 12-10 of the Zoning Resolution until such time, if any, that all applicable certificates of occupancy with respect to the Project have been duly amended or superseded to reflect that the entire Project may be used other than as an Affordable Independent Residence for Seniors in accordance with the Zoning Resolution.
- (e) **Intentionally omitted.**
- (f) **Intentionally omitted.**
- (g) **Intentionally omitted.**

[Continues on next page]

ARTICLE 4

PROJECT OCCUPANCY

4.01 Occupancy Restrictions.

- (a) **Income Limits.** The Owner shall lease each Income-Restricted Unit to an Eligible Household whose Annual Income upon initial occupancy does not exceed the income limit for the Unit that is required by Exhibit B. The Owner shall distribute the Income-Restricted Units by apartment size as set forth in Exhibit B. The Owner shall designate each Income-Restricted Unit by income limit and provide a certified schedule of unit designations to the Agency upon request, except as may be provided in Exhibit B. If this Agreement requires tiers of income limits, no Income-Restricted Unit may count for more than one tier.

- (b) **Accessibility Set-Asides.**
 - (i) **Mobility Disabilities.** The Owner shall ensure that not less than 5% of the Units, or one Unit, whichever is greater, is accessible to and set aside for Households that include an individual with a mobility disability, to the extent applicable and unless the Project may be exempted from this requirement under the Law. The Owner shall designate each such Unit and provide a certified schedule of unit designations to the Agency upon request.

 - (ii) **Hearing and Vision Disabilities.** The Owner shall ensure that not less than an additional 2% of the Units, or one Unit, whichever is greater, is accessible to and set aside for Households that include an individual with a hearing or vision disability, to the extent applicable and unless the Project may be exempted from this requirement under the Law. The Owner shall designate each such Unit and provide a certified schedule of unit designations to the Agency upon request.

 - (iii) **Intentionally omitted.**

- (c) **Homeless Housing.**
 - (i) **Referral Requirement.** The Owner shall lease no fewer than the number of Income-Restricted Units set forth in Exhibit B as "**Homeless Units**" to Eligible Households: (1) who are referred by HPD or an alternate referral source approved by HPD, and (2) who prior to initial occupancy of a Unit lived in emergency shelter facilities operated by or on behalf of the City or who are otherwise in need of emergency shelter as determined by the City. If required by the Agency, the Owner shall (x) distribute the Homeless Units by apartment size as set forth in Exhibit B, and (y) designate the Homeless Units and provide a certified schedule of unit designations to the Agency upon request. In addition, the Owner shall enter into a lease meeting the requirements of this Agreement with each

Tenant residing in a Homeless Unit and shall include each such Tenant on the Project's rent roll.

- (ii) **Statutory Minimum (Title 28, Ch. 26 of the Ad. Code).** Notwithstanding anything to the contrary in this Agreement, Section 26-2802 of the Administrative Code requires the Owner to lease not less than 15% of the Income-Restricted Units as Homeless Units.
- (ii) **Intentionally omitted.**
- (iii) **Reduction of Homeless Unit Requirement.**
 - (1) **Loss of Funding.** If the Agency determines that the Owner, through no fault of the Owner and despite reasonable and customary efforts, is unable to obtain or maintain a source of funding for the social services for each Homeless Unit, the Agency may permit the Owner to rent any such Unit that becomes vacant not as a Homeless Unit and to an Eligible Household whose Annual Income upon initial occupancy does not exceed the income limit for the Unit set forth in Exhibit B (unless the vacancy results from a breach of the warranty of habitability, harassment, constructive eviction, or any similar action caused by the Owner; and subject to any other occupancy requirements of this Agreement).
 - (2) **Waiver.** Any such waiver by the Agency must be in writing and may contain additional conditions to its effectiveness and limits on its scope. The Agency shall not unreasonably deny or condition any such waiver requested by the Owner.
 - (3) **Reinstatement.** The Agency may, with notice to the Owner, reinstate in whole or in part the required number of Homeless Units if, in the reasonable opinion of the Agency, the cause for the reduction of the number of Homeless Units has diminished or ceased to exist, or if the Agency finds that the Owner is taking actions to evict Tenants without good cause or to improperly encourage the vacancy of any Unit.
- (iv) **Statutory Minimum (Article 11 Loan).** HPD is providing all or a portion of the HPD Financing under the authority of Article 11 of the Private Housing Finance Law. Notwithstanding anything to the contrary in this Agreement, Section 576-c(1) of the Private Housing Finance Law requires the Owner to lease not less than 30% of the Units as Homeless Units. This requirement applies to Units that are or become vacant after the date of acquisition of the Project by the Owner.

(d) **Senior Housing.**

- (i) **Age Restriction.** The Owner shall lease each Income-Restricted Unit that is identified in Exhibit B as a senior housing Unit to an Eligible Household that includes, upon initial occupancy, not less than one individual who is 62 years of age or older. The Owner shall distribute the senior housing Units by apartment size as set forth in Exhibit B. If required by the Agency, the Owner shall designate the senior housing Units and provide a certified schedule of unit designations to the Agency upon request.
- (ii) **Human Rights Law Waiver.** The Owner confirms that the Project has obtained any required approval of the Project's senior housing requirement from the State's Division of Human Rights, in addition to any other approvals from other government agencies that may be necessary.
- (iii) **Intentionally omitted.**

(e) **Intentionally omitted.**

4.02 Changes to Project.

The Owner shall not change the amount of residential and non-residential space in the Project (except for de minimis changes during construction) or the number or distribution of Units without the prior written consent of the Agency, except in the case of an involuntary change caused by unforeseen events such as fire or other casualty, seizure, requisition, or condemnation. The Owner shall notify the Agency promptly of any such involuntary change.

4.03 Integration of Units.

The Owner shall not segregate or physically isolate the Income-Restricted Units from any other Units in the Project. The Owner shall reasonably disperse Income-Restricted Units at each income limit throughout the Project. The Agency reserves the right to require the Owner to obtain the Agency's prior written consent for any distribution, designation, or "stacking" plan for the Project.

4.04 Primary Residence.

- (a) **In General.** The Owner shall offer each vacant Income-Restricted Unit for occupancy, and shall ensure that each Income-Restricted Unit is actually occupied, only (i) as a primary residence, as defined by Rent Stabilization, (ii) pursuant to a one- or two-year lease, and (iii) by one or more individuals who are otherwise eligible to occupy the Unit pursuant to this Agreement.
- (b) **No Transient Uses.** The Owner shall not cause or permit the lease, sublease, assignment, use, or occupancy of any Unit or the Project (i) on a transient basis or (ii) as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park.

- (c) **Leasing to Entities.** The Owner shall not cause or permit the lease, sublease, assignment, use, or occupancy of any Income-Restricted Unit to or by a corporation, partnership, limited liability company, or other entity, unless it is approved in writing by the Agency and not prohibited by Law.
- (d) **Surrender of Other Housing.** The Owner shall not knowingly cause or permit the lease, sublease, or assignment of any Income-Restricted Unit to any Household that includes any individual who is an occupant of another home, dwelling unit, rooming unit, or other housing accommodation, unless the individual simultaneously surrenders possession of, and all legal right to, the other home, dwelling unit, rooming unit, or other housing accommodation.
- (e) **Intentionally omitted.**
- (f) **Intentionally omitted.**

4.05 Lease-Up and Marketing.

- (a) **Rental to the General Public.** The Owner shall rent or make available for rental each Unit (excluding any Superintendent Unit) on a continuous basis and to the general public, subject to the requirements of this Agreement.
- (b) **Timely Rental of Units.** The Owner shall rent vacant Income-Restricted Units as soon as possible and shall not hold any Income-Restricted Unit off the market for a period that is longer than reasonably necessary to perform needed repairs, unless otherwise approved in writing by the Agency. The Owner shall notify the Agency if any Income-Restricted Unit has been vacant for four months or more.
- (c) **Marketing.** The Owner shall comply with the Marketing Handbook and all related Laws in the marketing and lease-up of each Income-Restricted Unit, including the re-rental of any Income-Restricted Unit that becomes vacant at a future date.
- (d) **Requirements of Rental Assistance Contract.** If the Agency determines in writing that a requirement of the Marketing Handbook conflicts with or is superseded by a marketing requirement of a Rental Assistance Contract covering any Unit, the conflicting or superseded requirement of the Marketing Handbook will not apply to the Unit while it is covered by the Rental Assistance Contract.
- (e) **Intentionally omitted.**

4.06 Qualification of Eligible Households.

- (a) **Determination of Eligibility.** Prior to the rental of any vacant Income-Restricted Unit, the Owner shall determine whether the prospective Tenant of the Unit is an Eligible Household. The Owner shall comply with all related procedures and standards set forth in the Marketing Handbook, including, but not limited to, by

submitting the required Tenant eligibility documentation to the Agency for review and approval prior to any lease signing.

- (b) **Tenant's Failure to Certify; Fraud.** If a Tenant of an Income-Restricted Unit fails to provide the Owner with a certification or document that is required by this Agreement within 60 days of the Owner's request, or if any such Tenant provides false or fraudulent materials at any time (including, but not limited to, as part of the Tenant's initial application for the Unit), the Owner may, or at the written request of the Agency shall, to the extent permitted by Law, refuse to offer a renewal lease to the Tenant and commence legal action to evict the Tenant. If the Owner does not promptly commence legal action to evict the Tenant, or does not diligently pursue the legal action to the satisfaction of the Agency, then for so long as either remains the case, the Owner shall lease the next available vacant Unit of comparable or smaller size to an Eligible Household whose Annual Income upon initial occupancy does not exceed the income limit for the Unit that is occupied by the non-complying Tenant (or the income limit that would otherwise apply to the vacant Unit, if lower), prior to renting any other Unit of comparable or smaller size.

4.07 Leases of Units.

- (a) **Form of Lease.** In renting Units to Tenants, the Owner shall use a form of lease that is consistent with this Agreement and satisfactory to the Agency. The Owner shall ensure that its leases of Units, including, but not limited to, the riders to such leases, comply with the Law.
- (b) **Subordination.** The Owner shall ensure that all leases of Units are expressly subordinate to this Agreement and to any Permitted Mortgage. The Owner shall not include in any lease of a Unit, or in any rider to such a lease, any provision that conflicts with this Agreement, nor shall the Owner enforce any such provision that may be included in such a lease or rider. To the extent permitted by Law, this Agreement controls if it conflicts with any other requirement of, or applicable to, the Owner's leases of Units.
- (c) **Agency Lease Rider.** If required by the Agency in writing, and to the extent permitted by Law, the Owner shall include one or more lease riders provided or approved by the Agency in each lease of an Income-Restricted Unit.
- (d) **Requirements of Rental Assistance Contract.** If the Agency determines in writing that this Section 4.07 conflicts with or is superseded by a requirement of a Rental Assistance Contract covering any Unit, the conflicting or superseded requirement will not apply to the Unit while it is covered by the Rental Assistance Contract.

4.08 Subleases and Assignments.

- (a) **Subleasing Requirements.** The Agency may require the Owner to prohibit the sublease of any Income-Restricted Unit in accordance with Law. If the Agency permits subleasing with respect to any Income-Restricted Unit, prior to

consenting to any such sublease, the Owner shall notify the Agency of the proposed sublease at least 30 days before the effective date of the sublease and shall qualify the proposed subtenant as an Eligible Household for the Unit pursuant to Section 4.06. The Owner shall not cause or permit the sublease of any Unit to or by any Household that is not eligible to occupy the Unit pursuant to this Agreement. The Owner shall ensure that no subtenant is required to pay a rent that exceeds the maximum amount that may be charged under the Law and this Agreement.

- (b) **No Assignments.** The Owner shall not consent to the assignment of any lease of an Income-Restricted Unit.

4.09 Right to Renewal Lease.

The Owner shall offer each Tenant in occupancy of an Income-Restricted Unit a renewal lease in accordance with, and subject to, the requirements of Rent Stabilization. The Owner shall not refuse to permit any such Tenant to remain in occupancy of the Unit because the Tenant's Annual Income, after initial occupancy of the Unit, exceeds the maximum permitted for initial occupancy of the Unit.

4.10 Evictions.

The Owner shall not seek to evict or terminate the tenancy of any Tenant of an Income-Restricted Unit for any reason that is not permitted by Rent Stabilization. The Owner shall comply with all Laws regarding the eviction or termination of a tenancy of any Tenant, including, but not limited to, any applicable requirements of Rent Stabilization.

4.11 Successors to Tenants.

Notwithstanding anything to the contrary in this Agreement, including, but not limited to, the definition of "Tenant", this Agreement does not require the Owner to provide a new lease to any successor to the tenancy of a Unit, unless doing so is required by Law.

4.12 Rental Assistance Status.

The Owner shall not refuse to lease a Unit to a recipient of Rental Assistance (including, but not limited to, a holder of a Rental Assistance voucher or certificate) because of the Rental Assistance.

4.13 Non-Discrimination.

- (a) **Compliance with Law.** The Owner and any lessees of all or part of the Property, or any Improvements, shall comply with all Laws prohibiting discrimination or segregation by reason of any of the following classes, whether actual or perceived: age; race; creed; religion; gender; gender identity; gender expression; sex; color; national origin; ancestry; sexual orientation; disability; marital status; partnership status; familial status; immigration status; citizenship status; lawful source of income (including, but not limited to, income derived from Social Security, or any form of federal, state, or local public government

assistance or housing assistance, including, but not limited to, Rental Assistance); lawful occupation; uniformed service; the actual, potential, or future residence of children with such person or persons; status as a victim of domestic violence, stalking, or sex offenses; the presence of an emotional support animal; or any other class protected from discrimination in housing accommodations by Law in the sale, lease, or occupancy of the Property or any Improvements.

- (b) **Sale, Lease, and Occupancy Agreements.** The Owner and any lessees of all or part of the Property, or any Improvements, shall not effect or sign any agreement, lease, conveyance, or other instrument whereby the sale, lease, or occupancy of all or part of the Property, or any Improvements, is restricted upon the basis of any class described in Section 4.13(a).
- (c) **Survival.** The Owner and any lessees of all or part of the Property, or any Improvements, shall comply with Sections 4.13(a) and (b) both during and after the Restriction Period.
- (d) **Exception for Senior Housing.** Subsection (b) above does not apply to the senior housing requirement set forth in Section 4.01.

4.14 Conversion to Co-Op or Condo.

During the Restriction Period, the Owner shall not convert the Project to cooperative or condominium ownership of Units unless otherwise agreed to in writing by the Agency. The foregoing prohibition does not apply to any commercial condominium regime that is contemplated by this Agreement. After the Restriction Period, if the Owner converts the Project to cooperative or condominium ownership of Units, the Owner shall do so pursuant to a non-eviction plan with respect to Units and in compliance with all related Laws.

4.15 Intentionally omitted.

4.16 Non-Residential Space.

- (a) **Agency Consent.** The Owner shall obtain the prior written consent of the Agency for any lease, sublease, license, or occupancy agreement affecting any non-residential portion of the Project. The Owner shall also obtain the prior written consent of the Agency for any amendment of such an agreement, if the amendment changes the permitted use or otherwise alters a material term.
- (b) **Non-Residential Leasing Guidelines.** Without limiting the conditions that the Agency may impose to provide a consent under Section 4.16(a), the Owner shall ensure that any lease, sublease, license, or occupancy agreement affecting any non-residential portion of the Project that is presented to the Agency for consent complies with any non-residential leasing guidelines that have been issued by the Agency.
- (c) **Prohibited Uses.** The Owner shall not permit the Property or the Project to be used for (i) any use that would violate the applicable zoning or certificate of

occupancy; or (ii) any use that the Agency reasonably determines may create a nuisance or hazard to the Tenants or a deleterious effect on their quiet enjoyment of their Units, the common areas of the Property, and the areas adjacent to the Property.

- (d) **Arm's-Length Leases.** The Owner shall not lease any non-residential space in the Project to an affiliate or principal of the Owner, or lease or otherwise permit occupancy of any such space at less than the prevailing market rent in the Project's neighborhood for a term of 10 years or more (including renewal options), unless in each case the Owner has obtained the prior written consent of the Agency.
- (e) **Threshold for Consent.** Notwithstanding Section 4.16(a), the Agency's consent is not required for any lease, sublease, license, or occupancy agreement that: (i) affects less than 5,000 square feet of non-residential space in the Project; (ii) is otherwise consistent with this Agreement, including, but not limited to, this Section 4.16; (iii) does not contain an option to acquire all or any portion of the Project; and (iv) does not primarily concern telecommunications equipment or solar or other energy-related equipment.
- (f) **Intentionally omitted.**
- (g) **Intentionally omitted.**
- (h) **Intentionally omitted.**

[Continues on next page]

ARTICLE 5
RESIDENTIAL RENTS

5.01 Rents Charged to Tenants.

(a) **In General.**

- (i) **Rent Limits.** The Owner shall lease each Income-Restricted Unit for a monthly rent that does not exceed the amount permitted by this Section 5.01 for the Unit. The Owner may lease an Income-Restricted Unit for less than the permitted amount if doing so does not endanger the financial viability of the Project.
- (ii) **Determining Rents.** This Agreement incorporates multiple limits on the rent for each Income-Restricted Unit, including (1) the legal regulated rent under Rent Stabilization, (2) a programmatic rent limit (usually based on a percentage of AMI and required by one or more subsidy programs), and (3) if applicable, a rent that is allowed by a Rental Assistance program. In entering into a lease of an Income-Restricted Unit, the Owner shall offer a rent that complies with each of the applicable limits, as reconciled in accordance with the rules given in this Agreement and any requirements of Law. Some of these rent limits may in practice equal the same amount at one or more points in time.

(b) **Certain Definitions.** In this Agreement:

- (i) **“Actual Rent”** means, with respect to any Unit, the monthly rent that the Owner may collect pursuant to its lease of the Unit and includes the rent required to be paid by the Tenant and any Rental Assistance, but not any applicable utility allowance.
- (ii) **“Legal Rent”** means, with respect to any Unit, the legal regulated rent for the Unit under Rent Stabilization, as may be adjusted pursuant to Rent Stabilization and Section 5.02(c).
- (iii) **“Maximum Program Rent”**, with respect to any Unit, has the meaning set forth in Exhibit B for the Unit. The Owner shall calculate the monthly rent limit for any percentage of AMI that is set forth as a Maximum Program Rent (or any other rent limit) on Exhibit B as 30% of the percentage of AMI, divided by 12, rounded down to the nearest whole dollar, and then minus the applicable utility allowance. To adjust AMI for family size in rent calculations, the Owner shall deem Units with no bedrooms to be occupied by one individual, and Units with one or more bedrooms to be occupied by 1.5 individuals per bedroom, regardless of the actual number of occupants.

- (iv) **“Renewal Lease Adjustment”** means the applicable rent adjustment pursuant to Rent Stabilization that has been approved by the New York City Rent Guidelines Board (or any successor) for a renewal lease of a dwelling unit.
 - (v) **“Rental Assistance Rent”** means, with respect to any Unit, the maximum monthly assistance payment for the Unit under the applicable Rental Assistance program before deducting any payment by the Tenant (i.e., the payment standard authorized by the government agency issuing a voucher (or similar right to subsidy), or the contract rent that is approved by the government agency administering a Rental Assistance Contract, as applicable).
 - (vi) **“Rental Assistance Unit”** means an Income-Restricted Unit that receives, or that is occupied by a Tenant who receives, Rental Assistance.
- (c) **Initial Rents.**
- (i) **General Rule.** Upon the initial lease after the date of this Agreement of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the initial Legal Rent set forth in Exhibit B,
 - (2) the initial Actual Rent set forth in Exhibit B, and
 - (3) the Maximum Program Rent.
 - (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law, upon the initial lease after the date of this Agreement of an Income-Restricted Unit that is also a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the initial Legal Rent set forth in Exhibit B,
 - (2) for any Unit that is covered by a Rental Assistance Contract, the initial Actual Rent set forth in Exhibit B, and
 - (3) the Rental Assistance Rent.
- (d) **Renewal Leases.**
- (i) **General Rule.** Upon the renewal of a lease of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the Legal Rent,
 - (2) the Actual Rent in effect for the prior lease term adjusted by the Renewal Lease Adjustment, and
 - (3) the Maximum Program Rent.

- (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law (including, but not limited to, any applicable restriction on adjustments to preferential rents under Rent Stabilization), upon the renewal of a lease of an Income-Restricted Unit that is also a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Rental Assistance Rent.
 - (iii) **Intentionally omitted.**
- (e) **Vacancy Leases.**
 - (i) **General Rule.** Upon the vacancy of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Maximum Program Rent.
 - (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law, upon the vacancy of an Income-Restricted Unit that will become or remain a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Rental Assistance Rent.
- (f) **Additional Rental Assistance Requirements.**
 - (i) **Tenant Rent Share Generally.** The Owner shall not charge or collect from the Tenant of any Rental Assistance Unit any tenant rent share or other portion of the rent that is required to be paid by the Tenant under the applicable Rental Assistance program exceeding (1) the amount that the Tenant is required to pay under the applicable Rental Assistance program, and (2) the amount that is allowed by Law (including, but not limited to, any Laws with respect to applicable subsidy programs).
 - (ii) **Tenant Rent Share Limited to Maximum Program Rent.** The Owner shall not charge or collect from the Tenant of any Rental Assistance Unit any tenant rent share or other portion of the rent that is required to be paid by the Tenant under the applicable Rental Assistance program that is greater than the Maximum Program Rent.
 - (iii) **Rental Assistance Contract Rents.** The Owner shall provide to the Agency for review and approval the initial contract rents for all Units that are covered by any Rental Assistance Contract.

- (g) **Intentionally omitted.**
- (h) **Intentionally omitted.**
- (i) **Intentionally omitted.**
- (j) **Intentionally omitted.**

5.02 Rent Stabilization.

- (a) **Units Subject to Rent Stabilization.** All Income-Restricted Units are subject to Rent Stabilization both during and after the Restriction Period. The Owner shall register and operate the Project and all such Units in accordance with, and shall otherwise comply with, Rent Stabilization, including, but not limited to, all procedures and guidelines of DHCR. This Agreement imposes additional restrictions limiting certain rights that the Owner may otherwise have under Rent Stabilization both during and, where specified, after the Restriction Period.
- (b) **No Exemptions.** Except as may be specifically set forth in this Agreement, the Owner shall not claim any exemption or exclusion from Rent Stabilization to which the Owner might be entitled with respect to any Unit that is subject to Rent Stabilization. This prohibition includes, but is not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or any other provision of Rent Stabilization due to the vacancy of a Unit where the rent exceeds a certain amount, the fact that the Tenant's income and rent exceed certain amounts, the nature of the Tenant or the Owner, or any other factor. This provision continues to apply to Income-Restricted Units after the Restriction Period until any such Unit becomes vacant (unless the vacancy results from a breach of the warranty of habitability, harassment, constructive eviction, or any similar action caused by the Owner). The Owner may claim any exemption that is permitted under Rent Stabilization for a Superintendent Unit.
- (c) **Permitted Rent Adjustments.**
 - (i) **Renewal Lease Adjustments Only.** Except for Renewal Lease Adjustments and any other exceptions set forth in this Section 5.02(c), the Owner shall not increase the Legal Rent or the Actual Rent for an Income-Restricted Unit for any other reason that may be allowed under Rent Stabilization, including, but not limited to, a vacancy lease increase, a major capital improvement increase ("**MCI Increase**"), or an individual apartment improvement increase. This provision continues to apply to Income-Restricted Units after the Restriction Period until any such Unit becomes vacant (unless the vacancy results from a breach of the warranty of habitability, harassment, constructive eviction, or any similar action caused by the Owner).
 - (ii) **Exception for Rental Assistance Units.** Upon the renewal of a lease of an Income-Restricted Unit that is and will remain a Rental Assistance Unit, the Owner may increase the Actual Rent for the Unit as may be

allowed under Rent Stabilization but not to exceed the amount allowed by Section 5.01(d)(ii).

- (iii) **Exception for Certain Vacancy Lease Increases.** Upon the vacancy of an Income-Restricted Unit, if the Legal Rent is less than the Maximum Program Rent, the Owner may claim any vacancy lease increase permitted under Rent Stabilization (which may be none), but not in any amount that increases the Legal Rent to more than the Maximum Program Rent.
 - (iv) **Exception for Certain MCI Increases.** Beginning on the 30th anniversary of the date of this Agreement, and so long as (1) the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or the Agency, and (2) the Owner does not owe any indebtedness to the City or the Agency, the Owner may apply to DHCR for MCI Increases with respect to work that is performed after such date. Except as may be approved in writing by the Agency, the Owner shall not apply for any MCI Increase in connection with work that is funded or reimbursed from Agency loan proceeds or any reserve account required by this Agreement. If DHCR approves an MCI Increase, then upon the next renewal or vacancy lease of an Income-Restricted Unit, the Owner may increase the Legal Rent and the Actual Rent for the Unit by the lesser of (A) the approved MCI Increase and (B) an amount that increases the rent to the Maximum Program Rent.
 - (v) **Intentionally omitted.**
- (d) **Registration.**
- (i) **Initial Registrations.** The Owner shall complete the initial building registrations for any building in the Project and the initial apartment registration for each occupied Unit that is subject to Rent Stabilization, all in accordance with Rent Stabilization, no later than 60 days following: (1) each building's receipt of a temporary or final certificate of occupancy, or (2) the date of this Agreement, if the building does not require a new certificate of occupancy. If a Unit is subject to Rent Stabilization and is vacant at the time the Owner completes the initial building registrations of the applicable building in the Project, the Owner shall complete the initial apartment registration of the Unit no later than 60 days following the lease-up of the Unit. The Owner shall provide the Agency with satisfactory proof of all initial registrations promptly upon request.
 - (ii) **Annual Registrations.** On an annual basis in accordance with Rent Stabilization, the Owner shall complete the annual rent registrations for each Unit that is subject to Rent Stabilization. The Owner shall provide the Agency with satisfactory proof of all annual rent registrations promptly upon request.

- (iii) **Registered Rents.** For each Unit that is subject to Rent Stabilization, the Owner shall register: (1) on any initial apartment registration, the initial Legal Rent for the Unit set forth in Exhibit B, and (2) on any annual rent registration, the Legal Rent then in effect for the Unit. If at the time of any registration of a Unit in accordance with Rent Stabilization, the Actual Rent for the Unit is less than the Legal Rent, the Owner shall register the Actual Rent then in effect as a preferential rent under Rent Stabilization (or shall register the Actual Rent as the Legal Rent if required by Law).
- (e) **Destabilization; Contractual Rent Regulation.**
 - (i) **Renewal and Vacancy Leases.** If any Unit that is subject to Rent Stabilization undergoes any set of facts that causes Rent Stabilization to no longer apply to the Unit during the Restriction Period, whether by expiration, legislative repeal, judicial invalidation, or any other reason (“**Destabilization**”), then the Owner shall offer renewal and vacancy leases for the Unit on the same terms as had been required by Rent Stabilization at the time of Destabilization (subject to subsections (ii) and (iii) below), as if the Unit were still subject to and not exempted or excluded from any provision of Rent Stabilization (including, but not limited to, the exemptions or exclusions identified in Section 5.02(b)).
 - (ii) **Legal Rent Index.** After Destabilization, HPD shall establish an index for determining adjustments to the Legal Rent upon the renewal of a lease or vacancy of a Unit. HPD shall base this index on inflation or on factors substantially equivalent to the factors considered in calculating adjustments to rents under Rent Stabilization at the time of Destabilization. HPD shall incorporate into the index, or separately establish, a method for determining and implementing MCI Increases, to the extent they are not prohibited under this Agreement. HPD shall publish the index in *The City Record* and shall provide a copy to the Owner upon request.
 - (iii) **Rent Adjustments.** After Destabilization, where this Agreement permits or requires rent adjustments pursuant to Rent Stabilization (or similar language), the Owner shall adjust the applicable rent pursuant to the method established by HPD and described in subsection (ii) above.
- (f) **Intentionally omitted.**

5.03 Loss of Rental Assistance.

- (a) **General Rule.** If (i) a Tenant receiving tenant-based or project-based Rental Assistance is occupying an Income-Restricted Unit, (ii) the Actual Rent for the Tenant's Unit exceeds the amount that may be collected for a non-Rental Assistance Unit under Section 5.01, and (iii) the Tenant loses the Rental Assistance at any time, then upon the loss of Rental Assistance, the Unit is no longer a Rental Assistance Unit and the Owner shall immediately revise the Tenant's Actual Rent to an amount that does not exceed the maximum amount

that may be collected for the Unit as a non-Rental Assistance Unit under Section 5.01(d). The Owner shall not charge or collect from any such Tenant any amount that exceeds the amount permitted by this Section 5.03.

(b) **Senior Housing Units with Project-Based Rental Assistance.**

- (i) **Rent Concession.** During the first six months of any revised rent provided under Section 5.03(a) to a Tenant who is occupying a senior housing Unit (as set forth in Exhibit B) that was covered by a Rental Assistance Contract prior to the loss of Rental Assistance, the Owner shall provide an additional rent concession to the Tenant such that the Tenant is required to pay an Actual Rent that is no more than the tenant rent share that the Tenant was required to pay immediately prior to the loss of Rental Assistance (if such amount is less than the Actual Rent that would otherwise be required by Section 5.03(a)). The Owner may choose not to charge or collect any rent during such period. In connection with any such rent concession, the Agency consents to the Owner withdrawing funds from the Operating Reserve as necessary to fund any related operating deficits at the Project.
- (ii) **Non-Complying Tenants.** The Owner is not required to comply with subsection (i) above if the government agency administering the Rental Assistance has determined that the Tenant's loss of Rental Assistance was caused solely by a failure of the Tenant to comply with the requirements of the Rental Assistance program or the Law.
- (iii) **Prior Agency Knowledge.** If, during any period prior to the date of the loss of Rental Assistance, Agency officials with appropriate responsibility have obtained evidence in writing, or reasonably should have been expected to obtain evidence in writing, that the City-funded project-based Rental Assistance to the Unit has been or would be terminated through no fault of the Owner, then the Agency shall reduce the period of the required rent concession described in subsection (i) above by the length of time that such officials had such evidence, or reasonably should have been expected to have such evidence, prior to the loss of Rental Assistance, and shall impose no such requirement if such length of time is six months or longer.

5.04 After the Restriction Period.

- (a) **Renewals for In-Place Tenants.** After the Restriction Period, upon each renewal of a lease of an Income-Restricted Unit to a Tenant who began occupancy before the end of the Restriction Period, the Owner shall lease the Unit for an Actual Rent that does not exceed the lesser of (i) the Legal Rent and (ii) the Actual Rent in effect for the prior lease term adjusted by the Renewal Lease Adjustment.

- (b) **Upon Vacancy.** Upon the vacancy after the Restriction Period of any Unit that is subject to Rent Stabilization, the Owner shall continue to comply with Rent Stabilization with respect to the Unit as described in Section 5.02.

- (c) **Reduction of Legal Rents.** Upon the first lease (renewal or vacancy) of a Unit after the end of the Restriction Period, if the Legal Rent for the Unit is higher than the Maximum Program Rent that had applied to the Unit during the Restriction Period, the Owner shall reduce the Legal Rent in the lease to an amount that does not exceed such Maximum Program Rent (as determined at the time of the effectiveness of the renewal or vacancy lease) plus, with respect to any such renewal or vacancy lease, any other increases to the rent allowed by Rent Stabilization. The Owner shall register this reduced Legal Rent as the new Legal Rent for the Unit under Rent Stabilization on the first registration date following the effective date of the lease. If, at such time, this Agreement requires the Owner to offer an Actual Rent for the Unit that is lower than the reduced Legal Rent, the Owner shall register any such Actual Rent as a preferential rent under Rent Stabilization (or shall register the Actual Rent as the Legal Rent if required by Law). If a Unit remains a Rental Assistance Unit at the end of the Restriction Period, this provision applies only upon the first lease of the Unit after the end of the Restriction Period in connection with which the Unit is no longer a Rental Assistance Unit.

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ARTICLE 6

PROJECT OPERATIONS

6.01 Standard of Care.

The Owner shall operate the Project in accordance with the Law and with generally accepted management practices for a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value. If a management practice that is required by this Agreement differs from any such generally accepted management practice, the Owner shall comply with the management practice that is required by this Agreement.

6.02 Maintenance of Project.

- (a) **Condition of Units.** The Owner shall ensure that each Unit is suitable for occupancy, is similarly constructed, and contains living, sleeping, eating, cooking, and sanitation facilities for an individual or family.
- (b) **Maintenance.** The Owner shall (i) maintain the Project in a proper, safe, sanitary, and healthful condition in compliance with all Laws, (ii) make all necessary repairs and replacements, and (iii) neither cause nor permit waste of the Improvements, the Equipment, or any other part of the Project.
- (c) **Correction of Violations.** The Owner shall cure all violations of the Housing Maintenance Code, Building Code, and other Laws regarding the occupancy, use, or physical condition of the Project, and the services provided to Tenants, within the period set by Law.
- (d) **Alterations.** The Owner shall not cause or permit any Improvement to be structurally altered, removed, or demolished without the prior written consent of the Agency. The Owner shall not cause or permit any Equipment to be removed at any time without the prior written consent of the Agency, unless the Equipment is actually replaced by an article that is substantially equal in value and suitability for the proper use of the Property or the Equipment is obsolete and not required for the proper use of the Property as contemplated by this Agreement. Any such replacement that is owned by the Owner must be owned free and clear of all security interests, liens, and encumbrances (except for any Permitted Mortgage).
- (e) **Restoration after Casualty.** The Owner shall promptly restore, in quality that is at least substantially equal to the original work, any part of the Property that may be damaged or destroyed by a casualty (including, but not limited to, any casualty for which insurance was not obtained or obtainable).
 - (i) **Availability of Insurance Proceeds.** If a casualty is covered by insurance that is required by this Agreement, the Owner's obligation to restore the Property following the casualty is contingent upon any loss payee under the insurance policy (who is permitted to be a loss payee by

this Agreement) providing the insurance proceeds to the Owner, or any portion of the proceeds that is sufficient to complete the restoration, whichever is less. If a loss payee provides insurance proceeds to the Owner, the Owner shall restore following a casualty even if the proceeds are not sufficient to complete the work.

- (ii) **Application of Proceeds to Indebtedness.** The Owner is not required to restore following a casualty if (1) a loss payee permitted under this Agreement does not allow the insurance proceeds to be used in such a manner, and (2) the insurance proceeds are sufficient to pay in full or material part, and are in fact used to pay in full or material part, the indebtedness due to the loss payee.

6.03 Taxes and Municipal Charges.

The Owner shall pay or cause to be paid all municipal charges with respect to the Project in a timely manner, including, but not limited to, taxes, water charges, sewer rents, and vault charges and license fees for the use of vaults, chutes, and similar areas adjoining the Property. The Owner shall pay or cause to be paid all such charges prior to the date that any fine, penalty, interest, or cost may be added to the charge or imposed by Law for nonpayment.

6.04 Records; Retention.

The Owner shall maintain complete, accurate, and current Records. “**Records**” means any physical or electronic books, records, files, accounts, reports, materials, documents, or information of or relating to the Owner or the Project, or the management, operations, assets, liabilities, or activities of the Owner or the Project, including, but not limited to, any required reports or other items specified in this Agreement and any journals, ledgers, account statements, checkbooks, vouchers, contracts, correspondence, stock books, or minute books. The Owner shall retain all Records for not less than six years following the end of the year in which the Record was produced, or for any longer period that may be required by Law. In addition, if any litigation, claim, or audit concerning this Agreement has begun before the end of such period, the Owner shall retain all Records until the completion of the litigation, claim, or audit.

6.05 Contracting.

- (a) **Service and Maintenance Contracts.** The Owner shall enter into any service and maintenance contracts with respect to the Project only with qualified vendors and at commercially reasonable and customary fees.
- (b) **Equal Opportunity.** The Owner shall use reasonable efforts to ensure that businesses owned by women and by members of traditionally disadvantaged minority groups are afforded equal opportunity to participate in any development and construction contracts entered into in connection with the Project.

6.06 HPD Building Registration.

The Owner shall register the Property with HPD pursuant to Article 2 of Subchapter 4 of the Housing Maintenance Code.

6.07 Property Management.

- (a) **Managing Agent.** The Owner shall obtain the prior written consent of the Agency before retaining, terminating, or making any changes to any managing agent of all or any portion of the Project, or any sub-agent (collectively and individually, "**Managing Agent**").
- (b) **Management Agreement.** The Owner shall obtain the prior written consent of the Agency before entering into, terminating, or making any changes (other than exercising a renewal option in an Agency-approved agreement) to any agreement between the Owner and a Managing Agent with respect to the Project ("**Management Agreement**"). The Owner shall ensure that the Management Agreement satisfies the following requirements: (i) the Owner must be able to terminate the Management Agreement without cause and without penalty upon not more than 30 days' notice; (ii) the term of the Management Agreement must be for not less than one year, unless approved in writing by the Agency; (iii) the management fee must not exceed the amount set forth in Exhibit B; and (iv) the Managing Agent must procure and maintain a fidelity bond or insurance for the benefit of the Owner in accordance with subsection (c) below.
- (c) **Fidelity Bond.** The Owner shall ensure that the Managing Agent maintains a blanket position fidelity bond or insurance covering all employees and officers of the Managing Agent performing work related to the Project. The fidelity bond or insurance must have a limit of not less than three months' gross rent for the Project, unless otherwise approved in writing by the Agency, and must be issued by an insurer meeting the requirements of Section 6.08(n). The Owner shall furnish evidence of the fidelity bond or insurance to the Agency upon request.
- (d) **Removal of Managing Agent.** If the Agency provides a written demand to the Owner to replace a Managing Agent, the Owner shall immediately give notice of termination under the Management Agreement, and shall fully end any services provided by the Managing Agent on or before the date that is 30 days after the Owner's receipt of the Agency's demand. If the Owner cannot with due diligence fully end any service provided by the Managing Agent during such 30-day period, the Agency may grant an extension of such period as long as the Owner is diligently pursuing the termination to the satisfaction of the Agency. In addition, the Owner shall promptly arrange for new management of the Project and obtain the required approvals of the Agency. The Agency may demand that the Owner replace the Managing Agent for any reason and without penalty, including, without limitation, because the Project is not being operated in compliance with this Agreement or because the Managing Agent is not operating other housing in compliance with the Law or applicable agreements. The Agency may, but is not required to, provide a period for the Owner or the Managing Agent to cure any reasons for such a demand.

(e) **Intentionally omitted.**

6.08 Insurance.

- (a) **Obligation to Insure.** The Owner shall maintain or cause to be maintained, for the benefit of itself and the City, the insurance policies that are required by this Agreement. The Owner is solely responsible for paying, or causing to be paid, all premiums, deductibles, self-insured retentions, and other amounts due with respect to each insurance policy required by this Agreement, whether or not the City is an additional insured. The Owner shall comply, and shall ensure that the Project complies, with all such policies. The Owner shall not cause or permit any act or failure to act that would adversely affect any required insurance policies.
- (b) **Commercial General Liability (Owner).** The Owner shall maintain or cause to be maintained commercial general liability insurance with respect to the Project with a per-location limit of not less than \$1 million per occurrence and \$2 million in the aggregate. This insurance must cover the Owner as named insured and all additional insureds against claims for property damage, bodily injury, and death occurring on, in, or about the Property, or arising out of the operation of the Project.
- (i) **Scope of Coverage.** The Owner's liability insurance must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01 and must be issued on an occurrence rather than a claims-made basis. This insurance must also include: (1) contractual liability coverage, with defense provided in addition to policy limits for indemnities of the named insured; (2) independent contractors liability coverage; (3) broad-form property damage liability coverage; (4) a waiver of subrogation against all additional insureds; (5) a separation of insureds provision; and (6) personal and advertising injury liability coverage. During any period of substantial construction at the Project, the insurance must include owners and contractors protective liability coverage, including products and completed operations coverage to apply for two years following the completion of the work.
- (ii) **Prohibited Exclusions.** The Owner's liability insurance must not exclude coverage relating to the emission of asbestos, lead, mold, or pollutants, and must not be subject to any other exclusion, except as required by Law or approved in writing by the Agency.
- (iii) **Intentionally omitted.**
- (c) **Commercial Property.** The Owner shall maintain or cause to be maintained commercial property insurance written on the special causes of loss form and protecting the Owner as named insured and all additional insureds from risks to the Improvements and the Equipment, with a limit that is not less than the full insurable value of such property on an agreed-value basis. This insurance must include replacement cost and waiver of subrogation endorsements in favor of the

additional insureds. The amount of the coverage must be sufficient to prevent the application of any co-insurance clause.

- (i) **Builder's Risk.** During any period of substantial construction at the Project, the Agency may require the Owner to maintain, or to cause its construction contractor to maintain, builder's risk insurance on a completed value, non-reporting form. During any such period, the Owner shall maintain this insurance, or cause it to be maintained, in addition to or, with the written consent of the Agency, in lieu of any other commercial property insurance. The insurance must cover losses on or damage to construction work and the storage and transport of materials, equipment, and supplies of any kind to be used in or incidental to the construction of the Project. The insurance must include a soft costs endorsement for actual losses sustained, with no monthly limit. Any builder's risk policy must permit the insured to occupy the Property prior to completion.
- (ii) **Boiler and Machinery.** The Owner's property insurance must include boiler and machinery coverage in an amount satisfactory to the Agency and covering all boilers, machinery, air conditioning systems, pressure vessels, and similar equipment commonly covered under a broad-form boiler and machinery policy.
- (iii) **Business Income.** The Owner's property insurance must include business income insurance in an amount sufficient to pay the total anticipated rental income for the Project for one year, or any longer period if required in writing by the Agency, for actual losses sustained with no monthly limit. This coverage is not required prior to completion of the initial construction of the Project.
- (iv) **Prohibited Exclusions.** The Owner's property insurance must not exclude losses due to terrorism. The Owner shall obtain the prior written consent of the Agency for any other exclusion of coverage from the Owner's property insurance policy.
- (d) **Flood.** If any portion of the Project is located in a federal "special flood hazard area", the Owner shall maintain or cause to be maintained flood insurance covering the Owner as named insured and all additional insureds for each building in the Project and its contents in an amount equal to the lesser of (i) the maximum amount available per building under the national flood insurance program and (ii) the full replacement cost of the Improvements and the Equipment. If flood insurance is required, the Agency strongly recommends private flood insurance in addition to, or in place of, the federal coverage, but it is not required.
- (e) **Commercial Automobile Liability.** If vehicles are used in connection with the Project, the Owner shall maintain or cause to be maintained commercial automobile liability insurance with respect to the Project, with bodily injury and property damage limits of not less than \$2 million per occurrence, combined single limit. This insurance must cover the Owner as named insured and all

additional insureds against liability arising out of the ownership, maintenance, or use of any owned, non-owned, or hired vehicles. The coverage must be at least as broad as the most recently issued ISO Form CA 00 01. The insurance must also include a waiver of subrogation against all parties named as additional insured. If any vehicles transport hazardous materials, the insurance must include pollution liability broadened coverage for covered autos (ISO Form CA 99 48) and proof of MCS-90.

- (f) **Commercial General Liability and Commercial Automobile Liability (Construction Contractor).** During any period of substantial construction at the Project, the Owner shall cause its construction contractor to maintain commercial general liability insurance and commercial automobile liability insurance satisfactory to the Agency. The contractor's insurance must include owners and contractors protective liability coverage, including products and completed operations coverage to apply for two years following the completion of the work. Any such policy must name the Owner as an additional insured.
- (g) **Workers' Compensation and Disability Benefits.** If the Owner has employees, the Owner shall maintain or cause to be maintained workers' compensation and disability benefits insurance as required by Law. In addition, the Owner shall ensure that its contractors (including any construction contractor and Managing Agent) maintain such coverage as applicable.
- (h) **Employer's Liability.** If the Owner has employees, the Owner shall maintain or cause to be maintained employer's liability insurance with a limit of not less than \$500,000 per occurrence, annual aggregate, combined single limit for bodily injury, personal injury, or property damage. This insurance must cover the Owner as named insured and all additional insureds if an employee is not eligible for, or is able to reject, statutory workers' compensation benefits, and the employee or other authorized person elects to sue for an injury or death deemed to have been sustained in the performance of duties on the Project. The insurance must also include a waiver of subrogation against all parties named as additional insured. In addition, the Owner shall ensure that its contractors (including any construction contractor and Managing Agent) maintain such coverage as applicable.
- (i) **Other Insurance.** The Owner shall maintain or cause to be maintained insurance against other risks, in any amount that the Agency may reasonably require, if such insurance is then commonly carried by reasonably prudent owners of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.
- (j) **Deductibles.** All deductibles must not exceed the amount that would be carried by a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.

- (k) **City as Additional Insured.**
- (i) **Liability Policies.** The Owner shall ensure that each liability insurance policy required by this Agreement names "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured, with coverage at least as broad as the most recently issued ISO Forms CG 20 10 and CG 20 26.
 - (ii) **Property Policies.** The Owner shall ensure that each property insurance policy required by this Agreement (including any flood or builder's risk policy) contains a standard mortgagee, loss payee, or additional insured clause, as applicable, naming "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured, and as a loss payee. If required by a senior lender to the Project that has been approved in writing by the Agency, the Owner may name the senior lender or its servicing agent as the sole loss payee.
 - (iii) **Contractor Policies.** If the Owner requires any contractor to maintain insurance and requires the contractor to list the Owner as an additional insured, the Owner shall ensure that the policy also lists "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured as described in this subsection (k).
- (l) **Intentionally omitted.**
- (m) **Evidence of Insurance.** Upon the Agency's request, the Owner shall provide the Agency with the following evidence of each insurance policy required by this Agreement: (i) a certificate of insurance satisfactory to the Agency accompanied by a completed certification of insurance broker or agent; (ii) any additional insured endorsements; and (iii) proof of payment of the policy's premium. With respect to workers' compensation and disability benefits insurance, the Owner shall provide the Agency with evidence of coverage or an exemption in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. Upon the Agency's request, the Owner shall provide the Agency with a copy of any insurance policy, including all declarations and endorsements, certified by an authorized representative of the issuing insurance carrier. The Agency's acceptance of a certificate or a policy does not excuse the Owner from maintaining or causing to be maintained the insurance required by this Agreement or from any liability arising from its failure to do so.
- (n) **Standard for Insurers.** The Owner shall obtain each insurance policy required by this Agreement from an insurer of recognized competence who is acceptable to the Agency and who is licensed to issue policies in New York State. Each insurer must also have (i) an A.M. Best rating of not less than "A-" / "Class VII",

(ii) a Standard & Poor's rating of not less than "A", (iii) a Moody's rating of not less than "A3", or (iv) a Fitch rating of not less than "A-".

- (o) **General Requirements for Policies.** The Owner shall ensure that each insurance policy required by this Agreement is satisfactory to the Agency and provides that: (i) the insurance is primary and non-contributory; (ii) the policy may not be cancelled, terminated, modified, or amended by the insurer or its authorized agent on less than 30 days' prior written notice to the Agency (or 10 days' for non-payment of premium); (iii) notice of any claim to the insurer by either the Agency or the Owner is sufficient notice under the policy; (iv) notice of any claim by the Agency is sufficient if given to the insurer or its authorized agent not more than 60 days after the later of the date that notice of the claim is delivered to the Owner, or the date that a notice of claim regarding such claim is filed with the Comptroller of the City; (v) no act or omission of the Owner will invalidate the policy as to the additional insureds, and no act or omission of the additional insureds will invalidate the policy as to the Owner; (vi) the insurer shall defend the additional insureds under any and all circumstances relating to or arising out of this Agreement; (vii) the insurer may not refuse to defend on the grounds of negligence, negligence per se, or contributory negligence; and (viii) the presence of employees or agents of the additional insureds on the Property will not invalidate the policy as far as the additional insureds are concerned.
- (p) **Monetary Limits.** The minimum monetary limits that are required by the Agency for any insurance policy required by this Agreement are the greater of (i) the minimum limits set forth in this Agreement and (ii) the limits that are actually provided to the Owner as named insured under the insurance policy. The Agency may increase the monetary limits for insurance policies required by this Agreement on one or more occasions to reflect the insurance coverage that would be carried by a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.
- (q) **Notice of Events.** Whenever notice of an event is required under an insurance policy required by this Agreement, the Owner shall provide the insurer with timely notice of the event on behalf of all additional insureds, even where the Owner may not be covered for the loss. The notice from the Owner to the insurer must state that the notice is being given on behalf of the additional insureds, and shall contain, to the extent known, (i) the policy number, (ii) the name of the named insured, (iii) the date and location of the event, (iv) the identity of the individuals or things injured, damaged, or lost, (v) the title of the claim or suit, if applicable, and (vi) the address, block, and lot of the Property. The Owner shall simultaneously send a copy of such notice to the Agency. If the Owner fails to comply with these requirements, the Owner shall indemnify the additional insureds that are required by this Agreement for all losses, judgments, settlements, and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice.
- (r) **No Release.** Maintaining insurance as required by this Agreement does not relieve the Owner of any other obligation under this Agreement or any other

agreement by which the Owner is bound or preclude the Agency from exercising any rights under the Law, this Agreement, or any other agreement.

- (s) **Release of Claims.** The Owner waives all rights against the City and its officials and employees with respect to any losses that are or would be covered under an insurance policy required by this Agreement (whether or not the policy is actually procured or claims are paid under the policy) or any other insurance applicable to the operations of the Owner or its contractors.
- (t) **Right to Obtain Insurance.** After written notice to the Owner and not less than 10 business days to cure, the Agency may arrange to obtain any insurance that is required by this Agreement if the Owner fails to do so. The Owner shall reimburse the Agency upon demand for any amounts paid by the Agency or any agent to obtain such insurance, with interest at the Default Rate from the date of payment to the date of reimbursement by the Owner. Any arrangement to obtain insurance by the Agency will not waive a violation of this Agreement by the Owner or any rights of the Agency under the Law, this Agreement, or any other agreement.
- (u) **Financing Requirements.** The Owner shall comply with any insurance requirements that may be imposed in connection with the financing of the Project, including, but not limited to, any greater monetary coverage limits that may be contained in any related mortgage or financing agreement.

6.09 Utilities.

- (a) **Building Benchmarking.** The Owner shall comply with the requirements of HPD's building benchmarking protocol. Upon the issuance of a temporary certificate of occupancy for any space in the Project, or as of the date of this Agreement if the Project already has a certificate of occupancy, the Owner shall contract, at the Owner's expense, with a qualified benchmarking software provider on the HDC-approved list to collect utility performance information with respect to the Project, including monthly and annual data on heating, electric, and water usage, in accordance with HPD's building benchmarking protocol. HPD may require the Owner to replace the qualified benchmarking software provider if the provider is no longer on the HDC-approved list.
- (b) **Utility Performance Reporting.** No later than May 1 of each year, the Owner shall ensure that the qualified software provider retained by the Owner inputs the utility performance information for the Project for the immediately preceding year into the U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager system, or such other system as may be designated in writing by the Agency. The Owner shall ensure that the utility performance information is made available to the Agency through an account located on such system. The Agency may also receive the utility performance information directly from the qualified benchmarking software provider, and the Owner consents to the sharing of such information with the Agency.

- (c) **Intentionally omitted.**
- (d) **Broadband Access.** The Owner shall make available to each Unit wireless broadband internet service and, upon request by a Tenant, wired broadband internet service with a wired connection point in the living room of such Tenant's Unit, each at no cost to the Tenant. The Owner shall comply with HPD guidelines regarding the level of broadband internet service and its operation and maintenance, including but not limited to fees, service speed, enhancements and repairs. If requested by the Agency, the Owner shall enter into a broadband access lease rider, in a form approved by the Agency, with each Tenant.

6.10 Mechanics and Tax Liens.

The Owner shall keep the Project and the Property free from any liens, charges, and encumbrances (except as otherwise permitted by this Agreement), including, but not limited to, mechanics and tax liens. If any such liens are filed against the Project or the Property, the Owner shall deliver a copy of the lien to the Agency no later than 30 days after filing, shall cause the lien to be discharged by payment, bonding, or otherwise to the satisfaction of the Agency, and shall promptly deliver proof of such discharge to the Agency.

6.11 Loans by Owner.

The Owner shall not make loans for any purpose (whether secured or unsecured and whether repayable or forgivable) without the prior written consent of the Agency.

6.12 Reasonable Accommodations.

The Owner shall comply with all obligations under the Law to provide reasonable accommodations to individuals with disabilities.

6.13 Equal Access to Amenities.

The Owner shall ensure that all common areas and amenities at the Project are open to all Tenants on an equal basis, except as may be required by Law.

6.14 Distribution of Information.

The Owner shall post in a prominent location at the Project, or otherwise ensure that all Tenants receive, any information that may be required to be posted at the Project or distributed to Tenants by the Agency or by Law.

6.15 Operation of Homeless Units.

- (a) **Approval of Social Services.** Prior to the initial marketing of the Homeless Units, the Owner shall submit to HPD (i) a social services plan detailing the services and furnishings to be provided to Tenants of Homeless Units, a budget, and the provider of such services; or (ii) if required in writing by HPD, a social services contract with an approved provider or a commitment to enter into such a

contract. Evidence satisfactory to the Agency of a services award from an Agency-approved source will satisfy the foregoing requirement.

- (b) **Provision of Social Services.** The Owner shall ensure that all social services required by subsection (a) above are provided on a continuous basis with respect to the Project subject to the availability of funding for such services. The Owner shall obtain the prior written consent of HPD before terminating or making any changes to an approved social services plan, or before terminating or making any changes (other than exercising any renewal options) to a contract with an approved provider with respect to the Project. The Owner shall provide HPD with notice of any default or material change with respect to a social services contract no later than 30 days after the date on which the Owner obtains evidence in writing that any such default or material change has occurred or may occur.
- (c) **Furnishings.** Prior to the initial rental of any Homeless Unit, the Owner shall furnish the Homeless Unit in a manner that is satisfactory to HPD or, if the funding for the furnishings is provided by another government agency, ensure that the Homeless Unit is furnished in a manner that is satisfactory to the government agency providing the funding for the furnishings.

6.16 Intentionally omitted.

6.17 Intentionally omitted.

6.18 Environmental Requirements.

The Owner shall comply, and shall ensure that the Project complies, with the environmental mitigation requirements annexed to this Agreement as Exhibit D and made a part of this Agreement.

6.19 Building Service Prevailing Wage.

The Owner is subject to Section 6-130 of the Administrative Code, which requires the Owner to pay a prevailing wage to building service employees at the Project in accordance with a schedule of wage and benefit rates published annually by the Comptroller of the City. The Owner shall comply with Section 6-130 of the Administrative Code and shall provide the City with all information that may be required, or that the City may reasonably request, in connection with the administration or enforcement of this law. The Owner shall not claim any exemption or exclusion from the prevailing wage requirements of Section 6-130 of the Administrative Code to which the Owner might be entitled without the Agency's prior written consent.

6.19 Intentionally omitted.

6.20 Building Service Prevailing Wage.

- (a) **Prevailing Wage Requirement.** The Owner shall pay a prevailing wage, as defined in Section 6-130(a) of the Administrative Code, or shall ensure that such a prevailing wage is paid, to any building service employee, as defined in

Section 6-130(a) of the Administrative Code (“**Building Service Employee**”) who is employed in the Project, regardless of whether the Owner is the direct employer of such Building Service Employee. The Owner shall not discriminate or retaliate against any Building Service Employee who makes a claim for wages due as provided by this prevailing wage requirement.

- (b) **Administrative Requirements.** The Owner shall comply with the certification, record-keeping, and notice-posting requirements of Sections 6-130(c)(2), (3), and (4) of the Administrative Code.
- (c) **Enforcement.** The Mayor of the City or the Mayor’s designee may enforce subsections (a) and (b) above pursuant to Sections 6-130(d)(2), (4), (6), and (8) of the Administrative Code. The parties to this Agreement incorporate these provisions of law, with respect to the role of the Mayor or the Mayor’s designee, into this Agreement by reference. This includes the right of any aggrieved current or former Building Service Employee to file an administrative complaint, and remedies that may be sought by the City for failure to comply with an order, determination, or disposition issued by the Mayor, the Mayor’s designee, or the Office of Administrative Trials and Hearings (or any successor) in accordance with the referenced provisions of the Administrative Code. Further, either the Mayor (or the Mayor’s designee) or the affected employer may bring any action or special proceeding available under law to enforce, vacate, or modify the order, determination, or other disposition of the office, agency, or tribunal referenced in Section 6-130(d)(6) of the Administrative Code. In addition, the Comptroller of the City has the authority to investigate prevailing wage violation complaints in accordance with Section 6-130(d)(3) of the Administrative Code, which is hereby incorporated by reference.
- (d) **Third-Party Beneficiaries.** Any aggrieved current or former Building Service Employee is a third-party beneficiary of this Section 6.20 and has the right to enforce its prevailing wage requirement, but only if the enforcement provisions of Sections 6-130(d)(2), (4), (6), and (8) of the Administrative Code are determined by a court of competent jurisdiction to be inapplicable to a violation of the prevailing wage requirement.

6.21 Intentionally omitted.

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ARTICLE 7

RESERVES

7.01 Replacement Reserve.

- (a) **Creation and Funding.** If required by Exhibit B, the Owner shall establish a replacement reserve account for the Project ("**Replacement Reserve**"), into which the Owner shall deposit funds as required by Exhibit B. The Owner shall segregate the Replacement Reserve from other funds of the Owner. Any interest earned on the Replacement Reserve must be added to the Replacement Reserve (net of taxes on such interest).
- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from the Replacement Reserve. The Owner may request a withdrawal from the Replacement Reserve to pay for the cost of replacements and capital improvements to the Project and for extraordinary increases in maintenance and operating expenses beyond the control of the Owner, or otherwise as approved in writing by the Agency. In connection with a request for a withdrawal from the Replacement Reserve, the Owner shall provide any supporting documentation that may be required by the Agency, including, but not limited to, construction plans and bids from contractors.
- (c) **Control of Senior Lender.** If a senior lender or provider of credit enhancement on the senior loan to the Project that has been approved in writing by the Agency (including but not limited to any senior lender or provider of credit enhancement who takes possession of the Property following a foreclosure, deed-in-lieu of foreclosure, or comparable conversion of the Project) requires exclusive control over withdrawals from the Replacement Reserve, then for so long as the senior lender or credit enhancer's requirements remain in effect, the Agency's consent is not required for any withdrawal of funds from the Replacement Reserve. The Owner shall continue to fund the Replacement Reserve at not less than the amount required by this Agreement, however.

7.02 Operating Reserve.

- (a) **Creation and Funding.** If required by Exhibit B, the Owner shall establish an operating reserve account for the Project ("**Operating Reserve**"), into which the Owner shall deposit funds as required by Exhibit B. The Owner shall segregate the Operating Reserve from other funds of the Owner. Any interest earned on the Operating Reserve must be added to the Operating Reserve (net of taxes on such interest).
- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from the Operating Reserve. The Owner may request a withdrawal from the Operating Reserve to cover Project operating account deficits, or otherwise as approved in writing by the Agency. In connection with any request for a withdrawal from the Operating Reserve, the Owner shall

provide any supporting documentation that may be required by the Agency, including, but not limited to, operating statements, documentation of unforeseeable circumstances, and bank statements.

- (c) **Agency Withdrawal of Excess Funds.** On one or more occasions after the date given in Exhibit B, but not more frequently than once in any calendar year, the Agency may notify the Owner that it intends to withdraw from the Operating Reserve any amount that the Agency determines is in excess of the Project's needs based on current financial projections. The Agency may withdraw these excess funds from the Operating Reserve to reduce the outstanding amount of any Agency financing with respect to the Project, or for any other Project purpose given by the Agency in writing and permitted by Law. The Owner may, no later than 30 days after notice from the Agency, object to a withdrawal of excess funds from the Operating Reserve by giving notice to the Agency and providing current financial projections for the Project for a period satisfactory to the Agency. If the Owner objects, the Agency and the Owner shall reasonably and in good faith attempt to agree on the amount, if any, of excess funds in the Operating Reserve. The Agency shall not withdraw excess funds from the Operating Reserve until the Agency and the Owner agree upon the amount. If the Owner does not object to a proposed withdrawal by the Agency on or before the date that is 30 days after the Agency's notice to the Owner, the Agency may proceed as if the Owner had agreed to the withdrawal.

7.03 Other Reserves.

- (a) **Creation and Funding.** The Owner shall establish any other reserve account for the Project that is identified in Exhibit B, into which the Owner shall deposit funds as may be required by Exhibit B. The Owner shall segregate each such reserve from other funds of the Owner. Any interest earned on such a reserve must be added to the reserve (net of taxes on such interest).
- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from any other reserve required by Exhibit B, unless Exhibit B specifically allows withdrawals from the reserve without the Agency's consent. The Owner may request a withdrawal from any such reserve for the purposes identified in Exhibit B, or otherwise as approved in writing by the Agency. In connection with any request for a withdrawal from any such reserve, the Owner shall provide any supporting documentation that may be required by the Agency.

7.04 Servicing of Reserves.

- (a) **Controlled Accounts.** Upon demand by the Agency, the Owner shall establish any reserve account that is required by this Agreement with the Agency or with an Agency-designated servicer in an account governed by a servicing agreement, deposit account control agreement, or similar agreement restricting withdrawals from the account without the authorization of the Agency, in each case on a form acceptable to the Agency. The Owner shall take such further actions as may be reasonably necessary to establish Agency control over the reserve account, including, but not limited to, the execution of a security

agreement granting a security interest in the account to the Agency, if the Agency does not already have such an interest.

- (b) **Disclaimer.** The Owner shall make no claim against the Agency for any loss that arises out of a breach by a servicer of a servicing or other agreement with respect to a reserve account that is required by this Agreement, unless the breach is attributable to the gross negligence or willful misconduct of the Agency. Neither the Agency nor any servicer will have any liability for a loss of all or any portion of the funds in a reserve account by reason of the insolvency or failure of the institution with which the funds are held. Neither the Agency nor any servicer will be liable with respect to any action taken or omitted to be taken by it in good faith in the performance or enforcement of servicing duties with respect to a reserve account. The Agency and any servicer will be entitled to assume the genuineness of all signatures or other approvals believed by it in good faith to be genuine in complying with directions with respect to any reserve account.
- (c) **Fees.** For any reserve account that is established with the Agency or with an Agency-designated servicer, the Agency may withdraw (or permit the servicer to withdraw) funds from the account, at any time and on one or more occasions, to pay the reasonable account-related fees of the Agency or the servicer of the account, so long as the amount withdrawn each year does not exceed 1% of the average monthly balance of the account for the year. In addition, the Owner shall pay all bank fees and investment breakage fees that are due to third parties and incurred by the Agency or a servicer in connection with servicing any such account.
- (d) **Requirements of Senior Lender.** If a senior lender or provider of credit enhancement on the senior loan to the Project that has been approved in writing by the Agency (including but not limited to any senior lender or provider of credit enhancement who takes possession of the Property following a foreclosure, deed-in-lieu of foreclosure, or comparable conversion of the Project) requires exclusive control over the Replacement Reserve, then for so long as the senior lender or credit enhancer's requirements remain in effect, the Agency's right to demand control over the Replacement Reserve under Section 7.04(a) does not apply.

7.05 Replenishment of Reserves.

If the Owner withdraws funds from a reserve account that is required by this Agreement (excluding withdrawals from the Replacement Reserve), the Agency may require the Owner to replenish the amount withdrawn from the account. If the Owner withdraws funds from the Replacement Reserve, the Agency may require the Owner to replenish the amount withdrawn from the account if the Agency determines that replenishment is necessary to maintain the Agency's then-existing replacement reserve standard for a project containing buildings or improvements similar to the Project in type, size, use, value, and condition. The Owner shall make any such replenishment over the period that the Agency may reasonably require. The Agency shall not require the Owner to replenish the account at a rate that is faster than 1/12th of the amount to be replenished per month, however.

7.06 Reserves Remain with Project.

The Owner shall ensure that all reserve accounts that are required by this Agreement remain with the Project during the Restriction Period. Upon a Property Transfer of all or substantially all of the Project, or a Change in Ownership with respect to the Owner, the Owner shall not cause or permit the transfer of any funds in any such reserve account to, or the retention of any funds in any such reserve account by, any entity or individual that is not, after consummation of the Property Transfer or Change in Ownership, the Owner.

7.07 Disposition of Reserves.

Upon the end of the Restriction Period, the Owner shall use the entire outstanding balance in the reserve accounts that are required by this Agreement in the following order of priority, unless reordered or waived by the Agency in writing (to the extent permitted by Law): first, to pay any outstanding taxes, charges, or other amounts owed to the Agency or the City, other than any Agency financing for the Project; second, to pay all accrued unpaid interest on, and the unpaid principal balance of, any Agency financing for the Project, in that order; third, to perform necessary capital and maintenance work at the Project, as may be required by the Agency; fourth, to pay into a new replacement, operating, or other reserve for the Project, as may be required by the Agency; fifth, to repay loans, if any, made by the Owner or an affiliate of the Owner that were made for the purpose of funding Project operating account deficits or for any other Project purposes; and sixth, to be disbursed to the Owner for use in any manner consistent with its purposes and contractual obligations.

7.08 Intentionally omitted.

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ARTICLE 8

OWNERSHIP AND FINANCING

8.01 Property Transfers.

- (a) **Agency Consent Required.** Except as provided in this Section 8.01, the Owner shall not cause or permit any Property Transfer without the prior written consent of the Agency. "**Property Transfer**" means any sale, lease, sublease, license, conveyance, transfer, assignment, gift, encumbrance, or other disposition of, or the granting of an easement or profit with respect to, all or any portion of the Project or the Property or any estate in the Project or the Property. A Property Transfer may involve, without limitation, the transfer of a nominee legal ownership interest, beneficial ownership interest, or remainder or other future interest in the Property. Any Property Transfer requiring the Agency's consent that occurs without the Agency's written consent will be void. The Agency shall not unreasonably withhold its consent to a Property Transfer. The Owner shall obtain the Agency's consent to every Property Transfer where required by this Section 8.01, regardless of whether the Agency has consented to any prior Property Transfer.
- (b) **Conditions to Transfer.** Without limiting the conditions that the Agency may impose prior to providing a consent to any Property Transfer of all or substantially all of the Property, the Owner must ensure the following prior to any such Property Transfer:
- (i) **Assumption of this Agreement.** The transferee must assume the Owner's obligations under this Agreement, beginning on the date of the Property Transfer, in an agreement satisfactory to the Agency. The Owner shall ensure that any assumption agreement is recorded against the Property promptly following the related Property Transfer and shall pay all related fees and taxes.
 - (ii) **Estoppel.** The transferee must certify that the statements of fact in Article 11 remain true as of the date of the Property Transfer, except to the extent that any such statement refers to an earlier date (or, if a statement is not true as of the date of the Property Transfer, providing a detailed explanation of the matter).
 - (iii) **Reserves.** The transferee must provide satisfactory evidence that it will own any reserve accounts required by this Agreement in accordance with Section 7.06.
 - (iv) **Further Assurances.** The transferee must provide such further assurances and documents as the Agency may reasonably require in connection with the Property Transfer, including, but not limited to, an assumption of any Agency financing or other obligations of the Owner with respect to the Project.

- (c) **Exceptions to Consent Requirement.** The Agency's consent is not required for any leases of Units to Tenants, on the condition that the leases are consistent with this Agreement and do not contain an option to acquire all or any portion of the Project. In addition, the Agency's consent is not required for any non-residential lease, sublease, license, or occupancy agreement that is permitted by Section 4.16. The Agency consents to any Property Transfer approved in Exhibit B.
- (d) **Property Transfer Upon Foreclosure.** The Agency's consent is not required for any Property Transfer that occurs in connection with the foreclosure of a Permitted Mortgage or the delivery of a deed in lieu of foreclosure of a Permitted Mortgage. This exception is limited solely to the Property Transfer that occurs in connection with the foreclosure sale or deed in lieu of foreclosure of a Permitted Mortgage and does not apply to any subsequent Property Transfer.
- (e) **Intentionally omitted.**
- (f) **Intentionally omitted.**

8.02 Changes in Ownership.

- (a) **Agency Consent Required.** Except as provided in this Section 8.02, the Owner shall not cause or permit any Change in Ownership of the Owner (including, individually, any individual or entity that is a party to this Agreement and is included in the definition of Owner) without the prior written consent of the Agency. "**Change in Ownership**" means, with respect to any entity, any transfer of any direct or indirect ownership interest in the entity at any tier, including, but not limited to, sales or other transfers of ownership interests, admissions of new owners, substitutions of owners, withdrawals of owners (except by death), acquisitions of additional ownership interests, and changes to the membership interests in a not-for-profit corporation (but not changes to the directors of a not-for-profit corporation unless specifically provided in this Agreement). The Agency shall not unreasonably withhold its consent to a Change in Ownership.
 - (i) **Passive Investors.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely an individual or entity (i) that has no present or contingent control over management or operations of the Owner or the Project, as determined by the Agency, and (ii) the only role of which, as determined by the Agency, is to make a monetary investment.
 - (ii) **Exception for Certain LIHTC Investor Interests.** Notwithstanding subsection (i) above, the Agency's prior written consent is required for any Change in Ownership of the Owner that concerns the ownership interest of a LIHTC investor in the Beneficial Owner, or any direct or indirect ownership interest in such an entity at any tier, unless the Change in Ownership concerns solely a transfer of (i) a passive ownership interest in the LIHTC investor in the Beneficial Owner or (ii) such LIHTC investor's

passive ownership interest in the Beneficial Owner, so long as (x) the LIHTC investor is a passive investor in the Beneficial Owner, and (y) the manager of the LIHTC investor, or any transferee of the LIHTC investor's passive ownership interest in the Beneficial Owner, is an affiliate of, and is and remains controlled by or under common control with, the LIHTC syndicator or investor parent entity identified in Exhibit B. In addition, any ownership interest in the Beneficial Owner of a special member or special limited partner may be transferred only together with a permitted transfer of the LIHTC investor's ownership interest in the Beneficial Owner, or of the interest of the manager of the LIHTC investor, and only to the same transferee or to a party that is an affiliate of, and is and remains controlled by or under common control with the transferee.

- (iii) **Intentionally omitted.**
- (b) **Notice of All Changes.** If a Change in Ownership is permitted without Agency consent under this Section 8.02, the Owner shall give the Agency notice of the Change in Ownership promptly after it occurs and shall certify in writing that the Change in Ownership is in compliance with this Agreement. The foregoing does not apply to any Change in Ownership that concerns solely the ownership interest of a shareholder in a publicly traded company.
- (c) **Death or Incapacity.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely a transfer to an executor, administrator, or guardian of a deceased or incapacitated individual. Any subsequent Change in Ownership with respect to the interest of an executor, administrator, or guardian requires the Agency's consent.
- (d) **Transfers Among Existing Owners.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely a transfer of a direct or indirect ownership interest in the Owner to any existing owner of a direct or indirect ownership interest in the Owner that has previously received the Agency's approval in writing, as long as the transfer does not (i) result in a change to the present or contingent control over management or operations of the Owner or the Project, as determined by the Agency, or (ii) result in a change in the direct or indirect ownership interests of the Owner that would require the transferee to comply with the Agency's sponsor review procedures.
- (e) **Intentionally omitted.**
- (f) **Intentionally omitted.**
- (g) **Intentionally omitted.**
- (h) **Intentionally omitted.**
- (i) **Intentionally omitted.**

(j) **Intentionally omitted.**

8.03 Financing.

- (a) **Agency Consent Required.** Except as provided in this Section 8.03, the Owner shall not incur, assume, or permit to exist any financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect ownership interest in the Owner, including but not limited to any mezzanine debt or preferred equity financing, without the prior written consent of the Agency, nor shall the Owner extend or renew any such existing financing on materially different terms without the prior written consent of the Agency.
- (b) **Mortgages and Other Encumbrances.** Except as provided in this Section 8.03, the Owner shall not permit any mortgage, lien, pledge, assignment, transfer, encumbrance, grant of a participation interest in, or hypothecation of or on all or any portion of the Project or the Property, or of or on any direct or indirect ownership interest in the Owner (or the income, proceeds, or other economic benefits of any such ownership interest) without the prior written consent of the Agency. Any mortgage or other encumbrance that encumbers all or any portion of the Project or the Property without the Agency's written consent will be void.
- (c) **Exceptions to Consent Requirement.** The Agency's consent is not required for (i) any financing with respect to or encumbering solely any indirect ownership interest in the Owner, and any encumbrance of an indirect ownership interest in the Owner that secures solely such financing, where the exercise of any rights or remedies by the holder of such debt would not in any circumstance cause (1) a change in present or contingent control over management or operations of the Owner or the Project, or (2) a transfer of a direct or indirect ownership interest in the Owner in violation of this Agreement; or (ii) any financing that is provided to the Owner by its members or partners, as applicable, pursuant to the Owner's organizational documents, and any encumbrance of a direct or indirect ownership interest in the Owner that secures solely such financing.
- (d) **Permitted Mortgages.** The Agency consents to any mortgage or other encumbrance that is (i) recorded against the Property before the date of this Agreement or (ii) signed and delivered on or after the date of this Agreement with the prior written consent of the Agency (including but not limited to any mortgage signed and delivered to secure any Agency financing with respect to the Project), and the financing secured by any such mortgage or other encumbrance ("**Permitted Mortgage**").
- (e) **Approval of Future Financing.**
- (i) **Notice to Agency.** The Owner shall provide the Agency with written notice of any proposed financing that requires the consent of the Agency not less than 60 days before the anticipated closing of the financing. The Owner shall provide the Agency with (1) a commitment or term sheet from the proposed lender, (2) the Project's financial statements for the previous 12 months, as certified by the Owner and showing the Project's net

operating income for the period, (3) reasonably detailed projections of the Project's net operating income and debt service for the following 12 months assuming the Owner obtains the proposed financing, (4) a current appraisal of the Project prepared by an independent real estate appraiser not affiliated with the Owner, and (5) such further information as the Agency may reasonably request in connection with the proposed financing.

- (ii) **Standard for Consent Where No Agency Financing.** If the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or HDC, and the Owner does not owe any mortgage indebtedness to the City or HDC with respect to the Project, the Agency shall consent to any proposed financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect ownership interest in the Owner, and any related mortgage or other encumbrance, if the Agency confirms that (1) the proposed financing will be provided by HDC; the Community Preservation Corporation (or its affiliate); a City, State, or federal agency; Fannie Mae; Freddie Mac; a financial institution (including, but not limited to, a savings bank, commercial bank, life insurance company, public real estate investment company, or pension fund) with assets in excess of \$500 million and whose loans are subject to regulation by a State or federal agency; or another lender acceptable to the Agency ("**Institutional Lender**"); (2) after incurring the proposed financing, the debt service coverage ratio for the Project, taking into account all of the financing affecting the Project, will equal or exceed 1.15; and (3) after incurring the proposed financing, the loan-to-value ratio for the Project, taking into account all of the financing affecting the Project, will not exceed 80%. If the proposed financing does not satisfy these requirements, the Agency may consent to the financing but is not required to do so.

8.04 Zoning; Development Rights.

The Owner shall not, without the prior written consent of the Agency, seek, initiate, join in, or consent to any zoning change, restrictive covenant, or other public or private action or agreement limiting, expanding, changing, or defining the permitted uses of the Property or any part of the Property, or the permitted size, shape, or configuration of any structure developed or to be developed on the Property or any part of the Property. This includes, but is not limited to, any zoning lot merger, zoning lot subdivision, zoning lot development agreement, special permit, large-scale residential development, large-scale general development, large-scale community facility development, rezoning, or zoning text amendment.

8.05 Nominee Legal Owner.

- (a) **Nominee Agreement.** Neither the Legal Owner nor the Beneficial Owner shall amend the Nominee Agreement, assign the Nominee Agreement, or enter into a new Nominee Agreement without the prior written consent of the Agency. The Legal Owner and the Beneficial Owner shall comply with the Nominee

Agreement and shall copy the Agency on any notice of default under the Nominee Agreement. A default under the Nominee Agreement that remains uncured beyond any applicable cure period is a breach of this Agreement. If this Agreement conflicts with the Nominee Agreement, this Agreement controls.

- (b) **Right to Cure.** If there is a default under any City, State, or federal loan or regulatory document, including, but not limited to, any mortgage, regulatory agreement, or financing commitment, then notwithstanding any provision of the Nominee Agreement or any other agreement to the contrary, the Beneficial Owner shall permit the Legal Owner to enter the Project and take such other actions with respect to the Project as may be necessary to cure the default, unless the Beneficial Owner is acting diligently to cure the default.

8.06 Condominium.

- (a) **Agency Approval of Condominium Documents.** The Owner shall obtain the prior written consent of the Agency for any condominium declaration that covers all or any portion of the Project and for all related documents, including, but not limited to, the by-laws of the condominium. The Owner shall submit all such condominium documents to the Agency for review and approval prior to their signing and recording. After approval of any such condominium document by the Agency, the Owner shall not cause or permit the amendment of the document without the prior written consent of the Agency. Any such condominium document, including any amendment, that is entered into without the Agency's written consent will be void.
- (b) **Requirements for Condominium Documents.** The Owner shall ensure that any condominium documents covering all or any portion of the Project provide for the following to the satisfaction of the Agency: (i) limits on the payment of common charges by any condominium unit containing Income-Restricted Units, (ii) control of the condominium's board of managers by the condominium units subject to this Agreement, (iii) maintenance of insurance by the condominium and the appointment of an Agency-approved insurance trustee, (iv) Agency approval of the use of casualty and condemnation proceeds, (v) restrictions on transfers and the use of condominium units that are not subject to this Agreement, (vi) Agency approval of structural or other material work, (vii) Agency access to the condominium's records, (viii) Agency approval of amendments to the condominium documents, and (ix) the delivery of notices of default and other material reports under the condominium documents to the Agency. The Agency may impose additional requirements in connection with its approval of any such documents.
- (c) **Subordination; Memorandum of Regulatory Agreement.** Any condominium declaration that covers all or any portion of the Project is subordinate to this Agreement. Promptly following the establishment of a condominium, the Owner shall record a memorandum of this Agreement in accordance with Section 12.01(b).

- (d) **Transfers of Released Condominium Units.** The Owner shall not cause or permit, and shall ensure that any condominium documents that cover all or any portion of the Project do not permit, (i) a Property Transfer of any condominium unit that is a part of the same condominium that the Project is a part of, but that has been released from this Agreement, or (ii) a Change in Ownership of the owner of such a condominium unit, without the prior written consent of the Agency. Any such Property Transfer requiring the Agency's consent that occurs without the Agency's written consent will be void. The Agency shall consent to any such Property Transfer or Change in Ownership that is not to or for the benefit of a Prohibited Person. In addition, the Agency's consent is not required for: (i) any Property Transfer that concerns solely a non-residential lease, sublease, license, or occupancy agreement to an end user of the space in the ordinary course of business, or (ii) any Change in Ownership that concerns solely an individual or entity (1) that has no present or contingent control over management or operations of the owner of such condominium unit or the Project, as determined by the Agency, and (2) the only role of which, as determined by the Agency, is to make a monetary investment.
- (e) **Obligations of Released Condominium Units.** The Agency shall not release a condominium unit from this Agreement unless a memorandum of this Agreement is recorded against the condominium unit's tax lot in accordance with Section 12.01(b) prior to the release of the condominium unit. After any release of a condominium unit from this Agreement, the owner of the condominium unit shall remain obligated to comply with this Section 8.06, Section 4.16(c) (relating to prohibited uses on the Property), and any provision of this Agreement that is related to administering or enforcing such obligations. These provisions of this Agreement will continue to bind the owner of any such condominium unit and run with the land with respect to the condominium unit.

8.07 Intentionally omitted.

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ARTICLE 9

COMPLIANCE MONITORING

9.01 Annual Submissions.

On an annual basis, effective upon the Project's receipt of a temporary or final certificate of occupancy, or as of the date of this Agreement, if the Project does not require a new certificate of occupancy, and no later than the date given for each item below (or such other date as the Agency may direct in writing), the Owner shall submit the following items to the Agency.

- (a) **Certificate of Compliance.** No later than April 1 of each year, a certificate signed by a principal or authorized officer of the Owner and certifying the following: (i) each Tenant of an Income-Restricted Unit who began occupancy during the prior year was an Eligible Household; (ii) each Tenant's Actual Rent does not exceed the amount permitted by Law and this Agreement; (iii) the Owner's statements of fact in Article 11 remain true as of the date of the certificate, except to the extent that any such statement refers to an earlier date (or, if a statement is not true as of the date of the certificate, providing a detailed explanation of the matter); and (iv) the Owner is not in material violation of this Agreement, nor to the knowledge of the Owner, has any event occurred that, with the giving of notice or passing of time, would make the Owner in material violation of this Agreement (or, if a material violation or any such event has occurred, providing a detailed explanation of the matter and any corrective actions taken or to be taken).
- (b) **Rent Roll.** No later than April 1 of each year, a certified rent roll for the Project that is satisfactory to the Agency and that specifies all information that the Agency or the Law may require with respect to each Unit. The Owner shall submit each such rent roll using an online system designated by the Agency or otherwise as directed by the Agency in writing.
- (c) **Financial Statements.** No later than April 1 of each year, annual financial statements with respect to the Owner and the Project. These financial statements must be satisfactory to the Agency and must include a balance sheet, a statement of income and expenses, a statement of cash flows, and all accompanying notes, schedules, findings, and other materials. The Owner shall provide single entity financial statements with respect to the Owner and the Project unless otherwise approved in writing by the Agency. The Owner shall cause the financial statements to be prepared on a calendar-year basis, unless otherwise approved in writing by the Agency, and in accordance with generally accepted accounting principles. The Owner shall further cause the financial statements to be audited by an independent auditor.
- (d) **Statement of Reserves.** No later than April 1 of each year, a certified statement of the Project's reserve accounts that is satisfactory to the Agency. This statement must include the name of the bank or other financial institution that

holds each reserve account, the current balance in each reserve account, each contribution and withdrawal from the reserve account during the prior year, supporting documentation for any calculations that are required to determine contribution amounts (including, but not limited to, calculations of amounts to be contributed from net cash flow, if required by Exhibit B), current bank statements, and any other reserve account information that the Agency may reasonably request.

- (e) **Proof of Insurance.** If requested in writing by the Agency, no later than April 1 of each year, satisfactory evidence of each insurance policy required by Section 6.08, as further described in Section 6.08(m).
- (f) **Utility Performance.** No later than May 1 of each year, the utility performance information for the Project as required by Section 6.09(b).
- (g) **Other Submissions.** Any other Records or certification that may be required to be submitted to the Agency by Law, no later than the date that is required by Law.
- (h) **Intentionally omitted.**
- (i) **Intentionally omitted.**
- (j) **Intentionally omitted.**
- (k) **Budget.** No later than December 1 of each year, an annual budget for the Project for the next calendar year. The budget must be satisfactory to the Agency and must show the Project's anticipated income and expenses for the year, including, but not limited to, a statement of projected operating income, operating expenses, and debt service for the year, all in the form requested by the Agency. Further, if requested in writing by the Agency, no later than April 1 of each year, an updated annual budget for the Project for the then-current calendar year.

9.02 Late Fees.

If the Owner is late in submitting any item that is required by Section 9.01, the Agency may charge the Owner a late fee of \$250 per item to cover the administrative costs associated with a late submission. The Agency may increase this amount to account for inflation by adding 3%, compounding annually, on each anniversary of the date of this Agreement. Prior to assessing any such fee, the Agency shall notify the Owner that the submission is late and shall provide the Owner with not less than 10 business days to cure.

9.03 Testimony and Documents.

Upon 10 days' written notice from the Agency, and at a time and place specified by the Agency, the Owner, including any of its members, partners, principals, officers, directors, employees, and agents, (a) shall submit to an oral examination under oath by authorized

representatives of the Agency regarding any matter related to the Project; and (b) shall produce for examination, review, or audit by the Agency any Records that the Agency may request, in form and manner satisfactory to the Agency.

9.04 Access to Property.

The Owner shall provide all representatives of the Agency or the City with access to the Property at such times and for such purposes as the Agency or the City deems necessary to implement this Agreement. The Agency may, without limitation, (a) enter the Property (including, but not limited to, all Improvements, Equipment, grounds, and offices) at any time to conduct unannounced site visits or to enforce its right to cure a Default pursuant to Section 10.02(d), and (b) examine any Records during business hours at the offices of the Owner or any of its agents, including but not limited to, the Managing Agent.

9.05 Reports of Non-Compliance.

The Owner shall notify the Agency promptly if the Owner discovers any material non-compliance with this Agreement.

9.06 Reports of Legal Actions.

If any legal action or proceeding is initiated by or against the Owner in connection with or relating to the Project, the Property, this Agreement, or any other document related to the Project, other than landlord-tenant matters and other customary matters that arise in the ordinary course of business, the Owner shall report the initiation of the legal action or proceeding to the Agency in writing no later than 10 days after the Owner initiates or receives notice of the action or proceeding.

9.07 Interaction with Authorities.

The Owner shall notify the Agency of any interaction with City, State, or federal agencies or entities regarding the Property or the Project, other than the timely payment of taxes or fees, or other customary matters that arise in the ordinary course of business. If the Owner fails to give the Agency notice of any such interaction, the Owner waives any defense or claim that the Owner might otherwise have based upon the City's knowledge of the matters addressed in the interaction.

9.08 Disclosure of Ownership.

The Owner shall furnish to the Agency, no later than five business days after any written request by the Agency, the names of the officers, directors, shareholders, members, or partners of the Owner and any entity that owns a direct or indirect interest at any tier in any party to this Agreement (except for any shareholders in a publicly traded company). The Owner shall provide any information that the Agency may reasonably request with respect to these individuals and entities.

9.09 Additional Information.

The Owner shall promptly submit to the Agency such other information as the Agency shall reasonably request on one or more occasions regarding the Project or the Owner.

9.10 Intentionally omitted.

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ARTICLE 10
ENFORCEMENT

10.01 Defaults.

- (a) **Notice; Opportunity to Cure.** After any violation of this Agreement, the Agency may give notice of the violation to the Owner. If the Agency gives notice of a violation to the Owner, the Agency shall provide the Owner with a period of not less than 30 days to cure the violation, unless the Agency reasonably determines that (i) the violation cannot be cured; (ii) the violation resulted from the Owner's gross negligence or willful misconduct; or (iii) exigent circumstances require immediate action to protect the Project or any Tenant.
- (b) **Declaration of Default.** If a violation of this Agreement is continuing after notice to the Owner and the expiration of any cure period given in accordance with subsection (a) above (or, in the case of a violation that cannot with due diligence be cured by the Owner during a given cure period, if the Owner has failed to proceed promptly to cure the violation to the satisfaction of the Agency within such period or is not diligently pursuing the cure), the Agency may declare a default under this Agreement ("**Default**") by written notice to all parties to this Agreement.
- (c) **Copies of Notices.** The Agency shall send a copy of any notice of violation or Default to the holder of any Permitted Mortgage, at the address for notices given in the Permitted Mortgage as recorded against the Property, and to any other individual or entity to whom the Agency has agreed to provide such notices in Exhibit B. The failure to send any such copy, however, will not affect the effectiveness of the notice.
- (d) **Cures by Investors.** The Agency shall deem any cure of a violation of this Agreement or Default by one or more of the Owner's members, partners, or shareholders, as applicable, to be made by the Owner. The Agency shall accept or reject such cure on the same basis as it would if the cure had been made by the Owner.
- (e) **Intentionally omitted.**

10.02 Remedies.

After declaring a Default, the Agency may take one or more of the following actions:

- (a) **Specific Performance.** Seek a temporary or permanent injunction or an order for specific performance of this Agreement. The Agency may also seek this remedy if it determines that a violation of this Agreement is threatened.
- (b) **Extension of Restriction Period.** Record a document against the Property, executed solely by the Agency, to extend the Restriction Period by the period of

non-compliance. The Agency may presume that the period of non-compliance is the period running from the date of this Agreement until the date that the Agency declares a Default. The Owner may rebut this presumption.

- (c) **Prohibition on Doing Business.** Upon written notice from the Agency, prohibit the party responsible for the violation and any of its principals from doing business with the Agency, except for applying for any as-of-right statutory benefit, for such period as the Agency may determine.
- (d) **Cure by Agency.** Cure the violation and charge the party responsible for the violation for any fees and other expenses incurred to remedy the violation, plus interest at the Default Rate from the date of demand until paid. This remedy includes, but is not limited to, (i) the right to lease any un-leased or vacant Unit in compliance with this Agreement (in such event, the Agency shall use reasonable efforts to obtain the highest rent permitted by this Agreement); and (ii) the right to prohibit the occupancy of any unoccupied Unit in order to ensure compliance with this Agreement.
- (e) **Prohibition on Distributions.** Prohibit distributions to partners, members, or shareholders, as applicable, of the Owner until the Default is cured and take any action to seek restitution to the Project's account for any distributions made in violation of this Agreement.
- (f) **Cross-Default.** Declare a default under (i) any mortgage affecting the Project and held by the Agency, or (ii) any other agreement with the Agency or the City that is binding upon the Owner and that concerns the Project, and pursue any available remedies, including, but not limited to, a foreclosure of any mortgage affecting the Project and held by the Agency.
- (g) **Removal of Responsible Parties.** Require the removal of any officer, director, principal, partner, member, or shareholder, as applicable, that is responsible for the Default.
- (h) **Appointment of a Receiver.** Seek appointment of the Agency or a receiver to take possession of and operate the Project, collect all rents, and pay all necessary costs until the Default is cured and the Owner has given satisfactory evidence that it can operate the Project in compliance with this Agreement.
- (i) **Real Property Tax Benefits.** Pursue the suspension or revocation of any Real Property Tax Benefits in accordance with Law.
- (j) **Other Remedies.** Seek any other relief that may be appropriate or desirable at law or in equity.

10.03 All Rights Cumulative.

All rights and remedies of the Agency under (a) this Agreement, (b) any other document related to the Project, (c) the Law, or (d) any other source of authority, are cumulative and may be exercised alone or concurrently, at the Agency's option. The exercise or

enforcement of any one right or remedy by the Agency is not a condition to or a bar of the exercise or enforcement of any other right or remedy. The listing of rights and remedies of the Agency in this Agreement does not preclude the Agency's exercise or enforcement of any other right or remedy available to the Agency that is not listed in this Agreement.

10.04 Waivers of Agreement.

Any waiver of a provision of this Agreement must be in writing and must be signed by the waiving party. No other action or inaction by the Agency or the City at any time may be construed as a waiver of, or preclude the enforcement of, any rights or remedies of the Agency or the City. No waiver applies to any matter other than the specific matter in connection with which it is delivered, and which is stated in the waiver. No waiver may be construed as an amendment or modification of this Agreement.

10.05 No Distributions Upon Default.

Upon written notice from the Agency to the Owner of a Default, or of a material uncured default under any other agreement with the Agency or the City that is binding upon the Owner and that concerns the Project, the Owner shall not make or permit any distribution of any assets of, or any income of any kind from, the Project to its partners, members, or shareholders, as applicable, until the Agency has determined that the Default or default has been cured.

10.06 Prior Owner Defaults.

The Owner shall cure any Default or other violation of this Agreement caused by any prior owner and shall satisfy any related payment or indemnification obligation.

10.07 No Retaliation.

The Owner shall not retaliate against any existing or prospective Tenant, or any other user of the Project, who notifies the Agency of any alleged violation of this Agreement.

10.08 Waiver of Opposition.

To the extent permitted by Law, each party to this Agreement other than the Agency waives any rights that it may have, at law or in equity, to modify, set aside, extinguish, enjoin enforcement of, or seek relief from all or any part of this Agreement.

10.09 Third-Party Beneficiaries.

Except as otherwise stated in this Agreement, there are no third-party beneficiaries of this Agreement and this Agreement is enforceable solely by the parties to this Agreement. The parties to this Agreement may modify or terminate this Agreement in accordance with the requirements of this Agreement without the consent of any intended third-party beneficiary, unless this Agreement specifically provides otherwise.

10.10 Tenant Right to Enforce.

Each Tenant of an Income-Restricted Unit may enforce in any State court the requirement of this Agreement that the Owner lease the Unit for a monthly rent that does not exceed the Actual Rent required by Section 5.01. Any such Tenant is a third-party beneficiary of this Agreement solely for such purpose.

10.11 Intentionally omitted.

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ARTICLE 11

STATEMENTS OF FACT

11.01 In General.

Each party to this Agreement other than the Agency makes the statements of fact in this Article 11 as to itself and affirms that all of its statements of fact in this Agreement are and will remain accurate as stated. Each such party understands that the Agency is relying on the accuracy of the statements of fact in this Agreement even though the Agency may perform other due diligence, and that this accuracy is a material inducement to the Agency's agreement to allow the Owner and the Project to participate in the Agency's affordable housing program. All statements of fact made by any such party survive the signing of this Agreement. The Agency may pursue claims for misrepresentation and breach of warranty, in addition to any other available remedy, if statements of fact in this Agreement are inaccurate.

11.02 Organization.

The party is duly organized and validly existing, and is qualified to do business in New York State, with all necessary authority to carry out the transactions contemplated by this Agreement. The party has provided the Agency with true copies of its organizational documents that are in effect. There are no agreements with respect to ownership interests in the party, voting control of such interests, or any other right to such interests other than the documents that have been delivered to the Agency.

11.03 Not-for-Profit Corporations.

If the party or any parent of the party is a not-for-profit corporation, the party and any parent have complied with all Laws related to the organization and ongoing existence of a not-for-profit corporation. Any director or officer of the party or any parent of the party who resigned in anticipation of the party's participation in the Project has not re-assumed a role with the party without the Agency's prior written consent. If the party or any parent of the party has created a housing committee to exercise the powers and duties of its board of directors with respect to the Project, all applicable organizational documents comply with the Agency's requirements regarding the establishment and authority of the housing committee.

11.04 Due Authorization.

The party has duly authorized and signed this Agreement.

11.05 Valid and Binding Obligation.

This Agreement is a valid and binding obligation of the party, enforceable in accordance with its terms, except as may be limited by insolvency Laws or principles of equity.

11.06 No Conflicts.

The entry into and performance of this Agreement and the consummation of the transactions contemplated by this Agreement do not, and will not (a) conflict with any Law or applicable order, (b) conflict with the party's organizational documents, or (c) constitute a breach or default under any material agreement of the party. If such a conflict arises with any Law or applicable order that does not exist as of the date the party is making this statement, the foregoing statement will remain true as long as the party discloses the conflict to the Agency in writing promptly after the Law or applicable order takes effect and the party provides a detailed explanation of the matter and any corrective actions taken or to be taken.

11.07 Obtaining of Approvals.

The party has obtained all approvals necessary to enter into this Agreement, record this Agreement against the Property, and consummate the transactions contemplated by this Agreement, including, but not limited to, any required approvals of lenders or other government agencies. This includes, but is not limited to, all necessary approvals from the Department of Buildings and any environmental agency with jurisdiction, where applicable. All such approvals are in force and have not been revoked, suspended, forfeited, or modified in a materially adverse manner, nor to the party's knowledge, has any such action been threatened. This statement excludes any approvals that are customarily received after the date the party is making this statement.

11.08 Litigation.

Except as previously disclosed to the Agency in writing, or as promptly disclosed to the Agency in writing after the date the party is making this statement, no litigation, proceeding, or investigation is pending or, to the party's knowledge, threatened (a) that would have a material adverse effect on the party's ability to perform its obligations under this Agreement or (b) that was initiated by any governmental authority and that the party is a subject of (or to the party's knowledge, that any entity or individual that owns a direct or indirect interest in the party at any tier, or any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party is a subject of).

11.09 Bankruptcy.

The party is not subject to an order with respect to the party in any case under bankruptcy or insolvency Laws. The party is not subject to a voluntary or involuntary bankruptcy or insolvency proceeding. The party has not made an assignment for the benefit of creditors. The party has not sought the appointment of a trustee or receiver with respect to all or substantially all of the party's assets. The party has not admitted in writing an inability to pay debts as they become due. No event of attachment or judicial seizure of all or substantially all of the party's assets has occurred. No event has occurred that, with the passing of time, would make the party insolvent or make any of the foregoing statements untrue. The party has adequate capital for the reasonably foreseeable obligations of a business of its size and character and given its contemplated operations.

11.10 Accuracy of Information.

All information that the party has provided or caused to be provided to the Agency regarding the party or the Project remains complete and correct in all material respects (and with respect to any financial statements or other reports expressly made as of a particular date, such financial statements or reports remain complete and correct in all material respects as of such date), except as disclosed in writing to the Agency. This includes, but is not limited to, (a) all information contained in sponsor review disclosure statements and related documents that have been submitted to the Agency, and (b) all information with respect to existing and projected financial matters, property information, architectural and engineering matters, building conditions, insurance, and ownership matters (including, but not limited to, information with respect to the party, any entity or individual that owns a direct or indirect interest in the party at any tier, or any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party). The party has not failed to disclose any material information with respect to the Owner or the Project to the Agency. No information that the party has provided to the Agency contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

11.11 Rent Roll.

If the Project has existing Tenants or non-residential tenants, the Owner has provided the Agency with a complete and correct rent roll for the Project meeting the requirements of Section 9.01.

11.12 Title to Property.

The party owns its interest in the Property free and clear of any encumbrances, except for (a) any matters that are set forth as exceptions to a title policy that has been delivered to the Agency, (b) any Permitted Mortgage, and (c) any minor defects in title that do not interfere with the party's ability to perform its obligations under this Agreement. The party has not received notice of any pending or contemplated condemnation affecting the Property or any sale or disposition in lieu of condemnation, and is not and could not be obligated under any right of first refusal, option, or other

contractual right to sell, transfer, or otherwise dispose of the Property or any interest in the Property, except in each case as previously disclosed to the Agency in writing or as promptly disclosed to the Agency in writing after the date the party is making this statement.

11.13 Flood Zone Status.

Except as previously disclosed to the Agency in a survey or other written certification acceptable to the Agency, no portion of the Property is in an area that has been identified by the federal government as a "special flood hazard area".

11.14 Utilities and Public Streets.

The Property is served by all utilities that are required for, and has all access to public streets that are required by, its present and any contemplated uses.

11.15 Property Condition.

Except as previously disclosed to the Agency in writing, or as promptly disclosed to the Agency in writing after the date the party is making this statement, the Property, including, but not limited to, all Improvements, is (a) free from damage caused by fire or other casualty, (b) in good condition in all material respects, and (c) to the knowledge of the party after due inquiry, has no structural or other material defects or damages, whether latent or otherwise.

11.16 Taxes.

The party has filed or caused to be filed all federal, state, and local tax returns required to have been filed by the party, and has paid or caused to be paid all taxes due by the party, except for (a) any taxes that are being contested in good faith by appropriate proceedings and for which the party has set aside adequate reserves and (b) any taxes that would be covered by a pending exemption or abatement application that the party has a reasonable expectation will be granted. This includes, but is not limited to, real property transfer taxes and mortgage recording taxes. The party knows of no basis for any additional assessment of taxes or related liabilities for prior years.

11.17 Insurance.

The party maintains or has caused to be maintained the insurance that is required by this Agreement and any additional insurance that is carried by reasonably prudent owners of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value. The party has provided the Agency with a complete description of all insurance maintained by or on behalf of the party with respect to the Project. All such insurance is in full effect, and all premiums that are required to be paid have been paid.

11.18 Reserves.

The party has created and fully funded all reserve accounts that are required to be created and funded by the party under this Agreement and at the time the party is making this statement. With respect to each such reserve account, the party has provided the Agency with the name of the financial institution that holds the account and with any other account information that the Agency has requested in writing.

11.19 Zoning and Building Codes.

Except for violations of record and any other matters that have been previously disclosed to the Agency in writing, the Property and the Project, and their present and any contemplated uses, are in full compliance with all Laws regarding zoning and land use matters, Building Code matters, Housing Maintenance Code matters, accessibility matters, and similar requirements.

11.20 Environmental Laws.

Except with respect to matters that have been previously disclosed to the Agency in an environmental site assessment or other report delivered to the Agency, or that, individually or in the aggregate, could not be expected to result in a material adverse effect on the Project, the Owner, any Tenant, or any other tenant or user of the Project, (a) the Property and its present and any contemplated uses are in full compliance with all Laws regarding environmental matters, including, but not limited to, hazardous or toxic substances; and (b) the party does not know of any basis for liability with respect to any environmental Law, and has not (i) failed to comply with any applicable environmental Law or to obtain, maintain, or comply with any permit, license, or other approval required under any environmental Law, (ii) become subject to any liability under any environmental Law, or (iii) received notice of any claim with respect to any environmental Law.

11.21 Financing.

The party has disclosed to the Agency all financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect ownership interest in the Owner, including but not limited to any mezzanine debt or preferred equity financing, except for any financing that would not require the Agency's consent under Section 8.03(c). The party has disclosed to the Agency any present or anticipated mortgage, lien, pledge, assignment, transfer, encumbrance, grant of a participation interest in, or hypothecation of or on all or any portion of the Project or the Property, or of or on any direct or indirect ownership interest in the Owner (or the income, proceeds, or other economic benefits of any such ownership interest), except for any such mortgage or other encumbrance that would not require the Agency's consent under Section 8.03(c).

11.22 Law and Agreements.

The party has complied in all material respects with all Laws, and except for violations of record or as disclosed to the Agency in writing, the party has not received any written

notice of its violation of any Laws. To the party's knowledge, and except as disclosed to the Agency in writing, the party is not in default of any order of any court or government authority. This Agreement and any other agreement between the party and the Agency is in force, and the party is not in default of this Agreement or any such other agreement, nor to the knowledge of the party, has any event occurred that, with the giving of notice or passing of time, would make the party in default of this Agreement or any such other agreement, except as disclosed to the Agency in writing.

11.23 Agency and City Personnel.

To the party's knowledge, no official, employee, agent, or representative of the Agency or the City (a) has participated in any decision relating to the Project or any agreement arising out of or through this Agreement or any other document related to the Project that affects such person's personal interest or the interest of any entity or association in which the person is directly or indirectly interested, or which otherwise violates the provisions of Chapter 68 of the City Charter; (b) has received any payment or other consideration (other than from the Agency or the City) for the making of this Agreement or any other document or decision related to the Project; or (c) has any interest, directly or indirectly, in the Project, the Property, or the proceeds of either.

11.24 Owner Personnel.

No individual or entity having any interest or role in the party or in any entity that owns a direct or indirect interest in the party at any tier, or that is employed, retained, or contracted by the party or any such direct or indirect owner of the party, (a) is or has been employed, retained, or contracted by the Agency or the City in connection with any matter pertaining to the Project, or (b) has or will have any interest in or activity with the party or any such direct or indirect owner of the party that constitutes a conflict of interest pursuant to the provisions of Chapter 68 of the City Charter.

11.25 Lobbying.

The party, each entity or individual that owns a direct or indirect interest in the party at any tier, and any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party, are in compliance with Article 1-A of the Legislative Law.

11.26 Sponsor Loans.

Any loan that is made to the Owner by an affiliate of the Owner, including but not limited to any deferred developer fee loan, is subordinate to all Agency financing with respect to the Project. The lender of any such loan has agreed to refrain from enforcing any remedies under the loan documents without the prior written consent of the Agency.

11.27 Sponsor Loans (LIHTC Basis).

With respect to any loan that is made to the Owner by an affiliate of the Owner, including but not limited to any deferred developer fee loan, and that is included in the eligible basis of the Project for LIHTC purposes, (a) the applicable note is negotiable, repayable,

and if not secured by a mortgage affecting the Project, recourse to the Owner, (b) the Owner intends to repay the loan in accordance with the applicable note and any other loan documents, (c) there are no formal or informal understandings or arrangements with the lender that the loan will be forgiven, and (d) the Owner will not request that the lender forgive the loan in the future.

[Continues on next page]

ARTICLE 12

MISCELLANEOUS

12.01 Recording.

- (a) **Recording of Agreement.** The Owner shall record this Agreement against the Property in the land records for the county in which the Property is located immediately following the date of this Agreement. The Owner shall pay all required fees and taxes in connection with the recording of this Agreement and any memorandum, amendment, or other modification of this Agreement, without any exemption or deduction that might otherwise be available solely because the Agency is a party.
- (b) **Recording of Memorandum.** Promptly following an apportionment (by condominium or otherwise), merger, or other event creating or assigning a tax lot to be occupied by all or any portion of the Project, the Owner shall record a memorandum of this Agreement against each tax lot that is occupied by all or any portion of the Project (unless this Agreement is already recorded against the tax lot) in the land records for the county in which the Property is located. The Owner shall use a memorandum in the form of Exhibit C, which is annexed to this Agreement and made a part of this Agreement, or another form satisfactory to the Agency. The memorandum must specifically identify the recording information for this Agreement and any amendments or other modifications of this Agreement that occurred prior to the date of the memorandum. The Owner shall provide the Agency with proof that the memorandum has been recorded against the appropriate tax lots promptly following the apportionment, merger, or other event.

12.02 Successors.

All provisions of this Agreement are covenants that run with the land, which inure to the benefit of the City, and which bind and are enforceable against, to the fullest extent permitted by Law, any other party to this Agreement and each such other party's successors, assigns, heirs, grantees, and lessees. All references in this Agreement to a party, entity, or individual include the successors and permitted assigns of such party, entity, or individual. Successors to HPD include any body, agency, or instrumentality of the City or the State that succeeds to the powers, duties, or functions of HPD.

12.03 Notices.

- (a) **Method.** Each notice given or required to be given under this Agreement must be in writing and (i) sent by certified or priority mail, postage prepaid, (ii) delivered in person or by a nationally recognized overnight courier, with receipt acknowledged, or (iii) sent by electronic means with notice of receipt from an authorized officer, official, or principal of the party.

- (b) **Addresses.** Each notice given to a party to this Agreement by mail or personal delivery must be sent to the address for the party that is stated in the preamble to this Agreement, unless the party has given notice of a change in address. Each notice given to a party by electronic means must be sent to an authorized officer, official, or principal of the party. Any party to this Agreement that changes its address shall notify each other party to this Agreement in the manner for delivering notices that is provided in this section.
- (c) **Effectiveness.** Each notice delivered by certified or priority mail will be deemed to have been given upon the third business day following the date upon which the notice is deposited in the U.S. mail, postage prepaid. Each notice delivered in person or by a nationally recognized overnight courier, with receipt acknowledged, will be deemed given upon actual delivery, as evidenced by a signed receipt. Notwithstanding the foregoing, any notice of a change in address will only be deemed to have been given when actually received by the other party.
- (d) **Copies.** The Agency will send a copy of any notice that is given to a party to the party's counsel or investor, if an address for one is provided in Exhibit B. The Agency's failure to send any copy of a notice to a non-party individual or entity to whom the Agency has agreed in writing to provide such copies will not affect the effectiveness of the notice under this Agreement.
- (e) **Waiver of Notices Not Expressly Stated.** No party to this Agreement is entitled to any notice from the Agency with respect to this Agreement unless this Agreement expressly provides for the giving of notice by the Agency to the party. Each party to this Agreement other than the Agency waives any right to receive any notice from the Agency with respect to any matter for which this Agreement does not expressly provide for the giving of notice by the Agency to the party.
- (f) **Notices to HPD.** Any notice given to HPD must be sent to the attention of the Deputy Commissioner for Asset and Property Management, with copies to the Deputy Commissioner for Development and the General Counsel.
- (g) **Intentionally omitted.**

12.04 Agency Approvals.

- (a) **Sole Discretion.** Except as otherwise specified in this Agreement, any determination, consent, or approval by the City pursuant to this Agreement is in the sole discretion of the City.
- (b) **HPD Authorized Officials.** Except as otherwise specifically provided in this Agreement, any approval by HPD pursuant to this Agreement must be made in writing (which may be sent by electronic means) by (i) HPD's Commissioner or a Deputy Commissioner, Associate Commissioner, or Assistant Commissioner in HPD's Office of Asset and Property Management or Office of Development or their respective successor offices, or (ii) an HPD employee designated in writing by one of these HPD officials to grant the approval.

(c) **Intentionally omitted.**

12.05 Amendments.

No amendment or other modification to this Agreement is valid unless it is in recordable form and signed by all parties to this Agreement. The Owner shall record any such amendment against each tax lot that is occupied by all or any portion of the Project, in the land records for the county in which the Property is located and immediately following the date of the amendment. The parties to any amendment other than the Agency shall include in the amendment a certification that the statements of fact in Article 11 remain true as of the date of the amendment, except to the extent any such statements specifically refer to an earlier date (or, if a statement is not true as of the date of the amendment, providing a detailed explanation of the matter), and that the statements of fact in Sections 11.02-11.07 are also true as they relate to the signing and delivery of the amendment.

12.06 Severability.

If any provision of this Agreement is found to be void, voidable, or otherwise unenforceable, the provision will be deemed severed from this Agreement and of no further effect, and the remaining provisions of this Agreement will continue in effect to accomplish the intent of this Agreement to the fullest extent possible.

12.07 Claims Against Officials.

No party to this Agreement shall make any claim whatsoever against any official, agent, or employee of the City for, or on account of, anything done or omitted to be done in connection with this Agreement or any other document related to the Project.

12.08 Cooperation.

The Owner shall diligently render to the City, without additional compensation, any assistance that the City may reasonably require if (a) an action is brought against the City that relates in any way to the Project, the Property, this Agreement, or any other document related to the Project, and (b) neither the City, on one hand, and the Owner, on the other hand, are adverse parties in the action.

12.09 Forum Selection.

- (a) **Choice of Law.** This Agreement and all other documents related to the Project are deemed to be executed in New York City and New York State, regardless of the domicile of the Owner, and are governed by and should be construed in accordance with the laws of the State.
- (b) **Consent to Jurisdiction and Venue.** Any claim asserted by or against the City and arising under this Agreement or related to the Project or any other document concerning the Project must be heard and determined either in a federal court

located in New York City or in a State court located in New York County. To realize this intent of the parties, the parties agree as follows:

- (i) If the City initiates any action against a party to this Agreement in federal court or State court, service of process may be made on the Owner either in person, wherever the Owner may be found, or by registered mail addressed to the Owner at its notice address under this Agreement, or to such other address as the Owner may provide to the City in writing.
- (ii) With respect to any action between the City and the Owner in State court, the Owner expressly waives and relinquishes any rights it might otherwise have (1) to move to dismiss on grounds of forum non conveniens, (2) to remove to federal court, and (3) to move for a change of venue to a State court outside New York County.
- (iii) With respect to any action between the City and the Owner in federal court, the Owner expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a federal court outside New York City.
- (iv) If the Owner commences any action against the City in a court located other than in New York City, upon request of the City, the Owner shall either consent to a transfer of the action to a court of competent jurisdiction located in New York City or, if the court where the action is initially brought will not or cannot transfer the action, the Owner shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a federal court located in New York City or in a State court located in New York County.

12.10 Indemnity.

To the fullest extent permitted by Law, the Owner shall absolutely and unconditionally defend, indemnify, and hold harmless the City and its officials, employees, and agents from and against any and all claims, losses, damages, costs, or liabilities that arise out of or by reason of this Agreement, the Project, or the Property (including, but not limited to, in any proceeding or action brought or taken by the City or the Owner). The Owner shall pay all reasonable fees and other expenses of the indemnified parties in connection with any such matter, including, but not limited to, the fees of attorneys and experts. The Owner shall pay any such amount regardless of whether a legal action is finally decided by a court. The Owner shall not be obligated to indemnify an indemnified party under this Section 12.10 to the extent that a claim, loss, damage, cost, or liability arises from the negligence or intentional tortious act of the indemnified party. This Section 12.10 applies during and after the Restriction Period.

12.11 Provisions Required by Law.

Any provision required by Law to be inserted into this Agreement is deemed to be incorporated into this Agreement. This Agreement is to be read and enforced as though each such provision is included in this Agreement. If, through mistake, change in Law,

or otherwise, any such provision is not inserted, or is incorrectly inserted into this Agreement, then, upon the written request of any party, all parties shall deem this Agreement to have been amended to make such insertion or correction so as to comply strictly with the Law.

12.12 Further Assurances.

The Owner shall, at the Owner's expense, promptly execute and deliver any further documents, and take any further action, as may be reasonably requested by the Agency to ensure that the Owner and the Project comply with this Agreement.

12.13 Duplicate Originals.

This Agreement may be executed in counterparts, and together the counterparts constitute a single instrument. An executed signature page to one counterpart may be attached to another identical counterpart (excepting the signature pages) without impairing the legal effect of the signatures. Any counterpart containing the signatures of all parties to this Agreement is sufficient proof of this Agreement.

12.14 Interpretation.

- (a) **Incorporation of Recitals and Exhibits.** The recitals and all exhibits annexed to this Agreement are made a part of this Agreement for all purposes.
- (b) **As Amended.** Any reference in this Agreement to an agreement (including, but not limited to, this Agreement), document, law, regulation, requirement, or similar text means the text as may be amended, supplemented, replaced, or otherwise modified from time to time, unless the context expressly requires otherwise.
- (c) **Agreement References.** References in this Agreement to articles, sections, exhibits, or similar refer to provisions in this Agreement unless stated otherwise.
- (d) **Headings.** The titles or headings of the articles and sections of this Agreement are for reference only and are to be disregarded in construing or interpreting the provisions of this Agreement.

12.15 Joint and Several Obligations.

Each provision of this Agreement that applies in any way to the Owner (including, but not limited to, any obligation of the Owner or any waiver of rights by the Owner) applies in full measure, individually, to each party to this Agreement that is included in the definition of "Owner". Each representation, warranty, or other statement of fact made by the Owner, any such party to this Agreement, any entity or individual that owns a direct or indirect interest in the party at any tier, any individual that is a principal, officer, or director of the party or any such direct or indirect owner, or any of their respective agents or representatives, either in this Agreement or in connection with the Project, is the responsibility of every party to this Agreement included in the definition of "Owner".

12.16 No Merger.

Every provision contained in any other document related to the Owner or the Project survives this Agreement and remains in effect, and no such provision is merged with this Agreement, even though this Agreement may recite any such provision.

12.17 Other Consents.

The Owner shall obtain all consents that may be required for any matter (including, but not limited to, Property Transfers, Changes in Ownership, financing, and zoning and development rights matters), under any other agreement that is applicable to the Property, including but not limited to any financing documents. The requirements of this Agreement are in addition to, and do not supersede, any other agreement between the Owner and the Agency and applicable to the Project or the Property that may require the Owner to obtain consent prior to any such event.

12.18 Relationship of Parties.

Nothing in this Agreement creates any association, partnership, joint venture, or relationship of principal and agent or master and servant between the Agency, on the one hand, and any other parties to this Agreement (or any affiliates), on the other hand, or provides any non-Agency party with the express or implied right to create any such duty or obligation on behalf of the Agency.

12.19 Intentionally omitted.

[Continues on next page]

ARTICLE 13
INVESTIGATIONS

13.01 Definitions.

- (a) The terms "**license**" and "**permit**," as used in this Article 13, mean a license, permit, franchise, or concession not granted as a matter of right.
- (b) The term "**person**," as used in this Article 13, means any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal, or employee.
- (c) The term "**entity**," as used in this Article 13, means any firm, partnership, corporation, association, or person that receives money, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.
- (d) The term "**member**," as used in this Article 13, means any person associated with another person or entity as a partner, director, officer, principal, or employee.

13.02. Cooperation.

The parties to this Agreement shall cooperate fully and faithfully with any investigation, audit, or inquiry conducted by a State or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit, or inquiry.

13.03. Refusal to Testify.

If (a) any person who has been advised that a statement made by the person, and any information from such statement, will not be used against the person in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority of the City or the State, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State, or (b) any person refuses to testify for a reason other than the assertion of a privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony

concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision of the City or State or any local development corporation within the City, then, the commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five days' written notice, to the parties involved to determine if any penalties should attach for the failure of a person to testify.

13.04. Adjournments.

If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination, without the City incurring any penalty or damages for delay or otherwise.

13.05. Penalties.

The penalties that may attach after a final determination by the commissioner or agency head may include, but are not permitted to exceed:

- (a) **Disqualification.** The disqualification for a period not to exceed five years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit, or license with or from the City; and/or
- (b) **Cancellation.** The cancellation or termination of any and all such existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; the City shall pay any money lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination.

13.06. Factors.

The commissioner or agency head shall consider and address in reaching a determination and in assessing an appropriate penalty the factors in Sections 13.06(a) and 13.06(b). The commissioner or agency head may also consider, if relevant and appropriate, the criteria established in Sections 13.06(c) and 13.06(d) in addition to any other information which may be relevant and appropriate.

- (a) **Good Faith Efforts.** The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including, but not limited to, the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees, or fiduciaries whose testimony is sought.

- (b) **Relationship to the Entity.** The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- (c) **Nexus.** The nexus of the testimony sought to the subject and its contracts, leases, permits, or licenses with the City.
- (d) **Effect of a Penalty.** The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Section 13.05, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in Section 13.03 gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity shall present evidence at the hearing demonstrating the potential adverse impact a penalty would have on such person or entity.

13.07. Warranties and Enforcement.

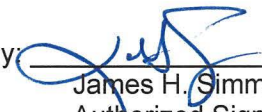
- (a) **City Employees.** The parties to this Agreement represent and warrant that to the best of their knowledge, (i) no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this Agreement or in connection with the performance of this Agreement, and (ii) no officer, agent, employee, or representative of the City has any interest, directly or indirectly, in this Agreement or the proceeds of this Agreement. The parties to this Agreement shall not hereafter make or pay any consideration as aforesaid and shall cooperate fully with the Commissioner of Investigation of the City and shall promptly report in writing any solicitation of money, goods, requests for future employment, or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation, or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the parties or affecting the performance of this Agreement.
- (b) **Enforcement.** In the event of a violation of Section 13.07(a), the Commissioner of HPD may convene a hearing pursuant to Section 13.03 and, upon such hearing, make a determination, in accordance with the considerations set forth in Section 13.06, as to whether or not a violation has occurred. The penalties imposed may include but are not permitted to exceed the penalties set forth in Section 13.05(a).

[Signatures follow]

The parties are signing this Agreement as of the date stated in the preamble to this Agreement.

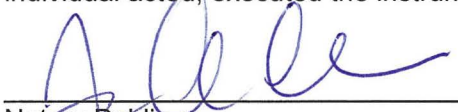
PL SARA LLC, a New York limited liability company

By: PL SARA Manager LLC, a New York limited liability company, its managing member

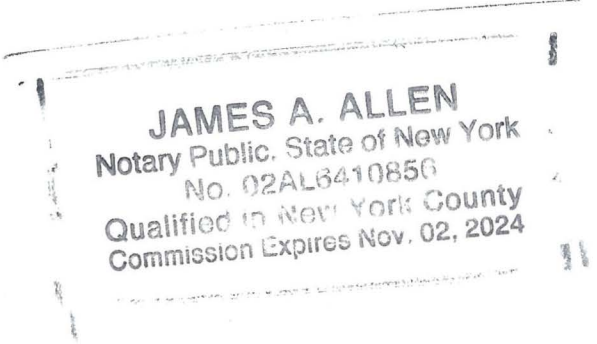
By: 
James H. Simmons III
Authorized Signatory

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

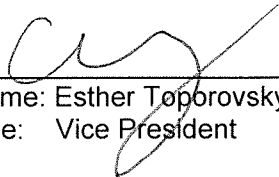
On the 21st day of March, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **JAMES H. SIMMONS III**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires:




**HP PARK LANE SENIOR HOUSING
DEVELOPMENT FUND COMPANY, INC.**, a New
York not-for-profit corporation

By: 
Name: Esther Toporovsky
Title: Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

On the 22nd day of March, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **ESTHER TOPOROVSKY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires:

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220376
Qualified in Kings County
Commission Expires April 19, 2022

THE CITY OF NEW YORK

By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

By: 
Name: Brendan McBride
Title: Associate Commissioner

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 21st day of March, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **BRENDAN MCBRIDE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.


Notary Public
Commission expires:

TOMMY WU
Notary Public, State of New York
No. 02WU6241603
Qualified in Kings County
Commission Expires May 23, 2023

APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
FOR USE UNTIL November 18, 2022:

By: /s/ Isabel Galis-Menendez
Acting Corporation Counsel

EXHIBIT A

PROPERTY DESCRIPTION

All those certain plots, pieces, and parcels of land, with the buildings and improvements thereon erected, situate, lying, and being in the City and State of New York, designated on the Tax Map of the City of New York:

Borough: Bronx

Block: 3672

Lot: 30

Address: 1940 Turnbull Avenue, Bronx, NY 10473

EXHIBIT B
PROJECT DETAILS

Project

Name	Asland Capital. 1940 Turnbull Ave. PL SARA	
Agency Program	SARA	
Address	1940 Turnbull Avenue Bronx, NY 10473	
Borough, Block, and Lot	Bronx Block 3672, Lot 30	
Building Identification Number	2130573	
Sponsor	Asland Capital Partners Pembroke Residential Holdings LLC Housing Partnership Development Corporation (not-for-profit partner)	
Number of Units (excluding Superintendent Units)	153	
	Studio	122
	1-Bedroom	31
	2-Bedroom	0
	3-Bedroom	0
Superintendent Units	1 two-bedroom Unit	

<p>Summary of Occupancy Restrictions</p> <p>(See individual tables that follow in Exhibit B for apartment-size distributions, rent limits, and other restrictions.)</p>	<p>106 60% of AMI Units 47 60% of AMI Units (Homeless Units)</p> <p>153 LIHTC Units</p> <p>Notes</p> <ul style="list-style-type: none"> • <u>Project-Based Vouchers (“PBV”)</u>: All 153 units will be governed by affordability restrictions in a 15-year HAP contract which limits household incomes to 50% of AMI. • <u>Senior Housing</u>: All 153 units will be restricted as senior housing Units, of which 47 will be Homeless Units. • <u>Homeless Units</u>: Of the 153 Units, 47 Units will be Homeless Units. • <u>AIRS</u>: All 153 units will be AIRS Units.
<p>Non-Residential Space</p>	<p>None</p>
<p>Initial Managing Agent</p> <p>(Acknowledged by the Agency as of the date of this Agreement only. Any change to the Managing Agent requires Agency consent per Section 6.07. The Agency may also require a replacement per Section 6.07.)</p>	<p>Grenadier Realty Management LLC 168 39th Street, Unit 2 Brooklyn, NY 11232-2714 (718) 642-8700</p>
<p>Management Fee Limit</p>	<p>6% of the Project's net rent collection, which includes all amounts actually collected with respect to the Units as rent, rental subsidies, or other payments, and all amounts actually collected from any non-residential space in the Project.</p>
<p>LIHTC Syndicator</p>	<p>Goldman Sachs Bank USA</p>
<p>Applicable Fraction</p>	<p>100%</p>

Restriction Period

<p>Agency Program Termination Date</p> <p>(This Agreement may remain in effect beyond this date; see Section 2.01.)</p>	<p>Later of: 40 years from the date of this Agreement and 40 years from the Permanent Loan Conversion.</p>
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60% of AMI Units

Income Limit		60% of AMI	
Maximum Program Rent		60% of AMI	
Other Restrictions		<ul style="list-style-type: none"> • LIHTC • PBV • Senior Units • AIRS 	
Unit Size	Number of Units	Initial Legal Rent	Initial Actual Rent
Studio	85	130% of FMR in year of lease-up	\$1,857 (110% of 2021 FMR) (HAP Contract rent per AHAP)
1-Bedroom	21	130% of FMR in year of lease-up	\$1,883 (110% of 2021 FMR) (HAP Contract rent per AHAP)
Total	106		

60% of AMI Units - Homeless Units

Income Limit		60% of AMI	
Maximum Program Rent		60% of AMI	
Other Restrictions		<ul style="list-style-type: none"> • LIHTC • PBV • Senior Units • Homeless Units • AIRS 	
Unit Size	Number of Units	Initial Legal Rent	Initial Actual Rent
Studio	37	130% of FMR in year of lease-up	\$1,857 (110% of 2021 FMR) (HAP Contract rent per AHAP)
1-Bedroom	10	130% of FMR in year of lease-up	\$1,883 (110% of 2021 FMR) (HAP Contract rent per AHAP)
Total	47		

Other Rent Matters

Utility Allowances	Tenant pays electric only
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Permitted Transfers

<p>Permitted Property Transfers and Changes in Ownership</p>	<p>The Agency consents to the following Property Transfers or Changes in Ownership:</p> <p>N/A</p>
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NYCHA Requirements

<p>Leasing of Rental Assistance Units with NYCHA Project-Based Rental Assistance</p>	<p>At the initial lease-up of the Project, the Owner shall lease the Rental Assistance Units receiving NYCHA project-based Rental Assistance to Eligible Households on the Project's site-based waiting list as follows:</p> <p>(a) 53 Units to be leased to Eligible Households who are placed on the site-based waiting list through marketing to the general public in accordance with the Marketing Handbook;</p> <p>(b) 53 Units to be leased to Eligible Households who are referred to the site-based waiting list from NYCHA's waiting list for tenant-based vouchers in accordance with NYCHA's Section 8 administrative plan; and</p> <p>(c) 47 Units as Homeless Units.</p> <p>After the initial lease-up of the Project, the Owner shall lease any vacant Unit receiving NYCHA project-based Rental Assistance and that is not a Homeless Unit to the next Eligible Household on the site-based waiting list.</p>
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<p>Replenishment of Site-Based Waiting List (NYCHA Project-Based Rental Assistance)</p>	<p>Upon receipt by NYCHA of a notice from the Owner that the Owner has reasonably determined that there are insufficient Eligible Households on the site-based waiting list to enable the Owner to assure continued stable occupancy of the Rental Assistance Units that receive NYCHA project-based Rental Assistance, NYCHA shall solicit new applicants in accordance with its Section 8 administrative plan and the NYCHA- and Agency-approved marketing plan for the Project.</p> <p>If after 30 days, the Owner reasonably believes that the solicitations by NYCHA have not produced enough Eligible Households to achieve ongoing stable occupancy of such Rental Assistance Units, the Owner may request additional applicant referrals from NYCHA.</p> <p>If after an additional 30 days, the Owner continues to reasonably believe that the solicitations by NYCHA have not produced enough Eligible Households to achieve ongoing stable occupancy of such Rental Assistance Units, the Owner shall advise NYCHA that additional applicants are necessary, and the Owner shall conduct its own marketing, as approved by NYCHA and the Agency, to add Eligible Households to the Project's site-based waiting list. In any such case, however, the Owner shall continue to provide a preference for admission to the site-based waiting list to applicants who are referred by NYCHA.</p>
<p>Leasing of Rental Assistance Units with NYCHA Project-Based Rental Assistance (Rental Assistance Demonstration)</p>	<p>Individuals on NYCHA's public housing and tenant-based voucher waiting lists will have the opportunity to apply for placement on the Project's site-based waiting list in accordance with HUD's Rental Assistance Demonstration program requirements.</p>

Reserves

Replacement Reserve Contributions	Monthly payments of \$300 per unit divided by 12 (the then-applicable monthly contribution will be increased each year by 3%), beginning on the first day of the first month following the Permanent Loan Conversion.
Initial Operating Reserve Contribution	\$750,924 at the Permanent Loan Conversion
Agency Consideration of Withdrawal of Excess Funds from Reserves	Seventh (7 th) anniversary of the Permanent Loan Conversion

Additional Operating Reserve Contributions (Net Cash Flow Sweep)

50% of Net Cash Flow (as defined below) for the preceding calendar year, no later than April 1 of each year (beginning after the Permanent Loan Conversion), after paying the following:

- (i) first, any credit adjuster due to the LIHTC investor in the Project under the Owner's equity agreement, without interest thereon;
- (ii) second, any fee payable for the year to the asset manager under the Owner's LIHTC equity agreement in the amount of \$12,000 per year beginning in the year in which the Project is placed in service, increasing by 3% annually, including accrued but unpaid amounts from prior years, without interest thereon;
- (iii) third, a deposit in the Operating Reserve in the amount by which the balance of the account is less than \$750,924;
- (iv) fourth, to the payment of the outstanding principal balance of any development deficit loans or operating expense loans from the LIHTC investor with respect to the Project that is to be paid from Net Cash Flow, without interest thereon, provided that the Agency has been given notice in writing prior to the issuance of such loans;
- (v) fifth, the portion of any development fee with respect to the Project that is to be paid from Net Cash Flow and that has been previously approved in writing by the Agency, without interest thereon; and
- (vi) sixth, to the payment of the outstanding principal balance of any development deficit loans or operating expense loans from the managing member of the Beneficial Owner with respect to the Project that is to be paid from Net Cash Flow, without interest thereon, provided that the Agency has been given notice in writing prior to the issuance of such loans.

"Net Cash Flow" means, for any year, the amount, if any, by which all income earned during the year from the operation of the Project in the ordinary course of business and recognizable by the Owner as income for tax reporting purposes (based on an accrual method of accounting), excluding interest on the Replacement Reserve or the Operating Reserve, exceeds the sum of (i) the reasonable cash expenses (based on an accrual method of accounting) incurred by the Owner in the operation of the Project during the year, excluding (1) payments to affiliates of the Owner (unless approved in writing by the Agency, including but not limited to any property management fees that do not exceed the Management Fee Limit set forth above) and (2) non-cash expenses such as depreciation, bad debt, and vacancy losses, plus (ii) the debt service required by any financing with respect to the Project that the Agency has approved in writing.

Servicer of Reserves	Replacement Reserve: New York State Housing Finance Agency, or its designee Operating Reserve: Goldman Sachs Bank USA, or other bank acceptable to HPD
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Permitted Mortgages

Permitted Mortgages	The Agency consents to the following Permitted Mortgages: New York State Housing Finance Agency First Construction Loan Mortgage in the aggregate amount of \$66,730,000, to become a First Permanent Loan Mortgage in the aggregate amount of \$29,240,000 at the Permanent Loan Conversion.
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Copies of Notices

Address for Counsel to Beneficial Owner	Nixon Peabody LLP 55 West 46 th Street, Tower 46 New York, New York 10036 Attention: Aaron Yowell, Esq.
Address for LIHTC Investor	Goldman Sachs Bank USA c/o Goldman Sachs Loan Operations 2001 Ross Avenue Dallas, Texas 75201 Attention: Alan Sage
Address for Counsel to LIHTC Investor	Sidley Austin LLP 787 Seventh Avenue New York, New York 10019 Attention: Aviva Yakren, Esq.
Address for Letter of Credit Provider (Copies to be delivered until the Permanent Loan Conversion)	Goldman Sachs Bank USA c/o Goldman Sachs Loan Operations 2001 Ross Avenue Dallas, Texas 75201 Attention: Alan Sage
Address for Counsel to Letter of Credit Provider (Copies to be delivered until the Permanent Loan Conversion)	Sidley Austin LLP 787 Seventh Avenue New York, New York 10019 Attention: Aviva Yakren, Esq.

EXHIBIT C

FORM OF MEMORANDUM OF REGULATORY AGREEMENT

This **MEMORANDUM OF REGULATORY AGREEMENT** is made as of _____, 20____, by: _____ ("**Owner**"), a _____ having an address at _____.

1. The Owner is owner of the premises located in _____ County, City and State of New York, known as and by the street address _____, and identified as Block _____, Lot _____ on the Tax Map of the City of New York ("**Property**"), as more particularly described in Exhibit A attached to this Memorandum and made a part hereof.
2. The Owner has agreed for and on behalf of itself, its successors, assigns, heirs, grantees, and lessees to comply with the Affordable Housing Regulatory Agreement ("**Regulatory Agreement**") dated as of _____, 20____, by and between the Owner, [the City of New York, acting through its Department of Housing Preservation and Development ("**HPD**"),] [the New York City Housing Development Corporation ("**HDC**"),] and any other parties to the Regulatory Agreement.
3. The Regulatory Agreement was recorded in the land records on _____, 20____, at _____.
4. The Regulatory Agreement runs with the land that constitutes the Property in accordance with the terms of the Regulatory Agreement.
5. The provisions of the Regulatory Agreement are incorporated by reference into this Memorandum. This Memorandum is intended to provide constructive notice of the Regulatory Agreement and in no way modifies or amends the Regulatory Agreement. If this Memorandum conflicts with the Regulatory Agreement, the terms of the Regulatory Agreement control.

This Memorandum has been signed as of the date first set forth above.

[Attach signature pages and Exhibit A to completed Memorandum.]

EXHIBIT D
ENVIRONMENTAL REQUIREMENTS



CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

October 16, 2017

REVISED CONDITIONAL NEGATIVE DECLARATION¹
Supersedes the Conditional Negative Declaration Issued on June 16, 2017

Project Identification

CEQR No. 17DCP172X

ULURP Nos. C170392ZMX, N170393ZRZ

SEQRA Classification: Unlisted

Lead Agency

City Planning Commission

120 Broadway, 31st Floor

New York, NY 10217

Contact: Robert Dobruskin

(212) 720-3423

Name, Description and Location of Proposal:

1965 Lafayette Avenue

The Applicant, Park Lane Residence Co., proposes a Zoning Map Amendment from an R6 district to (a) an R8/C2-4 district and (b) an R8 district (together, the "Zoning Map Amendment"), and a Zoning Text Amendment to Zoning Resolution (ZR) Section 23-933 (Inclusionary Housing) Appendix F to establish a Mandatory Inclusionary Housing (MIH) area (the "Zoning Text Amendment") affecting a portion of a property at 1965 Lafayette Avenue (Block 3672, p/o Lot 1, the "Rezoning Area") in the Soundview neighborhood of Bronx Community District 9. The Rezoning Area is located on the western portion of the block which is bounded by Turnbull Avenue to the north, Pugsley Avenue to the east, Lafayette Avenue to the south, and White Plains Road to the west. The proposed Zoning Map Amendment and Zoning Text Amendment (collectively the "Proposed Actions") would facilitate a proposal by the Applicant to construct two attached predominantly residential buildings comprising a combined total of 384,271 gross square feet (gsf), including approximately 425 affordable residential units, 19,938 gsf of local retail space, and 67 accessory parking spaces in a cellar-level garage (the "Proposed Development").

In connection with the Proposed Development, the Applicant proposes traffic signal timing adjustments and a roadway striping change at the intersection of Story Avenue and White Plains Road. The provision of these traffic improvement measures would be incorporated into a restrictive declaration that would be recorded against the Rezoning Area (the "Restrictive Declaration"). The Restrictive Declaration would restrict the manner in which the Rezoning Area may be developed or redeveloped by requiring the Declarant to notify the New York City Department of Transportation ("DOT") prior to issuance of the first temporary or permanent certificate of occupancy for any portion of the Proposed Development.

¹ This revised Conditional Negative Declaration (CND) supersedes the CND issued on June 16, 2017. This revised CND reflects a clarification in the language describing the proposed traffic mitigation measures as described in more detail in the Supporting Statement below.

In addition to the aforementioned actions, the Applicant seeks discretionary financing for the residential component of the Proposed Development from the New York City Department of Housing Preservation and Development (HPD). The sources of funding for the project are expected to include construction financing through HPD's Mixed Middle Income Mix and Match Program, and Senior Affordable Rental Apartments (SARA) Program among other potential HPD funding sources. The Applicant also seeks HPD and New York State Department of Housing and Community Renewal (DHCR) approvals for the Proposed Development. A coordinated review was conducted for this project, with HPD and HDC acting as involved agencies.

The Rezoning Area comprises an approximately 107,888 sf portion of Block 3672. The entirety of the Block is currently zoned R6. R6 zoning districts allow for two sets of bulk regulations: "Height Factor" regulations, which produce small multi-family buildings on small zoning lots and, on larger lots, tall buildings set back from the street; and "Quality Housing" regulations, which produce high lot coverage buildings with height limits that often reflect the scale of pre-1961 apartment buildings. Under Height Factor regulations, the maximum permitted residential FAR (Use Groups 1 and 2) ranges from 0.78 to 2.43. Under Quality Housing regulations, the maximum permitted residential FAR is 3.0 on wide streets outside of the Manhattan Core (i.e. the area outside of Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8) and 2.2 on narrow streets. Community facility uses (Use Groups 3 and 4) are permitted up to 4.8 FAR in R6 districts.

The Rezoning Area is currently developed with a 400,932 gsf, 21-story building with 353 affordable residential units pursuant to the Mitchell Lama program (the "Park Lane Apartment Building"), and 103 surface parking spaces that are accessory to the building. Recreational areas, including play areas, sitting areas, and two swimming pools, the location of which, in relation to lot lines, was approved in 1966 by the Board of Standards and Appeals, occupy portions of the Rezoning Area, and are accessory to the Park Lane Apartment Building. Outside of the Rezoning Area, the remainder of the block is occupied with 122 surface parking spaces that are also accessory to the Park Lane Apartment Building. The entire block was conveyed to the developer from the city in 1968, and was developed under the Mitchell Lama program. The Park Lane Apartment Building received its permanent certificate of occupancy in 1972. In connection with this transfer of ownership, a deed restriction was executed, providing that, for a period of 50 years from the date of completion of the Park Lane Apartment Building, any changes in the use of land, as specified in the plan for the Park Lane Apartment Building, requires the consent of DHCR and HPD.

The proposed R8/C2-4 rezoning and MIH Text Amendment would allow a maximum FAR of 7.2 of residential uses (Use Groups 1 and 2), a maximum FAR of 6.5 of community facility uses (Use Groups 3 and 4), and a maximum FAR of 2.0 of commercial uses (Use Groups 5-9 and 14). Upon approval of the proposed R8/C2-4 district, the Applicant intends to develop the Proposed Development, which would consist of two attached 14-story buildings (the "Affordable Family Building" and the "Affordable Senior Building") totaling 425 affordable residential units, 19,938 gsf of local retail space, and 67 accessory parking spaces in a cellar-level garage. The Affordable Family Building would provide approximately 292 affordable dwelling units for families and the proposed 19,938 gsf of local retail space, while it is anticipated that the Affordable Senior Building would provide 133 affordable senior housing units pursuant to the SARA program. The Proposed Development would also include 67 below-grade accessory parking spaces and 42 surface accessory parking spaces, and an increase in surface accessory parking spaces on the eastern portion of the lot, from 122 to 159. With the proposed Text Amendment, the Mandatory Inclusionary Housing Options 1 and 2 would be mapped coterminous with the Rezoning Area. Under Option 1, 25 percent of residential floor area would be affordable for residents with incomes averaging 60% AMI (of which 10% would be affordable at 40% AMI). Under Option 2, 30 percent of residential floor area would be affordable for residents with incomes averaging 80% AMI.

The Proposed Development is expected to be completed in 2020. Absent the Proposed Actions, the Development Site would remain as the existing conditions.

In connection with the Proposed Actions, an (E) designation (E-434) would be assigned to the project site (Block 3672, Lot 1) to avoid potential significant adverse impacts related to hazardous materials, air quality, and noise. The (E) designation text related to hazardous materials is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2-Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

With the measures specified above, the Proposed Actions would not result in any significant adverse impacts related to hazardous materials.

The (E) designation text related to air quality is as follows:

Affordable Senior Building: Any new residential and/or commercial development on the above-referenced property must use natural gas for HVAC systems and ensure that the heating, ventilation and air conditioning stack release height is at least 141 feet above ground level, and is no more than 181.5 feet from White Plains Road to avoid any potential significant adverse air quality impacts.

Affordable Family Building: Any new residential and/or commercial development on the above-referenced property must use natural gas for HVAC systems and ensure that the heating, ventilation and air conditioning stack release height is at least 141 feet above ground level, and is no more than 122 feet from White Plains Road to avoid any potential significant adverse air quality impacts.

With the measures specified above, the Proposed Actions would not result in any significant adverse impacts related to air quality.

The (E) designation text related to noise is as follows:

To ensure an acceptable interior noise environment, the future residential and community facility uses must provide a minimum of 31 dBA composite building façade attenuation with windows closed along White Plains Road, in order to maintain an interior noise level of 45 dBA. The minimum required composite building façade attenuation for future commercial uses would be five dBA less than that for residential uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided.

With the attenuation measures specified above, the Proposed Actions would not result in any significant adverse impacts related to noise.

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the revised Environmental Assessment Statement, dated October 13, 2017, prepared in connection with the ULURP Application (Nos. 170392ZMX and 170393ZRX). The City Planning Commission has determined that the Proposed Actions will have no significant effect on the quality of the environment, once it is modified as follows:

1. The Applicant agrees to contact the New York City Department of Transportation, prior to the issuance of the first temporary or permanent certificate of occupancy for any portion of the Proposed Development, to inform them of the need to implement the following traffic improvement measures:
 - Transferring one second of green time at the intersection of Story Avenue and White Plains Road from the northbound/southbound signal phase to the eastbound/westbound signal phase in the weekday AM and PM and Saturday midday peak hours; and
 - Converting the curb lane on the southbound approach of White Plains Road at Story Avenue from a parking lane to a right turn lane.

Supporting Statement:

The above determination is based on an environmental assessment which finds that:

1. An Environmental Assessment Statement (EAS) was completed on June 16, 2017 and a Conditional Negative Declaration (CND) was issued on June 16, 2017. A revised EAS, dated October 13, 2017, reflects a clarification in the language pertaining to the proposed traffic mitigation measures and the status of the Restrictive Declaration, which has been recorded and executed, as explained below. The clarification does not change the proposed traffic mitigation measures and would not otherwise alter the conclusions of the previous EAS and CND.

2. The traffic analysis concluded that project-generated traffic has the potential to result in significant adverse impacts during the weekday AM and PM and Saturday midday peak hours, at the intersection of Story Avenue and White Plains Road. Specifically, the potential for significant adverse impacts were identified for the following lane groups: (1) the eastbound left-turn/through/right-turn approach in the weekday AM and PM and Saturday midday peak hours, which would continue to operate at LOS F with an increase in delay exceeding three seconds in those three peak hours; (2) the southbound through/right-turn lane in the weekday PM peak hour, which would deteriorate from an acceptable LOS D to LOS E; and (3) the southbound through/right-turn lane in the Saturday midday peak hour, which would continue to operate at LOS F with an increase in delay exceeding three seconds.

The provision of the traffic mitigation measures has been incorporated into a Restrictive Declaration (the "Restrictive Declaration") that was executed on August 18, 2017 and recorded against the Project Site on September 6, 2017. The Restrictive Declaration restricts the manner in which the Project Site may be developed or redeveloped by requiring the Declarant to notify the New York City Department of Transportation ("DOT") prior to issuance of the first temporary or permanent certificate of occupancy for any portion of the Proposed Development. In consultation with DOT, the proposed traffic mitigation measures were deemed to be reasonable and appropriate. Consequently, no significant adverse impacts related to traffic would occur.

3. The (E) designation for hazardous materials, air quality, and noise would ensure that the Proposed Actions would not result in significant adverse impacts.
4. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the Proposed Actions, this revised Conditional Negative Declaration shall become null and void. In such event, the Applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

This revised Conditional Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

Should you have any questions pertaining to this Revised Conditional Negative Declaration, you may contact Christopher Lee of the Department of City Planning at (212) 720-3429.

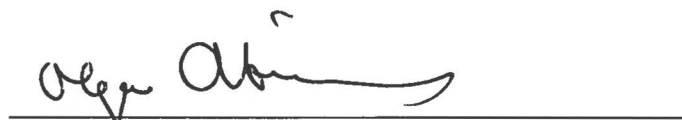
I, the Undersigned, as the Applicant or authorized representative for this proposal, hereby affix my signature in acceptance of the above conditions to the Proposed Actions.



Signature of Applicant or Authorized Representative

Date: October 13, 2017

David Karnovsky, Applicant's Representative
Name of Applicant or Authorized Representative



Olga Abinader, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: October 13, 2017



Marisa Lago, Chair
City Planning Commission

Date: October 16, 2017

EXECUTION COPY

REGULATORY AGREEMENT

by and among

PL SARA LLC

**HP PARK LANE SENIOR
HOUSING DEVELOPMENT FUND COMPANY, INC.**

and

NEW YORK STATE HOUSING FINANCE AGENCY

for

PARK LANE APARTMENTS

**Regulatory Agreement for HFA Multi Family Housing
Affordable Housing Revenue Bond Program
State of New York Mortgage Agency Mortgage Insurance
and Low Income Housing Tax Credits**

Dated as of March 31, 2022

Addresses: 1940 Turnbull Avenue
City of New York, Bronx County
Block: 3672
Lot: 30

Record and Return to:

Gerrald Ellis, Esq.
New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022
(212) 688-4000

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SCHEDULES & EXHIBITS

Schedule A	Legal Description of the Premises
Exhibit A	Unit Distribution and Maximum Permitted Gross Monthly Rents
Exhibit B	Project Services and Amenities Form

This **REGULATORY AGREEMENT** (“**Agreement**”) is entered into as of March 31, 2022, by and among **PL SARA LLC** (“**Beneficial Owner**”), a New York limited liability company with an address at c/o Asland Capital Partners LLC, 601 Lexington Ave, 52nd Floor, New York New York 10022; **HP PARK LANE SENIOR DEVELOPMENT FUND COMPANY, INC.** (“**Nominal Owner**” and together with the Beneficial Owner, collectively the “**Owner**”), a housing development fund company organized pursuant to Article XI of the New York State Private Housing Finance Law (“**PHFL**”) and Section 402 of the New York State Not-for-Profit Corporations Law, with an address at c/o Housing Partnership Development Corporation, 253 West 35th Street, 3rd Floor, New York, New York 10001; and the **NEW YORK STATE HOUSING FINANCE AGENCY** (“**Agency**”), a corporate governmental agency established pursuant to Article III of the PHFL, constituting a public benefit corporation, having its principal place of business at 641 Lexington Avenue, New York, New York 10022.

WITNESSETH:

WHEREAS, the Nominal Owner is the holder of the fee interest and the Beneficial Owner is the owner of all of the beneficial and equitable interest in certain real property located at 1940 Turnbull Avenue in the City of New York, Kings County, New York (the “**Premises**”), more fully described in Schedule A attached hereto, upon which the Beneficial Mortgagor shall complete the construction of one multi-family rental buildings containing 154 residential units, together with related site improvements, all collectively known as the Park Lane Apartments (the “**Project**”); and

WHEREAS, not less than one hundred percent (100%) of the Project’s revenue-generating units (i.e., 153 units) (the “**Low Income Units**”) will be set aside for tenants with household incomes at or below 50% of the Area Median Income for the New York, NY HUD FMR Area (“**AMI**”); and

WHEREAS, 47 of the Project’s units shall be set aside for formerly homeless seniors (the “**Supportive Units**”) and will receive supportive services from Selfhelp Community Services, Inc. (the “**Service Provider**”) pursuant to one or more contract(s) for the provision of such services (collectively, the “**Support Agreement**”), including rental subsidies between such Service Provider and the New York City Human Resources Administration (“**HRA**”) to be entered into prior to the occupancy of any unit in the Project; and

WHEREAS, the Beneficial Owner shall enter into an agreement with the Service Provider for the delivery of rental subsidy and supportive services to the tenants in the Supportive Units (the “**Services Contract**”); and

WHEREAS, pursuant to a Construction Loan and Project Loan Agreement (the “**Loan Agreement**”) dated as of the date hereof, the Project is to be financed in part by a mortgage loan from the Agency initially in the amount not to exceed Sixty Six Million Seven Hundred Thirty Thousand Dollars (\$66,730,000) (“**Mortgage Loan**”), which will be evidenced by a promissory note (the “**Note**”) and secured by a Mortgage, Assignment of Leases and Rents, and Security Agreement (the “**Mortgage**”) granted by the Owners in favor of the Agency, which will be recorded in the land records of the Office of the County Clerk of Bronx County; and

WHEREAS, the Agency has used a portion of the proceeds of its Affordable Housing Revenue Bonds, 2022 Series A (the “**Bonds**”) to fund the Mortgage Loan; and

WHEREAS, during the period of construction of the Project, the Mortgage Loan will be secured, inter alia, by an irrevocable, direct pay letter of credit (the “**LOC**”) issued by Goldman Sachs Bank USA (the “**LOC Bank**”), and the Agency will enter into a Servicing and Release Agreement dated as of the date hereof with the LOC Bank and the Beneficial Owner pursuant to which the Agency will designate the LOC Bank as the servicer of the Mortgage Loan during the construction period and delegate to the LOC Bank certain of its rights as mortgagee thereunder; and

WHEREAS, the State of New York Mortgage Agency (“**SONYMA**”) has issued its Commitment to Insure to provide a mortgage insurance policy (the “**SONYMA Mortgage Insurance Policy**”), which mortgage insurance policy will become effective pursuant to the terms set forth in the SONYMA Commitment; and

WHEREAS, the Low Income Units will receive rental assistance pursuant to a new Section 8 Project-Based Voucher Rental Assistance Housing Assistance Payments Contract (“**HAP Contract**”) between the New York City Housing Authority (“**NYCHA**”) and the Beneficial Owner; and

WHEREAS, simultaneously herewith, the Mortgagor will obtain additional financing for the acquisition and construction of the Project in the form of a subordinate loan from the City of New York, acting by and through its Department of Housing Preservation and Development (“**HPD**”) in the principal amount of \$10,538,477 (the “**HPD Loan**”) which HPD Loan will be evidenced by a promissory note and mortgage dated of even date herewith; and

WHEREAS, the Project is expected to benefit from a full real estate tax exemption under the New York City 420(c) Tax Incentive Program which will exempt the property from real estate taxes attributed to the value of the new improvements for the term of this Agreement; and

WHEREAS, the Agency has found and determined that the Project is to be occupied by persons or families of low income pursuant to the restrictions set forth in this Agreement; and

WHEREAS, the Agency is a credit administering agency under §42 of the Code, and the Agency has approved the allocation to the Beneficial Owner of low-income housing tax credits (“**LIHTC**”) pursuant to §42(h)(4) of the Code; and

WHEREAS, the Agency requires, as a condition of the issuance of the Bonds; financing of the Mortgage Loan and the Subsidy Loan, and the allocation to the Project of LIHTC, that the Owners agree to the restrictions running with the land and binding on all of their respective successors, assigns, heirs, grantees or lessees for the term of this Agreement as set forth herein, and the Mortgage, and that the Owners consent to be regulated by the Agency, as set forth herein, to: (i) preserve the tax-exempt status of the Bonds; (ii) meet the requirements of Section 44.29-a

of the PHFL; (iii) meet the requirements of §42 of the Code with regard to LIHTC; and (iv) ensure that other public benefit requirements are met;

NOW THEREFORE, the parties do hereby agree as follows:

1.0 DEFINITIONS

Except as otherwise defined herein, all capitalized words and phrases herein shall have the meanings assigned to such terms in the Mortgage and the Code. For general rules of interpretation, see Section 7.1. In addition, the following words and phrases as used in this Agreement shall have the following meanings:

“**Agency**” shall mean the New York State Housing Finance Agency.

“**Agreement**” shall mean this Regulatory Agreement.

“**Applicable Fraction**” shall have the meaning assigned in in §42(c)(1)(B) of the Code.

“**Area Median Income**” or “**AMI**” shall mean the area median gross income for the county or metropolitan statistical area in which the Project is located, as determined from time to time by the Secretary of the United States Department of Housing and Urban Development (“**HUD**”) as applicable pursuant to the Code; references to 60% of AMI shall mean amounts established by HUD constituting 120% of the Very Low Income Limit for HUD’s Section 8 programs. As used herein, AMI shall be deemed to be adjusted for family size in accordance with applicable income limits as published by HUD from time to time.

“**Beneficial Owner**” shall mean PL SARA LLC, its successors and assigns.

“**Beneficial Owner’s Tax Certification**” shall have the meaning assigned in Section 5.8(c).

“**Bonds**” shall have the meaning assigned in the recitals to this Agreement.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended, the Treasury Regulations and published administrative positions of the Internal Revenue Service set forth in Revenue Procedures, Revenue Rulings, and other Internal Revenue Service publications with binding authority applicable thereunder.

“**Compliance Period**” shall have the meaning assigned in Section 3.1.

“**Credit Period**” shall have the meaning assigned in Section 3.1.

“**Early Termination**” shall have the meaning assigned in Section 3.2(b).

“**Eligible Basis**” shall have the meaning assigned in Section 6.2(a)(7).

“**ELIHC**” shall have the meaning assigned in Section 3.2(a).

“**Event of Default**” shall have the meaning assigned in Section 2.1.

“**Extended Use Period**” shall have the meaning assigned in Section 3.2(b).

“**General Public**” shall have the meaning given in §1.42-9 of the Treasury Regulations, as clarified by §42(g) of the Code.

“**Governmental Entity**” shall have the meaning assigned in Section 5.6(b).

“**Gross Rent Floor**” shall have the meaning assigned in the Code.

“**Guidelines**” shall mean the Agency’s Fair Housing and Tenant Selection Guidelines, as the same may be amended from time to time.

“**HFA Mortgages**” shall have the meaning assigned in Section 2.1.

“**Individuals of Low Income**” shall mean individuals and families: (i) whose income is 60% or less of Area Median Income for purposes of §142(d)(2)(B) and §142(d)(3) of the Code and §1.103-8(b)(8)(v) of the Tax Regulations; and (ii) who are individuals of low income within the meaning of the New York State Housing Finance Agency Act, Article III of the PHFL.

“**Investor**” shall mean GSB LIHTC Investor LLC, a Delaware limited liability company, its successors and assigns.

“**LIHTC**” shall have the meaning assigned in the recitals to this Agreement.

“**Loan Agreement**” shall have the meaning assigned in the recitals to this Agreement.

“**LOC**” and “**LOC Bank**” shall have the meanings assigned in the recitals to this Agreement.

“**Low Income Units**” shall have the meaning assigned in Section 4.2(a).

“**Managing Member**” shall mean PL SARA Manager LLC, a New York limited liability company, its successors and assigns.

“**Mortgage**” and “**Mortgage Loan**” shall have the meanings assigned in the recitals to this Agreement.

“**Nominal Owner**” shall mean HP Park Lane Senior Housing Development Fund Company, Inc., its successors and assigns.

“**Note**” shall have the meaning assigned in the recitals to this Agreement.

“**Operating Agreement**” shall mean the Amended and Restated Operating Agreement of the Beneficial Owner dated as of the date hereof.

“**Organized Crime Figure**” shall have the meaning assigned in Section 5.6(b).

“**Owners**” shall mean, together, the Nominal Owner and the Beneficial Owner.

“**PHFL**” shall have the meaning assigned in the recitals to this Agreement.

“**Premises**” shall have the meaning assigned in the recitals to this Agreement.

“**Principal**” shall mean, collectively, James H. Simmons III; Lawrence J. Cohen; Jay Chazanoff; and David Goldban.

“**Prohibited Person**” shall have the meaning assigned in Section 5.6.

“**Project**” shall have the meaning assigned in the recitals to this Agreement.

“**Qualified Project Period**” shall have the meaning assigned in Section 3.1.

“**Rent Stabilization Law**” shall have the meaning assigned in Section 4.6(a).

“**Replacement Reserve Account**” shall have the meaning assigned in Section 5.3(a).

“**Replacements**” shall have the meaning assigned in Section 5.3(b).

“**Section 8**” shall have the meaning assigned in Section 3.1.

“**Service Provider**” shall have the meaning assigned in the recitals to this Agreement.

“**Services Contract**” shall have the meaning assigned in the recitals to this Agreement.

“**SONYMA**” shall mean the State of New York Mortgage Agency, its successors and/or assigns.

“**SONYMA Mortgage Insurance Policy**” shall have the meaning set forth in the recitals to this Agreement.

“**Support Agreement**” shall have the meaning assigned in the recitals to this Agreement.

“**Supportive Units**” shall have the meaning assigned in the recitals to this Agreement.

“**Transfer Fee**” shall have the meaning assigned in Section 5.5(d).

2.0 ENFORCEMENT

2.1 Incorporation in Mortgage and Termination of Agreement - This Agreement and the restrictions hereunder are hereby incorporated by reference into the Mortgage, whenever such mortgage is made in whole or part, so that an Event of Default (as defined herein) hereunder, after expiration of any applicable notice and cure periods, shall constitute an “**Event of Default**” under the Mortgage. For purposes of this Agreement, an “Event of Default” shall be deemed to have occurred if the Owners shall fail to observe any requirement or perform any obligation imposed on the Owners by this Agreement, and the Owners fail to cure such default within thirty (30) days after the Owners and the LOC Bank receive written notice of such default from the Agency, unless such default shall not be a willful default and can be cured but cannot by its nature be cured within such thirty (30) day period, in which case an Event of Default shall not be deemed to have occurred so long as the Owners, the LOC Bank, or the Investor commence such cure as soon as reasonably possible and proceed with due diligence to cure such default; provided, however, that in any case an Event of Default shall be deemed to have occurred (i) when and if interest on the Bonds shall be includable in gross income for federal income tax purposes or (ii) thirty (30) days before the Agency shall be required to commence foreclosure of the Mortgage in order to prevent interest on the Bonds from becoming includable in gross income for such purposes.

Except as limited in Section 3.2 hereof in regard to LIHTC, in the event of foreclosure or deed-in-lieu of foreclosure with respect to the Mortgage, this Agreement and the restrictions hereunder shall automatically terminate, provided the Bonds are redeemed at the first available call date.

However, if the obligor on the Mortgage Loan or a related person (within the meaning of §144(a)(3) of the Code) thereafter obtains, during the term of this Agreement (as determined by Section 3.1), an ownership interest in the Project for tax purposes, this Agreement shall be revived in full force and effect to the extent of the restrictions hereunder which affect the exclusion from federal income taxation of interest on the Bonds. In addition, this Agreement and the restrictions hereunder shall, in the Agency's sole discretion, cease to apply partially or entirely in the event of involuntary noncompliance caused by unforeseen events such as fire, seizure, requisition, condemnation, change in federal law, or action of a federal agency after the date of issue, which prevents the Agency from enforcing any restriction hereunder, provided the Bonds are retired at the first available call date.

2.2 Recording and Lien Provisions - The benefits and burdens of this Agreement shall run with the land and bind the respective interests of the Owners in the Project and the Premises as applicable. The Beneficial Owner, at its cost and expense, shall cause this Agreement to be duly recorded, filed, re-recorded, and refiled in such places as to the Premises, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations, as may be required by law in order to establish, preserve and protect the ability of the Agency to enforce this Agreement. At the request of the Owners, the Agency shall provide the Owners with an instrument executed in recordable form at such time as the term of this Agreement has expired and the obligations of the Owners have been satisfied, releasing the Owners and the land from this Agreement.

2.3 Remedies - The injury to the Agency arising from noncompliance with any of the terms of this Agreement would be great, and the effect of misrepresentations of fact and any violations by Owners of warranties and covenants under this Agreement would be irreparable, and the amount of consequential damage would be difficult to ascertain and may not be compensable by money alone. Therefore, upon the occurrence of an Event of Default, the misrepresentation of fact, or violation of any warranty or covenant under this Agreement by the Owners, after expiration of applicable notice and cure periods, if any, the Agency, at its option, may apply to any state or federal court, for specific performance of this Agreement, for an injunction against any Event of Default, noncompliance with or misrepresentation of fact under this Agreement, or for such other relief as may be appropriate in addition to its right to foreclose or require foreclosure of the Mortgage, entirely or partially, pursuant to the terms of the Mortgage. Noncompliance with any of the terms of this Agreement may jeopardize the tax-exempt status of the Bonds. The Agency is obligated to notify the Internal Revenue Service of non-compliance with this Agreement that results in noncompliance under the Code with respect to the LIHTC.

For purposes of this Agreement, the date of non-compliance or misrepresentation shall be the date of such non-compliance or misrepresentation was first discovered by the Owners or the Agency, or would have been first discovered by the Owners or the Agency by the exercise of reasonable diligence.

2.4 Indemnification

(a) The Beneficial Owner shall indemnify and hold the Agency harmless from and against any and all claims, demands, liability, loss, cost or expense (including but not limited to documented attorney fees and other costs of litigation) which may be incurred by the Agency arising out of or in any way related to the Beneficial Owner's breach of any of its obligations under this Agreement or any action (other than willful misconduct, fraud, or gross negligence on the part of the Agency) taken by the Agency to enforce or exercise its rights under this Agreement as a result of such breach. The obligations under this Section shall survive the termination or expiration of this Agreement as necessary to effectuate its provisions. This indemnity is not a guarantee of any portion of the Mortgage Loan.

(b) Any subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior owner (including the Beneficial Owner) under this Agreement, including but not limited to any payment of any indemnification obligation. Notwithstanding the prior sentence, neither the LOC Bank or SONYMA, or their respective nominees, successors and/or assigns in the event of foreclosure or deed-in-lieu of foreclosure of the Mortgage nor any purchaser of the Project in connection therewith, shall be liable or obligated for the breach or default of any obligation of any prior owner (including the Beneficial Owner) under this Agreement, however, the owner of the Project at the time the default or breach occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to hold an ownership interest in the Project.

3.0 TERM

3.1 Term of Agreement - The term of this Agreement shall commence on the execution and delivery hereof, irrespective of when or if the Mortgage Loan is actually made, and shall extend through a period (“**Qualified Project Period**”) which shall commence immediately and shall end on the latest of the following:

- (a) the date which is fifteen (15) years after the date on which 50% of the residential units in the Project are first occupied;
- (b) the first date on which no Bonds (and no other private activity bonds relating to the Project) are outstanding;
- (c) if applicable, the date on which any project based assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 (“**Section 8**”) terminates;
- (d) the date on which the Mortgage Loan is no longer outstanding;
- (e) the end of a period (the “**Compliance Period**”) consisting of fifteen (15) taxable years of the Beneficial Owner commencing with the first taxable year of the credit period (“**Credit Period**”) as defined in §42(f)(1) of the Code with respect to any building in the Project;
- (f) the expiration or earlier termination of the Extended Use Period, as defined in Section 3.2 (b), below; or
- (g) forty (40) years from the date that at least 50% of the Low Income units have been occupied by a qualified tenant.

Additionally, as provided in Section 3.2 hereof, certain provisions of this Agreement shall continue in effect beyond the end of the Qualified Project Period. The Beneficial Owner acknowledges that the Qualified Project Period and other periods required by this Agreement may represent a longer period than that which would otherwise be required by the Code to ensure the tax-exempt status of the Bonds or the allowance of LIHTC or any property tax exemption.

3.2 Special Rules for Tax Credits

(a) This Section 3.2, together with such other provisions of this Agreement as are necessary to give effect to and enforce the provisions hereof, constitute an “extended low income housing commitment” (“**ELIHC**”) in accordance with the requirements of §42(h)(6)(B) of the Code, arising from an election by the Beneficial Owner to accept the benefits of LIHTC and the Agency financing in relation to the Project. Failure to comply with the provisions of the ELIHC shall be an Event of Default under this Agreement and thereby the Mortgage, and the Agency or its successors may exercise any of the remedies available hereunder or thereunder. Furthermore, the Agency may seek specific performance of the ELIHC by the Beneficial Owner or any successor in interest thereto, without declaring an Event of Default pursuant to the Mortgage and without waiving any remedies under the Mortgage, by filing an action in any court of competent

jurisdiction in the State of New York. Any existing, past or prospective tenant of the Project who qualifies, qualified or would qualify as a low income occupant pursuant to §42(g) of the Code is hereby expressly agreed to be a beneficiary of this ELIHC and may apply to any court of competent jurisdiction in the State of New York for specific performance of any provisions of the ELIHC, notwithstanding any action that may or may not be taken by the Agency.

(b) The ELIHC shall begin on the first day of the Compliance Period and remain in effect until twenty five (25) years after the end of the Compliance Period (“**Extended Use Period**”) except that the Extended Use Period will terminate earlier (“**Early Termination**”) on the date of foreclosure of the Mortgage or deed-in-lieu of foreclosure (unless such events are part of an arrangement with the Beneficial Owner to cause an early termination as determined by the Internal Revenue Service). The Extended Use Period will not be subject to Early Termination pursuant to §42(h)(6)(E)(i)(II) of the Code.

(c) Notwithstanding anything herein to the contrary, the terms of this Agreement necessary to effectuate the terms and conditions of this Section 3.2 shall continue through the expiration of this Agreement or Early Termination.

(d) During the Extended Use Period:

(1) except as provided in Section 4.2 of this Agreement, all of the Low Income Units shall be occupied or available for occupancy by qualified families or individuals earning not more than 50% of AMI and shall be in accordance with Exhibit A, attached hereto. In addition, 47 of the Low Income Units shall be reserved as the Supportive Units;

(2) the Rents (as defined in Section 4.3, below) payable by such qualified families or individuals for the Low Income Units, as adjusted by utility allowances and any rental subsidies approved by the Agency in accordance with the Code, shall not be more than 30% of the applicable AMI for such Low Income Units, each adjusted for family size as follows: (i) for studio or efficiency apartments having no separate bedrooms, the designated family size shall be a 1-person family; and (ii) for apartments containing at least one bedroom, the designated family size shall be equal to 1.5 times the number of bedrooms;

(3) no portion of any building in the Project shall be disposed of to any person unless all of such building is disposed of to such person;

(4) the Beneficial Owner shall not refuse to lease to a holder of a voucher or certificate of eligibility under the Section 8 program because of the status of the prospective tenant as such a holder;

(5) during the Extended Use Period and for the three (3) year period following an Early Termination:

(A) no existing tenant (i.e., the tenant occupying the respective Low Income Unit during the Extended Use Period, or upon the occurrence of an Early

Termination of the Extended Use Period) may be removed whether by eviction, expiration of lease, or for any reason other than good cause; and

(B) no rents for any Low Income Unit occupied by such existing tenant may be increased, except as permitted under §42 of the Code; and

(6) the Applicable Fraction for the Project with respect to LIHTCs shall be 100% or such other amount as determined by the Agency upon the issuance of the Form 8609 (the Low Income Housing Tax Credit Allocation Certification).

4.0 TENANTS AND LEASES

4.1 Rental Restrictions - Once available for occupancy, each residential unit (other than any unit approved by the Agency for occupancy by a superintendent) must be rented or available for rental on a continuous basis to members of the General Public and occupied by individuals or families as their residence. No portion of the Project and none of the units in the Project will, at any time during the term of this Agreement, be used on a transient basis, for example, as a trailer park or trailer court or a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium or rest home. Use on a transient basis shall mean the rental of units for an initial lease term of less than 12 months.

4.2 Low Income Occupancy Requirements

(a) Continuously during the term of this Agreement, all of the Low Income Units shall be occupied or, once having been so occupied, held available for occupancy by Individuals of Low Income as further described in Exhibit A.

In accordance with Treasury Regulation §1.103-8(b)(8) and for LIHTC purposes, in accordance with Treasury Regulation §1.42-5(b)(1)(vii) and Internal Revenue Notice 88-80, families of low income shall be determined in a manner consistent with determinations of "lower income families" under Section 8 (or if such program is terminated, under such program as was in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

In accordance with procedures established by the Agency, the Beneficial Owner shall take reasonable steps to verify the low or moderate income status of all families or individuals who occupy the Low Income Units.

(b) A Low Income Unit shall continue to be treated as such, notwithstanding any increase in the income of the occupant of such Low Income Unit except as provided in the next sentence. Any Low Income Unit in which the aggregate income of the occupants as of the most recent annual recertification (as described in the Code) exceeds 140% of the applicable income limit (i.e., 140% of 60% of AMI or 140% of 40% of AMI, as applicable) shall not be treated as a Low Income Unit if after such determination but before the next determination, any residential unit of comparable or smaller size in the same building is occupied by a new resident whose income exceeds the applicable income limit. Occupancy of a unit shall refer to the date that the

tenant has possession of the unit and the right to occupy such unit pursuant to a fully executed lease.

(c) In addition, the Supportive Units will be reserved for occupancy by tenants who are eligible to receive supportive services from the Service Provider pursuant to the Support Agreement and the Service Contract. In the event that, for a period of 90 days or more, (i) any Supportive Unit is vacant due to the failure of Service Provider to refer an eligible tenant and the Service Provider is not paying rent with respect to such vacant unit, (ii) if applicable, the Service Provider fails to make any required rent subsidy payment with respect to a Supportive Unit, in each of (i) and (ii) in accordance with the Services Contract and the Support Agreement; or (iii) any funding with respect to the provision of the applicable support services and/or rent subsidy, as applicable, is no longer available, then such unit shall no longer be a Supportive Unit (but shall continue to be a Low Income Unit) and the number of Supportive Units hereunder shall be applicably reduced. Nothing in this Section 4.2(c) shall be construed to permit displacement or termination of any existing tenancy other than for good cause pursuant to the terms of any applicable lease.

4.3 Low Income Unit Rents, Fees and Charges

(a) The annual rents for the Low Income Units shall not exceed 30% of the applicable AMI band as set forth in Exhibit A, in each case adjusted for the number of individuals occupying the unit, as follows: for studio or efficiency apartments having no separate bedrooms, the designated family size shall be a 1-person family; and for units having one or more separate bedrooms, 1.5 individuals for each separate bedroom. “Rent” for purposes of this Section 4.3 and Section 3.2(d)(2): (A) does not include (i) any payment under Section 8 or any comparable rental assistance program, or (ii) any fee for supportive services and/or rental assistance provided on behalf of supportive housing tenants paid to the Beneficial Owner, and (B) does include: (i) any utility allowance determined by the Secretary of Housing and Urban Development as may be adjusted by the Agency, or (ii) the cost of any utilities that would be covered by such utility allowance, as determined by the Agency, if the units were receiving Section 8 assistance, to the extent such costs are payable by the tenant.

(b) Pursuant to the Code, the rents for Low Income Units shall be based on the applicable AMI, and, subject to the provisions of Section 7.14 with respect to the Supportive Units, they may be adjusted upward for inflation annually pursuant to the calculations of AMI made by HUD in accordance with the Code, but in no case shall the rents for the Low Income Units be adjusted downward. For example, if the AMI calculations in effect on the date hereof were to form the basis for setting maximum permitted rents, then such maximum rents would be as set forth at Exhibit A.

Further, the maximum rents will be reduced by a utility allowance, if applicable, which may be revised annually. The Beneficial Owner shall review the utility allowance annually pursuant to the provisions of Treasury Regulation §1.42-10(c)(2). Accordingly, each January the Beneficial Owner shall submit to the Agency documentation satisfactory to the Agency of any utility estimates, usage, cost projections and proposed utility allowance with respect to units in the building for the upcoming year. Based thereon, in accordance with the Code, the Agency shall

approve the proposed utility allowance or determine the appropriate utility allowance applicable to the units in the building for such period. The Beneficial Owner's failure to provide such information on a timely, annual basis, to the satisfaction of the Agency, may result in the Agency delaying or denying a change in Low Income Unit rents, and may constitute noncompliance with applicable requirements of the Code

(c) The Beneficial Owner shall not impose fees and charges upon the tenants of Low Income Units without the prior written consent of the Agency, except for the following: (1) a late payment charge not to exceed \$25.00 if rent is paid after the 10th day that the rent of such tenant is due; and (2) a bounced check fee not to exceed the actual fee charged by the bank.

4.4 Lease Provisions for Low Income Units - Tenant leases for Low Income Units shall be for terms of at least one year and shall be expressly subordinate to the Mortgage. In a separate rider acceptable to the Agency the lease shall state that: (i) the lease shall be terminated and the tenant may be evicted for failure to qualify pursuant to the income standards for that unit if a tenant has falsely certified household income or household composition; (ii) false certification constitutes material noncompliance under the lease; (iii) tenants shall be obligated to provide income certification, and any additional recertifications of income as the Agency and/or the Beneficial Owner shall require; (iv) in the event the unit is not receiving a Federal Section 8 subsidy, the Beneficial Owner's right to increase rent for an existing tenant over the amounts provided in Section 4.3(b) hereof upon the conclusion of the Qualified Project Period shall be conditioned upon the Beneficial Owner meeting the requirements of §42 of the Code as referenced in Section 3.2 hereof and the Beneficial Owner furnishing such tenant with a notice at least six months prior to such increase in a form acceptable to the Agency, and that if such notice is not given, such tenant shall be entitled to lease renewals at the rents provided for in Section 4.3(b) until such notice has been given and six months has elapsed; (v) subletting and the tenant's assignment of the lease shall be prohibited; and (vi) the Agency and its representatives or agents shall have the right to inspect such unit for the purpose of fulfilling the Agency's responsibilities under the Code. The form of lease to be utilized by the Beneficial Owner for each of the Low Income Units shall be subject to the Agency's prior written approval. Failure to utilize an approved form of lease for such units shall subject the Beneficial Owner to a penalty equal to one month's rent for each affected unit.

4.5 Fair Housing Marketing Guidelines - The Beneficial Owner shall, no less than 180 days prior to the first occupancy of the Low Income Units, submit to the Agency for its approval a marketing and tenant selection plan that is in compliance with the Agency's affirmative fair housing marketing guidelines. Such marketing plan shall specifically describe the method of marketing to and selection of tenants for the Low Income Units. No marketing or selection of tenants for any of the Low Income Units shall be commenced prior to the approval of the Agency of the marketing and tenant selection plan. The Beneficial Owner will notify the Agency in writing of the date on which it intends to commence marketing and shall have such pre-occupancy meetings with the Agency as the Agency shall require. In addition, prior to the initial marketing of any units in the Project, the Beneficial Owner shall submit to the Agency for its records a copy of any proposed advertisement or other form of marketing of such units.

4.6. Rent Stabilization Law – With respect to Rent Stabilization, the terms and provisions of that certain Regulatory Agreement dated as of the date hereof by and among the Owners and HPD shall govern and control.

5.0 OPERATING RULES

5.1 Project Restrictions – The Project shall constitute a qualified multi-family residential rental project on a stand-alone basis within the meaning of §142(d) of the Code and will be used for such purposes during the term of this Agreement. The Agency shall require that at least 40% of the Project’s revenue generating units shall be set aside for tenants whose household income does not exceed 60% of AMI at initial occupancy, and 100% of the Project’s revenue-generating units shall be set aside for tenants whose household maximum does not exceed 80% of AMI at initial occupancy as further set forth in Exhibit A.

The Beneficial Owner warrants that the Project will be completed with due diligence substantially in accordance with building plans and specifications approved by the Agency for the Project and change orders approved by the Agency, to the extent approval of such change orders is required. The Project consists of a building or structure or several proximate buildings or structures which are located on a single tract of land or contiguous tracts of land with or without facilities directly related and essential thereto. The term “tract” means any parcels of land which are contiguous except for the interposition of a road, street, stream or similar property. Parcels are contiguous if their boundaries meet at one or more points. Pursuant to the plans and specifications and any change orders, all of the units in the Project have been or will be similarly constructed or rehabilitated, as applicable. The Beneficial Owner (or a party related to the Beneficial Owner) shall not occupy a unit in a building or structure unless such building or structure contains more than four units. All of the units in the Project shall contain within the unit complete living, sleeping, eating, cooking and sanitation facilities, all of which are separate and distinct from other units. In addition, the Project shall contain such other services and amenities as described in Exhibit B, attached hereto. All facilities used in connection with the Project are: (i) located on the Premises, (ii) solely for the benefit of tenants of the Project, and (iii) of a character and size commensurate with the needs of such tenants. Beneficial Owner shall use its best efforts to ensure that handicapped or disabled individuals in the Project are afforded equal access to such facilities.

5.2 Low Income Unit Requirements - The Low Income Units shall constitute all units in the Project, except for one (1) non-revenue superintendent’s unit. To ensure that the Low Income Units are occupied by households of an appropriate number of individuals, the Beneficial Owner shall comply with the following standard for occupancy upon initial rental or re-rental of such units, or such smaller number if so required by local zoning or building department authorities or other governmental regulatory restriction. In addition, the Low Income Units shall be occupied as follows:

Number of Bedrooms	Number of Persons
Studio	1-2
1 Bedroom	1-2

5.3 Replacement Reserve Account

(a) The Beneficial Owner shall establish a replacement reserve account that shall be held and controlled by the Agency, to be known as the **"Replacement Reserve Account."** Commencing at the earlier of (i) the first day of the month following the month in which 90% occupancy is achieved, (ii) the date on which the SONYMA Mortgage Insurance Policy becomes effective, or (iii) the date on which the first amortization payment on the Mortgage Loan becomes due, and on the first day of each month thereafter for so long as this Agreement is in effect, the Beneficial Owner shall deposit in the Replacement Reserve Account the amount of \$3,188 per month (i.e., \$250 per unit per year). Said amounts may be reduced (not below zero) by the amounts required to be deposited by the Beneficial Owner into any replacement reserve account required to be maintained by any agreement with the LOC Bank. All interest earned on funds in the Replacement Reserve Account shall remain on deposit in the Replacement Reserve Account. The Agency shall not be responsible for any losses resulting from the investment of the Replacement Reserve Account or obtaining any specific level or percentage of earnings on such investment.

(b) The amount of monthly payments to the Replacement Reserve Account shall remain constant, until and unless revised in the reasonable discretion of the Agency based on (i) the results of the physical needs assessment report as described in subsection (c) below, (ii) the Project's history of repairs, (iii) the existing physical condition of the Project, or (iv) other factors deemed reasonably relevant by the Agency. Upon Beneficial Owner's written request, in accordance with the Agency's requirements, the Agency shall disburse to the Beneficial Owner within a reasonable period of time, in a manner reasonably determined by the Agency, such amounts from the Replacement Reserve Account as may be necessary to reimburse or pay the Beneficial Owner for the actual approved cost of repairing and/or replacing building systems, equipment and other items of a capital nature, including, without limitation, the repair or refurbishing of common areas, required for the proper operation and marketing of the Project, or to remedy a situation deemed to be of an emergency nature ("**Replacements**"). No such disbursements shall be made, however, prior to the fifth (5th) anniversary of the date that deposits begin to be made by the Beneficial Owner into the Replacement Reserve Account. The Agency may require Beneficial Owner to reimburse into the Replacement Reserve Account the amount of any such disbursement, over a reasonable period of time to be determined by the Agency.

In no event shall the Agency approve or make any payment of funds from the Replacement Reserve Account unless such work and or materials have been performed or installed, as applicable and same has been approved by the Agency, which approval shall not be unreasonably withheld. If at any time the funds deposited in the Replacement Reserve Account are or will be insufficient to maintain the Replacement Reserve Account at a satisfactory level, as reasonably determined by the Agency, the Beneficial Owner, upon notification, shall at such times as may be designated by the Agency, deposit into the Replacement Reserve Account an amount determined by the Agency as reasonably necessary to restore the account to a sufficient level. The interest earned in the Replacement Reserve Account will remain in the Replacement Reserve Account, and will not be used to offset any required payments by the Beneficial Owner into the Replacement Reserve Account.

In no event shall the Agency be obligated to approve the disbursement of funds from the Replacement Reserve Account if an Event of Default has occurred (as said term is defined in the Mortgage and as referred to herein) and is continuing under this Agreement or the Loan Documents, or if an act, event or condition shall have occurred and then be existing as of that date, which solely with notice or lapse of time, would constitute an Event of Default under this Agreement or the Loan Documents (as such term is defined in the Mortgage). Notwithstanding the above, if an Event of Default has occurred, for so long as the LOC is outstanding, the LOC Bank may request the Agency in writing to release funds from the Replacement Reserve Account for Replacements and thereupon such funds shall be disbursed.

(c) No earlier than the first day of the first month following the tenth anniversary of the date of the Mortgage and on each tenth anniversary thereafter during the term of the Mortgage Loan, the Beneficial Owner shall engage a licensed independent engineer or architect, acceptable to the Agency, to perform a physical needs assessment of the Project. The physical needs assessment shall be performed at the expense of the Beneficial Owner, which expense shall be reimbursable from the Replacement Reserve Account. At the discretion of the Agency, after review of the physical needs assessment report, the Beneficial Owner's required monthly payment to the Replacement Reserve Account may be adjusted within 90 days following the Agency's receipt of the physical needs assessment report so that the amount in the Replacement Reserve Account will, in the Agency's reasonable determination, be sufficient to pay for required Replacements as identified in said assessment. The Agency agrees that it shall exercise reasonable judgment as a prudent lender in determining such increases for required Replacements.

(d) Upon expiration of the Compliance Period, fifty percent (50%) of the remaining balance of any operating reserve for the Project as may be required pursuant to the Operating Agreement or by HPD shall be disbursed to the Beneficial Owner. The remaining fifty percent (50%) balance shall remain in the operating reserve account.

5.4 Project Management

(a) The Beneficial Owner shall not employ or otherwise use or retain a management entity for the Project other than Grenadier Realty Management LLC without the Agency's prior approval of such management entity and the terms of its retention including compensation, which approval shall not be unreasonably withheld. Any renewal or termination of the management entity's employment shall be subject to the Agency's approval, which approval shall not be unreasonably withheld. If the Beneficial Owner shall also retain a leasing/rental agent, other than the management entity, such leasing/rental agent shall be subject to the Agency's approval, and may not be replaced without the Agency's prior approval, which approval shall not be unreasonably withheld. If the Beneficial Owner retains a management entity without having first received approval of the Agency, the Beneficial Owner will be subject to a monetary penalty equal to the lesser of (i) the amount of the monthly management fee paid to the unapproved agent, or (ii) \$20,000, which amount shall be assessed initially and for each month such agent is in place without Agency approval.

(b) The Agency reserves the right to review the performance of the management entity. If the Agency notifies the Beneficial Owner of reasons for which it is not satisfied with the

management of the Project, including but not limited to the failure to maintain the property or books and records of the Project, the Beneficial Owner shall cure such condition, or cause the management entity to cure such condition, in a period of time not to exceed 30 days, provided that said time period may be extended for a reasonable period of time if Beneficial Owner is diligently and expeditiously seeking to cure such condition so long as such condition is curable in the Agency's reasonable judgment, or if such condition is not curable, Beneficial Owner shall engage a management entity subject to approval by the Agency. The Beneficial Owner shall not thereafter employ or otherwise use or retain any management entity for the property or any part thereof, without having first obtained the Agency's written approval of such management entity and the agreement setting forth all the terms of such employment or retainer including compensation. The management agreement shall contain a provision that it is subject to termination upon written request by the Agency in accordance with the provisions hereof. The Beneficial Owner shall submit to the Agency such information as the Agency reasonably requires in order to review the background and qualifications of the new management entity, including proof of a valid New York State real estate broker's license, and corporate/individual/principal financial statements in a form acceptable to the Agency. If the Beneficial Owner has not engaged a replacement management entity acceptable to the Agency within 30 days in accordance with the provisions of this Section 5.4(b), or if there has been noncompliance hereunder which remains uncured for more than 30 days after notice provided by the Agency to the Beneficial Owner, the Agency may act as the management entity or unilaterally appoint a management entity. In this case, the Beneficial Owner shall be obligated to pay a management fee to the Agency or the Agency-appointed entity, respectively, in the amount equal to the fee paid including accrued incentive payments, if any, to the preceding management entity.

(c) Notwithstanding the provisions of Section 5.4(b) above, in the event there is a need to replace the management entity due to premature termination or otherwise, which requires immediate temporary replacement of the management entity before approval can be obtained from the Agency, Beneficial Owner may employ a replacement management entity, provided the agreement for such employment is terminable upon receipt by Beneficial Owner of written notice that said management entity is not acceptable to the Agency.

(d) The Agency reserves the right to review the performance of the leasing agent and may require the removal and replacement of such agent in a manner similar to the provisions set forth in subsections (b) and (c), above, except that the Agency shall not act in the capacity of leasing agent.

5.5 Change of Principals and Transfer Restrictions

(a) As used in this Section 5.5, the term "transfer" shall include any sale, transfer, assignment or other conveyance, provided, however, that the meaning of the term "transfer" shall not include a mortgaging of the Property.

(b) In addition to the restrictions on conveyance of the Development and the Premises as set forth in the Mortgage, neither the Beneficial Owner, the Managing Member, nor the Nominal Owner shall transfer the Premises, the Project, or any part of either, without the prior written consent of the Agency which consent shall not be unreasonably withheld or delayed. Any transfer

or attempted transfer of the Project or any part thereof made without such consent of the Agency shall be null and void *ab initio*.

(c) No consent of the Agency shall be required for the transfer of any direct or indirect ownership interest in the Beneficial Owner or the Managing Member, provided that after giving effect to such transfer: (i) there shall not be a change of direct or indirect control of the Beneficial Owner, the Managing Member, or, any Principal which is not an individual; (ii) there shall not be a change of (x) more than 10%, in the aggregate, of the respective direct or indirect ownership interests in the Beneficial Owner or of the Managing Member, or (y) more than 50% of any Principal which is not an individual; and (iii) one or more of the Principals shall retain the day to day management and control of the Beneficial Owner and the Project.

(d) Notwithstanding any other provision of this Agreement, the following additional transfers of direct or indirect interests in the Beneficial Owner shall be permitted without the prior written consent of the Agency, provided that one or more of the Principals, directly or indirectly maintains all operational and managerial control of the Beneficial Owner, and, in each case, the Beneficial Owner shall give the Agency prompt written notice thereof:

(1) any transfer to an entity wholly owned and controlled by one or more of the Principals;

(2) a transfer by the Investor to (A) a nationally recognized entity regularly engaged in the syndication of LIHTC or a subsidiary of the same organized to hold such ownership interests, if (i) such transfer is in connection with the syndication of the Project's LIHTC; and (ii) such entity is not a Prohibited Person as such term is defined in Section 5.6 below, and (iii) such entity does not have the immediate or conditional right to exercise operational, managerial and financial control of the Owner and the Project; or (B) to an affiliate of the Investor which is an entity primarily engaged in the purchase and syndication of LIHTC, provided that such entity is not a Prohibited Person, and the terms of the Operating Agreement shall remain in effect; or

(3) transfers by operation of law or, in the case of any Principal who is a natural person, transfers resulting from the death or incapacity of such person.

(e) The Beneficial Owner and the Nominal Owner each represents and warrants that as of the date of this Agreement (i) it intends to own the Project for a long-term holding period commencing on the date hereof and extending through a period ending on the date which is a minimum of ten (10) years after the date when at least 50% of the units in the Project have received a temporary certificate of occupancy (or local equivalent) and at least one unit is actually occupied ("**Long Term Holding Period**") and (ii) the Beneficial Owner has no present intent to transfer direct or indirect ownership or control of the Project. In connection with its consent to any transfer, as required by this Section 5.5, the Agency will charge the Beneficial Owner a fee of one-half of one percent (0.5%) of the then outstanding principal amount of the Mortgage Loan ("**Transfer Fee**"); provided, however, that if the proposed transfer occurs during the Long Term Holding Period, then in lieu of a Transfer Fee the Agency will charge an assumption fee ("**Assumption Fee**") based on the then outstanding principal amount of the Mortgage Loan as follows:

Up to and including Year 1	7.0%
Year 2	6.0%
Year 3	5.0%
Year 4	4.0%
Year 5	3.0%
Year 6	2.0%
Year 7	2.0%
Year 8	2.0%
Year 9	1.0%
Year 10	1.0%

(f) In the event a transfer which requires Agency consent has occurred without the prior consent of the Agency, then in addition to the applicable Assumption Fee or Transfer Fee, the Beneficial Owner will be subject to a penalty of the greater of (i) an additional one percent (1.0%) of the then outstanding principal balance of the Mortgage Loan, or (ii) \$10,000. The Agency agrees that it will not charge the Beneficial Owner the Transfer Fee or Assumption Fee in connection with any transfers that do not require the Agency's consent under Section 5.5(c) above, however, the Agency reserves the right to charge Beneficial Owner for any reasonable related out-of-pocket expenses and such other fees as the Agency, in its reasonable discretion, may deem appropriate for such transfers.

(g) The Beneficial Owner shall, within five (5) days after request of the Agency, furnish to the Agency the names of the officers, directors, members, partners and shareholders of Beneficial Owner or the Nominal Owner, together with such additional information as the Agency shall request with respect to such persons.

(h) Notwithstanding any other provision of this Agreement, in no event shall any conveyance of the Project or the addition or substitution of any membership interests in the Beneficial Owner, or of any other person or entity directly or indirectly holding an ownership interest in the Beneficial Owner, be permitted if such conveyance or addition or substitution shall cause the Beneficial Owner to become a Prohibited Person.

(i) Notwithstanding any other provision of this Agreement, at any time when both the Mortgage no longer encumbers any interest in the Project, or when none of the Bonds are outstanding, the Agency's consent shall not be required (and no assumption fee shall be charged by the Agency) with respect to any conveyance of any interest in the Project, or for any change in the ownership or control of any entity holding any interest in the Premises or the Project; provided that such conveyance or change does not cause the Premises or the Project to be owned by a Prohibited Person.

(j) The terms and conditions of this Agreement shall remain outstanding and enforceable against any new owner of the Project.

(k) The Beneficial Owner shall notify the Agency in writing, within thirty (30) days after the occurrence thereof, of: (A) any transfer of any direct ownership interest in Beneficial Owner or the Managing Member; or (B) any change in the Operating Agreement.

(l) Notwithstanding any other provision of this Agreement, the consent of the Agency shall be required (however, no Transfer Fee shall apply with respect to such consent) for the removal of the Managing Member in accordance with the provisions of the Operating Agreement, however, no consent shall be required if in connection with such removal the Managing Member's interest is transferred to an entity controlled by the Investor, provided that such entity has significant experience in the ownership and operation of comparable multi-family properties, and provided further that any subsequent replacement of the Managing Member shall be subject to the Agency's consent and any applicable fees hereunder.

5.6 Prohibited Persons - A "**Prohibited Person**" shall mean:

(a) any individual who has ever been convicted of a felony or any other crime involving moral turpitude, or is an Organized Crime Figure, as defined in Section 5.6(e) hereof, or is reputed to have substantial business or other affiliations with an Organized Crime Figure;

(b) any individual or entity against whom any action or proceeding is pending to enforce rights of any municipal, city, state or Federal government, or any agency, department, public authority, public benefit corporation or local development corporation thereof ("**Governmental Entity**") arising out of a contractual obligation to any such Governmental Entity;

(c) any individual or entity with respect to whom any notice of monetary default which remains uncured has been given by any Governmental Entity;

(d) any individual who is an officer, director, or otherwise exercises managerial discretion or has an ownership interest in excess of 25% in:

(1) the owner of any one or more dwelling(s) subject to New York State Multiple Residence Law, which dwelling, while under the ownership of the owner in which the individual is an officer, director, or otherwise exercises managerial discretion, has been declared a nuisance by the responsible department, and such nuisance has not been removed by the owner in the time specified in the notice or order declaring the dwelling a nuisance (as such terms are defined and used in New York State Multiple Residence Law);

(2) the owner of any one or more dwelling(s) subject to New York State Multiple Residence Law, with respect to which dwelling or combination of dwellings, on three distinct occasions, a tenant or tenants have withheld rent pursuant to a rent impairing violation having been noted in the official records of the responsible department, which violation the owner in which the individual is or was an officer, director, or otherwise exercises managerial discretion has failed to remove prior to that amount of time after which such failure permits a resident of such dwelling to legally withhold rent from the owner, and either no action to recover rent or possession has been brought by the owner,

or the resident has prevailed in such action (as such terms are defined and used in New York State Multiple Residence Law);

(3) the owner of any one or more dwelling(s) subject to New York State Multiple Dwelling Law, which dwelling, while under the ownership of the owner in which the individual is an officer, director, or otherwise exercises managerial discretion, has been declared a nuisance by the responsible department, and such nuisance has not been removed by the owner in the time specified in the notice or order declaring the dwelling a nuisance or fines and/or penalties have not been paid with respect thereto (as such terms are defined and used in New York State Multiple Dwelling Law);

(4) the owner of any one or more dwelling(s) subject to New York State Multiple Dwelling Law, with respect to which dwelling or combination of dwellings, on three distinct occasions, a tenant or tenants have withheld rent pursuant to a rent impairing violation having been noted in the official records of the responsible department, which violation the owner in which the individual is or was an officer, director, or otherwise exercises managerial discretion has failed to remove prior to that amount of time after which such failure permits a resident of such dwelling to legally withhold rent from the owner, and either no action to recover rent or possession has been brought by the owner, or the resident has prevailed in such action (as such terms are defined and used in New York State Multiple Dwelling Law); or

(5) any entity which has ever been, or whose principals have ever been, suspended, debarred, disqualified, found non-responsible, had its and/or their prequalification revoked or otherwise has been declared ineligible to do business with any Governmental Entity or which could be deemed non-responsible under New York law.

(e) An individual shall be deemed to be an “**Organized Crime Figure**” if he or she is alleged as such in writing by a private investigation agency and such allegation has been confirmed by any state or federal prosecutorial, investigative or regulatory agency or authority.

5.7 Changes to Structure of Beneficial Owner Entity - The Beneficial Owner may not materially modify, amend or otherwise materially change the terms of its organizational documents without the prior written approval of the Agency, which approval shall not be unreasonably withheld, except that the approval of the Agency shall not be required if such modification or amendment is for the purpose of substituting or admitting a member or partner, as applicable, of the Beneficial Owner in accordance with Sections 5.5 and 5.9 hereof. In any event, the Beneficial Owner shall provide the Agency with such documents with revisions indicated, within 30 days of the execution thereof.

5.8 General Tax Covenants; Use of Mortgage Proceeds; Other Restrictions - The Beneficial Owner and the Nominal Owner each covenants, each as to itself only, that it will not take any action, or fail to take any action, or make any use of the Project or the proceeds of the Bonds (including investment earnings), in a way which would adversely affect the exclusion of interest on the Bonds from federal income taxation under the Code. The Beneficial Owner further covenants and agrees that:

(a) No portion of the Mortgage Loan shall be used to provide any facilities other than the multi-family housing units and the portion of the Project which is functionally related and subordinate to such units.

(b) All certifications, representations and warranties made in the tax certification executed by the Beneficial Owner (“**Beneficial Owner’s Tax Certification**”), in connection herewith, as the same may have been amended and approved by the Agency, together with all supplements thereto and all disbursement certifications, except as so amended and approved by the Agency, are and will be true and correct. All such certifications, representations and warranties are hereby incorporated and repeated herein with full force and effect. Specifically and not by way of limitation, the Beneficial Owner warrants the accuracy of the schedules of costs included therein. The Beneficial Owner and Nominal Owner each agree to execute and deliver such amendments and supplements to this Agreement as are necessary to preserve the tax exempt status of interest on the Bonds.

(c) The Beneficial Owner and the Nominal Owner each covenants that it will comply with any use or occupancy requirement of any governmental entity providing any subsidy, tax abatement or regulatory approval for the Project, to the extent such requirements do not irreconcilably conflict with the requirements of this Agreement, the Mortgage or any rule, regulation or policy of any state or federal entity.

(d) In no event shall the Beneficial Owner, the Nominal Owner, or any Principal become the registered or beneficial owner of any of the Bonds.

5.9 SONYMA Restriction on Transfer – In addition to any other condition, requirement or restriction contained elsewhere in this Agreement, except as may be permitted pursuant to Section 5.5, above, the Beneficial Owner shall not convey, or further encumber, all or any part of the Project or the Beneficial Owner’s interest in the Project, or obtain additional secondary financing (other than as contemplated by the Mortgage), or transfer, assign or convey any of its membership, stock or membership interests, as the case may be, without the prior written consent of SONYMA.

6.0 REPORTING

6.1 Information and Project Reports

(a) The Beneficial Owner shall submit to the Secretary of the Treasury, at such time and in such manner as the Secretary shall prescribe, annual certifications as to whether the Project continues to meet the requirements of §142(d) of the Code. The Beneficial Owner is on notice that the Code provides that failure to comply will subject the Beneficial Owner to penalty as provided in §6652(j) of the Code.

(b) The Beneficial Owner covenants and agrees to submit to the Agency annually, or more frequently if required in writing by the Agency, reports detailing such facts as the Agency reasonably determines are sufficient to establish compliance with the restrictions contained

hereunder, including but not limited to monthly occupancy reports and annual certifications, in a form acceptable to the Agency, regarding tenant income qualification. The Beneficial Owner covenants and agrees to secure and maintain on file for inspection and copying by the Agency, for at least six (6) years after the later of (i) the due date (including any extensions) for any filings required to be made by the Beneficial Owner with the Internal Revenue Service or its successor agency for that year or (ii) the end of the Qualified Project Period, such information, reports and certifications as the Agency may from time to time require in writing. The Beneficial Owner further covenants and agrees to notify the Agency promptly if the Beneficial Owner discovers non-compliance with any restriction or covenant hereunder. The Agency agrees to notify the Beneficial Owner if the Agency discovers non-compliance with any restriction or covenant hereunder, but the Agency's failure to do so shall not affect the Beneficial Owner's obligations hereunder.

(c) The Beneficial Owner shall promptly furnish a copy to the Agency of each lease and Low Income Rider entered into for each Low Income Unit, together with a copy of each annual tenant income certification.

(d) Prior to issuance of the Internal Revenue Service Form 8609 with respect any building in the Project, the Beneficial Owner shall file with the Agency a certificate of actual cost, which shall be accompanied by a certification of an independent certified public accountant reasonably acceptable to the Agency. The independent certified public accountant shall certify, in a format reasonably satisfactory to the Agency, that the amounts claimed as costs are necessary and reasonable, and ordinarily within the scope of the Project. The Agency reserves the right to reject the certificate of actual cost if it is inconsistent with the required format or is otherwise unsatisfactory to the Agency. Additionally, upon completion of the Project, the Beneficial Owner shall also certify to the Agency, based upon a review of its books and records by such certified public accountant, that the Mortgage Loan proceeds have been spent in accordance with the Beneficial Owner's Tax Certification, as modified and approved by the Agency.

(e) From the date of the first rental of any unit in the Project and monthly throughout the term hereof, the Beneficial Owner shall submit to the Agency certifications (including a copy of the certification for any Section 8 eligible tenant) and reports of the Beneficial Owner's compliance with the requirements of this Agreement in such detail as may be required by the Agency. The Beneficial Owner shall notify the Agency of the date of the following within ten days of the date thereof: (i) the issuance of any certificate of occupancy including any temporary certificate of occupancy (or local equivalent); (ii) the rental of 50% of the units in the Project; and (iii) the rental of 80% of the units in the Project.

(f) The Beneficial Owner shall submit to the Agency within 90 days of the end of any other fiscal year, three copies of the Project's annual audited financial statements. The financial statements must (i) include a balance sheet, a statement of operations, income, and expenses, a statement of cash flows, and all related notes; (ii) be prepared in accordance with generally accepted accounting principles ("GAAP"); (iii) be presented in a two-year comparative format; and (iv) be accompanied by an opinion of an independent certified public accountant acceptable to the Agency stating that the financial statements were audited in accordance with GAAP. The Agency may require that the financial statements be prepared in a specific format which, where practical, will be provided to the Beneficial Owner in advance, and may require that certain

subjects be included in the notes to the financial statements. The Agency may require interim period financial statements, certified by an officer of the Beneficial Owner, which shall be submitted within 60 days of the date of request, unless prior to the expiration of the applicable period, Beneficial Owner has requested an additional thirty (30) day extension, which request shall not be unreasonably denied by the Agency.

(g) Commencing with the first month a unit has been occupied and thereafter during the term of this Agreement, the Beneficial Owner shall submit to the Agency, on or before the 20th day of each month (i) a cash flow statement and a schedule of accounts payable for the preceding month certified by an authorized representative of the Beneficial Owner. Such cash flow statement must also be prepared on a monthly basis as well as a cumulative basis (for all months which preceded it in the current fiscal year) for both budgeted and actual results and presented in a format reasonably acceptable to the Agency, and (ii) occupancy reports containing such information as reasonably required by the Agency. In addition, the Beneficial Owner shall submit to the Agency an annual occupancy report no later than March 1 of each year.

(h) Commencing with the first month a unit has been occupied and thereafter during the term of this Agreement the Beneficial Owner shall submit to the applicable oversight agency/ies any required documentation related to the monitoring of the Supportive Units. Any confidential patient data must be submitted in a secure format.

6.2 Monitoring and Recordkeeping Requirements

(a) The Beneficial Owner shall keep records for each building in the Project showing for each year in the Qualified Project Period (except where otherwise indicated):

(1) The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

(2) The percentage of residential rental units in the building that are Low Income Units;

(3) The rent charged for each residential rental unit in the building (including any utility allowance);

(4) The Low Income Unit vacancies in the building and information that shows when and to whom the next available originally designated Low Income Units were rented;

(5) The annual income certification of each tenant unless and until the Agency in its sole discretion waives the requirement to collect and preserve income certifications on an annual basis;

(6) Documentation to support the income certification made by each tenant of a Low Income Unit (for example, a copy of the tenant's federal income tax return, Form W-2, or verifications of income from third parties such as employers or state agencies

paying unemployment compensation), in accordance with Treasury Regulation §1.42-5(b)(1)(vii);

(7) The eligible basis as defined in §42(d) of the Code (“**Eligible Basis**”) and the qualified basis as defined in §42(c) of the Code of the building at the end of the first year of the Credit Period;

(8) The character and use of the nonresidential portion of the building, if any, included in the building's Eligible Basis (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the Project); and

(9) Such other information as the Agency may reasonably request from time to time.

(b) The Beneficial Owner shall retain the foregoing records for each building in the Project for at least six years after the due date (with extensions) for filing the Beneficial Owner's tax return for that year, except that the records for the first year of the Credit Period shall be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period.

(c) The Beneficial Owner shall certify in a sworn statement to the Agency, on the last business day of December of each year through and including the end of the Qualified Project Period, that, for the preceding 12 month period:

(1) The Project met the requirements of the 20-50 test under §42(g)(1)(A) of the Code or the 40-60 test (25-60 in New York City) under §42(g)(1)(B) of the Code;

(2) There was no change in the Applicable Fraction of any building in the Project, or that there was a change, and a description of the change;

(3) The Beneficial Owner has received an annual income certification from each tenant of the Low Income Units (unless the Agency in its sole discretion waives the requirement to collect and preserve income certifications on an annual basis) and documentation to support that certification, or a substitute permitted under Treasury Regulation §1.42-5(c)(1)(iii);

(4) Each Low Income Unit in the Project was rent-restricted under §42(g)(2) of the Code;

(5) All units in the Project were for use by the General Public, except for any superintendent's units, and are used on a non-transient basis, and there has been no finding of discrimination (as defined in Treasury Regulation §1.42-5(c)(1)(v)) with respect to the Project or, if there is or has been such finding, a copy of any such finding has been forwarded to the Agency. The Beneficial Owner shall retain an original or a copy of such finding, if applicable, for review by the Agency during the inspection of the Project;

(6) Each building in the Project was suitable for occupancy, taking into account local health, safety, and building codes applicable to the Project; or, if there have been any violations of such health, safety or building code, a copy of any notice or summons related thereto has been forwarded to the Agency with a description of the violation and a remedial action plan of the Beneficial Owner. The Beneficial Owner shall further indicate whether the violation has been corrected as of the time of certification or Beneficial Owner's estimate of the time frame necessary for correction. The Beneficial Owner shall forward a copy of the violation to the Agency and retain the original violation report for review by the Agency during the inspection of the Project. Such reports must be retained until the completion of the Agency's inspection of the Project following the correction of the violation;

(7) There was no change in the Eligible Basis of any building in the Project or, if there was a change, the nature of the change;

(8) All tenant facilities included in the Eligible Basis of any building in the Project, were provided on a comparable basis without charge to all tenants in the building;

(9) If any Low Income Unit became vacant during the year, reasonable attempts were or are being made to rent that unit to tenants having the applicable qualifying income before any units in the Project were or will be rented to tenants not having a qualifying income. In addition, if a Supportive Unit became vacant during the year, reasonable attempts were or are being made to rent such unit to a qualifying tenant in accordance with the Services Contract;

(10) An extended low-income housing commitment as defined in §42(h)(6)(B) of the Code was in effect with respect to the Project, which included the requirement under Code §42(h)(6)(B)(iv) that the Beneficial Owner cannot refuse to lease a unit in the Project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s;

(11) Each building in the Project complies with the requirements of the Code applicable to the Bonds;

(12) The Project has been and is in compliance with the Agency's Guidelines; the Beneficial Owner's marketing and tenant selection plan applicable to the Project, as filed with the Agency for its records, complies with the applicable rules as defined in the Agency's Guidelines, and there has been no finding of discrimination under any of such applicable rules, nor any complaint, investigation, administrative inquiry, or other action under such applicable rules, or, if there has been any such finding, complaint, investigation, administrative inquiry, or other action, Owner shall provide a listing and an explanation thereof;

(13) There were no findings of discrimination under the Fair Housing Act or, if there have been such findings, an explanation thereof;

(14) The Beneficial Owner has complied with all requirements of the LIHTC program, as the same may be amended or supplemented, and with any additional reporting requirements which the Agency may have imposed in order to monitor compliance therewith; and

(15) Such other matters as the Agency may reasonably request from time to time.

(d) Each year, during the term of this Agreement, the Beneficial Owner shall retain and make available for inspection and review by the Agency a copy of the annual income certification (unless the Agency in its sole discretion waives the requirement to collect and preserve income certifications on an annual basis) from each tenant and a copy of the documentation the Beneficial Owner has received to support that certification and such other information as the Agency deems necessary to comply with the monitoring requirements of §42 of the Code.

(e) The Agency shall have the right to perform audits of the Project through the end of the Qualified Project Period. For this purpose, an audit includes an inspection of any building in the Project, an inspection of any unit in the Project and a review of the records described in Section 6.2(a) above. The costs and expenses of any audit or inspection performed by Agency personnel shall be borne by the Agency. The Beneficial Owner shall be solely responsible for any costs incurred by Beneficial Owner or Beneficial Owner's consultants in connection with any such audit or inspection. However, in the event the Agency determines in its sole discretion that it is necessary to engage a third party to conduct such audit or inspection as a result of Beneficial Owner's failure to perform its obligations hereunder, then such expenses shall be borne by Beneficial Owner.

The Beneficial Owner shall use reasonable efforts to assist the Agency with obtaining access to any unit in the Project, shall accompany Agency representatives with such inspections, and shall include a provision in the lease rider to the effect that the tenant shall give the Agency, its representatives or its agents the right to enter and physically inspect such unit. If the Agency cannot obtain access to a sufficient number of Low Income Units required to fulfill its obligations under the Code, notwithstanding the good faith efforts of the Beneficial Owner to assist the Agency in obtaining such access, the Agency will be obligated to report such lack of access to the Internal Revenue Service as an incident of non-compliance with LIHTC regulations.

(f) The Agency shall provide prompt written notice to the Beneficial Owner if the Agency does not receive the certification described in paragraph (c) of this Section 6.2 or discovers on audit, inspection or review (or in some other manner) that the Project is not in compliance with the provisions of §42 of the Code. Additionally, the Agency shall file Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance, with the Internal Revenue Service no later than 45 days after the end of the correction period (which period shall commence on the date that the Agency notifies the Beneficial Owner of noncompliance pursuant to the preceding sentence and shall extend for 60 days thereafter, unless the Agency determines that there is good cause for granting an extension of the correction period, in which case the period may be extended by the Agency for up to six months).

(g) The Agency shall retain records of noncompliance or failure to certify for six years after the Agency's filing of the respective Form 8823. The Agency shall retain the certifications described in subsection 6.1(c) for three years from the end of the calendar year the Agency receives such certifications.

(h) It is expressly understood by the Beneficial Owner that the Agency's monitoring of the Beneficial Owner's compliance with the requirements of §42 of the Code does not and will not make the Agency liable in any manner whatsoever for any noncompliance with such requirements.

6.3 Late Filing Penalties - Unless otherwise specified herein, all reports, certifications or information required under this Article 6 shall be submitted to the Agency by the 20th day of the month following the month to which they relate, and shall be in a format reasonably acceptable to the Agency. The Agency shall notify the Beneficial Owner in the event it has not received any report required hereunder within fifteen (15) days of the date due (as such due date may be extended upon approval of the Agency). If Beneficial Owner fails to submit such delinquent report within five (5) business days after the date of such notice, the Beneficial Owner will be subject to a late filing fee equal to the lesser of (i) five percent (5%) of the then current monthly mortgage debt service obligation, or (ii) \$5,000, which amount will be assessed initially and for each succeeding month until such report is submitted. Notwithstanding the above, and with respect only to annual audited financial statements required pursuant to Section 6.1(f) above which have been granted a 30 day filing extension, failure to file such reports upon the expiration of such 30 day period (as such period may be further extended at the sole discretion of the Agency) will immediately, and without any notice required from the Agency, subject the Beneficial Owner to a late filing penalty equal to the lesser of (i) five percent (5%) of the then current monthly mortgage debt service obligation, or (ii) \$20,000, which amount will be assessed initially and for each succeeding month until such report is submitted.

6.4 Benchmarking Requirement - Beneficial Owner, at its own expense, shall contract with a benchmarking software provider capable of collecting automated energy usage data directly from utility companies, which shall include monthly and annual data on the heating, electric and water usage of the Project, and such additional information as may be reasonably required by the Agency, and report such information into the United States Environmental Protection Agency ENERGY STAR Portfolio Manager or other system as designated by the Agency, at such times and in such manner as may be required by the Agency. The Agency shall provide to the Beneficial Owner written instructions regarding implementation of this obligation, which instructions may be modified by the Agency from time to time in any manner which the Agency determines, in its sole discretion, as may be necessary in order to comply with applicable reporting requirements.

7.0 GENERAL PROVISIONS

7.1 Interpretation and Section Headings - In this Agreement:

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

(b) Unless the context otherwise requires, words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words defined in the singular have the same meaning when used in the plural and vice versa.

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

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

(e) All certifications, documents and instructions, including those regarding approvals, consents and acceptances, required to be given or made by any person or party hereunder shall be made in writing.

7.2 Parties Bound - This Agreement shall be binding upon the Beneficial Owner, the Nominal Owner and the Agency and any of their respective successors and assigns. Prior to any sale, transfer or other disposition of the Project, the Beneficial Owner and the Nominal Owner shall require the subsequent purchaser or transferee to assume in writing the Beneficial Owner's and Nominal Owner's obligations and duties under this Agreement and shall provide the Agency with a copy of such assumption. Such obligations and duties shall extend to the provisions that all partners and/or members or principals of the new owner shall also be bound hereby. Any sale, transfer or other disposition of the Project without such written assumption is null and void and not effective to result in the sale, transfer or other disposition of the Project or to relieve the Beneficial Owner or the Nominal Owner of obligations under this Agreement. The Beneficial Owner and the Nominal Owner acknowledge that to the extent controlled by the Beneficial Owner or the Nominal Owner or any of the purchasers, transferees, partners and/or members or principals of the new owner, it is intended that each person who is related to any party bound by this Agreement shall also be bound by this Agreement.

7.3 Compliance with Equal Opportunity Laws and Regulations - The Beneficial Owner and the Nominal Owner shall comply with all applicable state and federal laws and regulations regarding affirmative action, equal opportunity in employment and fair housing laws.

7.4 Governing Law - This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with and governed by the laws of the State of New York. In the event of conflict between the provisions of this Agreement and federal laws, regulations and requirements, the latter shall prevail.

7.5 Notices - All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or by Federal Express, United Parcel Service or equivalent package delivery service, or mailed by certified or registered mail, return receipt requested, to the parties hereto at the following addresses, or to such other place as the Agency or the Beneficial Owner from time to time designate in writing:

If to the Agency or HFA:

New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022
Attn: Senior Vice President, Finance and Development

with a copy to:

New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022
Attn: Deputy General Counsel

If to the Beneficial Owner:

PL SARA LLC
c/o Asland Capital Partners LLC
601 Lexington Ave, 52nd Floor
New York, New York 10022
Attn: James H. Simmons III

with copies to:

PL SARA LLC
c/o Pembroke Residential Holdings LLC
70 East 55th Street – 7th Floor
New York, New York 10022
Attn: David Goldban and Joshua Siegel

and:

Nixon Peabody LLP
55 West 46th Street, Tower 46
New York, New York 10036
Attn: Aaron Yowell, Esq.

and:

GSB LIHTC Investor LLC
c/o The Goldman Sachs Group, Inc.
200 West Street
New York, New York 10282-2198
Attn: Urban Investment Group Portfolio Manager

and:

gs-uig-docs@gs.com
gs-uig-portfolio-manager@gs.com

and:

Sidley Austin LLP
787 Seventh Avenue
New York, New York 10019
Attn: Steven C. Koppel, Esq.

If to the Nominal Owner:

HP Park Lane Senior Development Fund Company, Inc.
c/o Housing Partnership Development Corporation
253 West 35th Street, 3rd Floor
New York, New York 10001
Attn: President

With a copy to:

Housing Partnership Development Corporation
253 West 35th Street, 3rd Floor
New York, New York 10001
Attn: General Counsel

If to LOC Bank:

Goldman Sachs Bank USA
200 West Street
New York, New York 10282-2198
Attn: Urban Investment Group Portfolio Manager

with copies to:

gs-uig-docs@gs.com
gs-uig-portfolio-manager@gs.com

and:

Goldman Sachs Bank USA
c/o Goldman Sachs Loan Operations
2001 Ross Avenue
Dallas, Texas 75201
Attn: Urban Investment Group

and:

gs-loc-operations@gs.com

and:

Sidley Austin LLP
787 Seventh Avenue
New York, New York 10019
Attn: Aviva Yakren, Esq.

7.6 Waiver - No omission by the Agency or act of the Agency other than a writing signed by it waiving a breach by the Beneficial Owner shall constitute a waiver thereof. No such waiver of any breach shall be deemed a waiver of any other or subsequent breach or affect or alter this Agreement, which shall continue in full force and effect with respect to any other then existing or subsequent breach.

7.7 Severability - All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable or not entitled to be recorded, registered, or filed under applicable law. If any provision shall be held to be invalid, illegal or unenforceable, only such provision or part thereof shall be affected by such holding and the validity of other provisions of this Agreement and of the balance of any provision held to be invalid, illegal or unenforceable in part only, shall in no way be affected thereby, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or part thereof had not been contained therein.

7.8 Counterparts - This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be a duplicate original. All such counterparts shall constitute but one and the same instrument.

7.9 Agency Sign - Subject to compliance with local laws and codes, during construction or rehabilitation of the Project (as applicable) and for a period of up to six (6) months thereafter, Beneficial Owner shall at its own expense provide, erect, maintain, and insure a sign in a design format and of a size, materials and appearance required by the Agency, in a location at the Project site acceptable to the Agency, and stating that the Project has been financed by the Agency. If the Beneficial Owner uses a sign provided by the Agency, Beneficial Owner shall reimburse the Agency for the cost of the sign, including the cost of transporting the sign to the site of the Project.

7.10 Modification and Waiver - This Agreement and the provisions herein may not be waived, amended, modified or rescinded unless such waiver, amendment, modification or rescission is in writing, and signed by the Owner and the Agency.

7.11 Servicing/Monitoring Fee

(a) The Beneficial Owner shall pay to the Agency, in equal monthly installments in arrears, an annual servicing fee (the “**HFA Servicing Fee**”) of 0.25% per annum on the outstanding principal amount of the Mortgage Loan commencing upon the Mortgage Loan closing and thereafter calculated on each anniversary thereof until the date on which the Mortgage Loan has been repaid in its entirety.

(b) Commencing on the first date on which the Mortgage Loan is no longer outstanding until such time as this Agreement has expired or been terminated in accordance with its terms, the Beneficial Owner shall on the anniversary date hereof pay to the Agency an annual monitoring fee in the amount of the greater of: (i) 1% of the total rent revenue due from the Low Income Units (whether or not collected); or (ii) \$10,000 per annum which fee shall be payable in equal monthly installments (“**Monitoring Fee**”).

7.12 Green Building Guidelines - The Project shall comply with the Agency’s Green Building Guidelines.

7.13 Cure by Investor and LOC Bank - The Agency agrees to provide copies of all notices related to this Agreement to the Investor and, for so long as the LOC is outstanding, to the LOC Bank. The Investor and/or the LOC Bank shall have the same right (but not the obligation) to cure any default under this Agreement as the Owner and any cure so made by the Investor and/or the LOC Bank pursuant to this paragraph will be recognized by the Agency on the same basis as if made or tendered by the Owner.

7.14 Special Requirements Regarding Supportive Units

(a) The Services Contract shall be in effect on or prior to the Conversion Date, and shall remain in effect, by extension, renewal, or replacement, as applicable, such that at all times during the term this Agreement, unless otherwise agreed to in writing by the Agency, the Beneficial Owner or the Managing Member shall be party to a contract with the Service Provider, or any successor thereto, for the provision of supportive services and/or rent subsidy, as applicable, for the benefit of the tenants in the Supportive Units, provided that the Services Contract may be incorporated into the terms of the operating agreement of the Managing Member. Beneficial Owner shall send written notice to the Agency no less than thirty (30) days prior to the expiration of the initial and each subsequent term of the Support Agreement, along with evidence of renewal or replacement thereof. In addition, Beneficial Owner shall send a copy of any notice of default sent to the Service Provider, or received from the Service Provider, pursuant to the Services Contract.

(b) Notwithstanding anything to the contrary in Section 4.3(b), the rent applicable to each of the Supportive Units upon initial occupancy thereof shall be no greater than the respective allowable rent in effect as of the date hereof, as set forth in Exhibit A, except as may be consented to in writing at the sole discretion of the Agency.

SIGNATURE PAGES FOLLOW

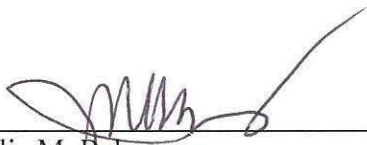
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective duly authorized representatives, as of the day and year first written above.

AGENCY:

Approved by Counsel
to the Agency:

NEW YORK STATE HOUSING FINANCE AGENCY

By: 
Gerrald Ellis
Associate Counsel

By: 
Julie M. Behrens
Vice President, Multi-Family Finance

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 17 day of March in the year 2022, before me, the undersigned, a notary public in and for said state, personally appeared **Julie M. Behrens**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose names is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

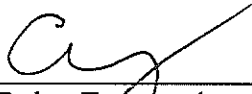

Notary Public



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective duly authorized representatives, as of the day and year first written above.

NOMINAL OWNER:


**HP PARK LANE SENIOR
HOUSING DEVELOPMENT FUND COMPANY, INC.**
a New York not-for-profit corporation

By: 

Esther Toporovsky
Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

On the 17th day of March in the year 2022, before me, the undersigned, a notary public in and for said state, personally appeared **Esther Toporovsky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose names is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public

MILEIKA BETHANCOURT
Notary Public, State of New York
No. 01BE6220876
Qualified in Kings County
Commission Expires April 19, 2022

SCHEDULE A

LEGAL DESCRIPTION OF PREMISES

EXHIBIT A

**UNIT DISTRIBUTION AND
MAXIMUM PERMITTED GROSS MONTHLY RENTS***

Unit Type	Studios		One Bedroom		Totals
	Max Rent	# of Units	Max Rent	# of Units	
50 AMI	\$1,045	85	\$1,119	21	106
50 AMI Supportive Units	\$1,045	37	\$1,119	10	47
		122		31	153

* Representing Rents in effect as of the date hereof; see Section 4.3(b) for additional details

** See Section 7.14 for Special Requirements Regarding the Supportive Units

EXHIBIT B

PROJECT SERVICES AND AMENITIES

SERVICES AND AMENITIES FORM

Project: PL SARA

- 1) The project includes commercial space, either financed by the Agency or included in the total development cost of the project: Yes No
- 2) There will be 1 units reserved for resident managers, superintendents and/or employees:

Unit # (If Known)	Unit Type	Residential or Commercial Use	Revenue- or Non-Revenue- Generating
	2BR	Residential	Non-revenue

- 3) The following services and amenities are available for a fee which is NOT included in the monthly base rent for all tenants (both affordable and market rate):

- Parking spaces:
 All spaces
 Indoor parking or garages only
 Additional space(s) after one
 Other: _____
- Storage space
- Recreational facilities
- Individual utilities:
 Electric(there will be a reduction in rent with the electric utility allowance)
 Gas A/C(again,reduction in rent with utility allowance)
 Water
 Cable service
- Laundry facilities:
 Washer/Dryer hook-up
 Washer/Dryer in unit
 Laundry room
- Structural or architectural features:
 Bay windows Den in apartment
 Balconies Vaulted ceilings
 Fireplaces
 Other: Units designed for seniors including roll in showers and emergency pull cords

Other services and/or amenities for which a fee will be charged:

If applicable, the service package for senior/congregate/assisted projects includes:
three separate recreational rooms including one with outdoor space. There will also be senior social services provided by a third party who specializes in senior services, Self Help there is no charge for any of these services

Certification: I, Joshua Siegel, Owner, hereby certify that the information contained herein is accurate and correct.

Signed: _____
Title: _____

John David

VP

Dated: _____

3.7.22

EXHIBIT D
PL Sara LLC Authorization

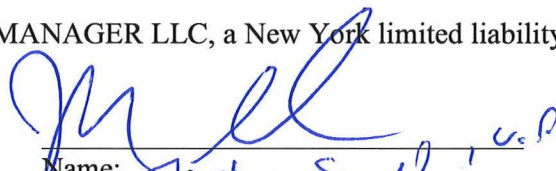
WRITTEN CONSENT OF THE MEMBERS OF PL SARA LLC

The undersigned, being the Members of PL SARA LLC, a New York limited liability company (the "Company"), do hereby resolve that:


1. Joshua Siegel is a Vice President of PL SARA LLC, and has the full power and authority on behalf of the Company, as an Authorized Signatory, to:
 - a. Execute the following documents in connection with the application of the Company for participation in the New York State Brownfield Cleanup Program (the "BCP") and enter into the following agreements with the New York State Department of Environmental Conservation (the "DEC") in connection with the Company's participation in the BCP:
 - i. Environmental Easement;
 - ii. Environmental Easement Checklist;
 - iii. Notice of Certificate of Completion;
 - iv. Application to Amend Brownfield Cleanup Agreement and Amendment; and
 - v. Change of Use Form.
2. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the passage of this consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by the Members of the Company. Any such revocation shall be effective only as to actions taken by the Company subsequent to DEC's receipt of such notice.
3. The undersigned hereby represent and warrant that (i) the undersigned are the Member(s) of the Company; and (ii) the consent of the Members is sufficient to authorize the Company to take the aforementioned actions.

Dated: 7/28/22
New York, NY

PL SARA MANAGER LLC, a New York limited liability company

By: 
Name: Joshua Siegel
Title: V.P.

GSB LIHTC INVESTOR LLC, a Delaware limited liability company

By: 
Name: Sherry Wang
Title: Authorized Signatory

Rider to BCA Amendment # 1 to Document a Tangible Property Tax Credit Determination

Site Name: Park Lane Senior

Site Number: C203138

1- The Department has determined that the Site is eligible for tangible property tax credits pursuant to ECL § 27-1407(1-a) because the Site is located in a City having a population of one million or more and:

- At least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law
- The property is upside down, as defined by ECL 27-1405 (31)
- The property is underutilized, as defined by 375-3.2(l).
- The project is an affordable housing project, as defined by 375-3.2(a).

2- The Site is located in a City having a population of one million or more and the Applicant:

Has not requested a determination that the Site is eligible for tangible property tax credits. It is therefore presumed that the Site is not eligible for tangible property tax credits. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

Requested a determination that the Site is eligible for tangible property tax credits and pursuant to ECL § 27-1407(1-a), the Department has determined that the Site is not eligible for tangible property tax credits because the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

3- For sites statewide, where applicable:

In accordance with ECL § 27-1407(1-a), based on data submitted with the application the Department has determined the Site is not eligible for tangible property tax credits because the contamination in ground water and/or soil vapor is solely emanating from property other than the Site.

The remedial investigation or other data generated during the remedial program the Department has identified an on-site source of contamination, which now makes this site eligible for tangible property tax credits.

The Department has determined that the Site or a portion of the Site has previously been remediated pursuant to Article 27, Title 9, 13 or 14] of the ECL, Article 12 of the Navigation Law or Article 56, Title 5 of the ECL. Therefore, in accordance with ECL § 27-1407(1-a), the Site is not eligible for tangible property tax credits.

THIS RIDER TO AN AMENDMENT TO THE BCA ESTABLISHING ELIGIBILITY FOR TANGIBLE PROPERTY TAX CREDITS IS HEREBY APPROVED, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: Andrew Guglielmi 10/21/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Date