



Department of  
Environmental  
Conservation

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

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site?  Yes  No

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>

- 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)

Please provide a brief narrative on the nature of the amendment:

This amendment requests to add five (5) new volunteers to the Brownfield Cleanup Agreement for this site. These new requestors are newly formed entities that obtained property rights stemming from a ground lease between the City of New York and the New York City Local Development Corporation for the cleanup and redevelopment of this site.

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

**Section I. Existing Agreement Information**

BCP SITE NAME: Bedford Union Armory

BCP SITE NUMBER: C224252

NAME OF CURRENT APPLICANT(S): Bedford Courts LLC

INDEX NUMBER OF EXISTING AGREEMENT: C224252-06-17 DATE OF EXISTING AGREEMENT: 8/24/17

**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME See Schedule A

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)?

Yes

No

- 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

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?  Yes  No

Describe Requestor's Relationship to Existing Applicant:

**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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.

**Please note that the responses provided in Section IV apply to all New Requestors.**

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.**

Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other See Schedule A

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 [See Attachment A](#)

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

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

ADDRESS 1555 Bedford Avenue

CITY/TOWN Brooklyn

ZIP CODE 11225

TAX BLOCK AND LOT (TBL) (in existing agreement )

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1555 Bedford Avenue, Brooklyn			1274	1	2.805

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: \_\_\_\_\_

**ADDITIONAL PARCELS:**

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

- Reduction of property
- Approximate acreage removed: \_\_\_\_\_

**PARCELS REMOVED:**

Parcel Address	Parcel No.	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.

**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
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> 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><b>From ECL 27-1405(31):</b></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**

<b>Existing Agreement Information</b>	
BCP SITE NAME: Bedford Union Armory	BCP SITE NUMBER: C224252
NAME OF CURRENT APPLICANT(S): Bedford Courts LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224252-06-17	
EFFECTIVE DATE OF EXISTING AGREEMENT: August 24, 2017	

**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)**

(Individual) [Please see insert on following page](#)

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.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

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.

\_\_\_\_\_ 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: \_\_\_\_\_

**Statement of Certification and Signatures: New Requestor(s) (if applicable)**

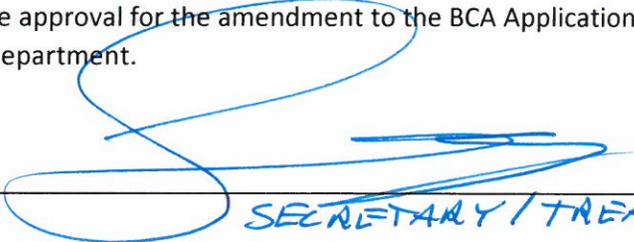
I hereby affirm that I am the authorized signatory of New Requestors Bedford Courts I LLC, Bedford Courts III LLC, and Bedford Courts III LIHTC LLC; that I am authorized by the entities to make this application; that this application was prepared by me or under my supervision and direction; and that 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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/19/2018 Signature:  \_\_\_\_\_

Print Name: Brandon Baron

**Statement of Certification and Signatures: New Requestor(s) (if applicable)**

I hereby affirm that I am the authorized signatory of New Requestors Bedford Courts III Housing Development Fund Corporation and Bedford Courts Local Development Corporation; that I am authorized by the entities 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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/21/18 Signature:  SECRETARY / TREASURER

Print Name: Lee Warshavsky

**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 the authorized signatory (title) of Bedford Courts 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. Brandon Baron's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/19/2018 Signature: \_\_\_\_\_

Print Name: Brandon Baron

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> 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.	<input checked="" type="checkbox"/> <b>VOLUNTEER</b> 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.
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Effective Date of the Original Agreement: 8/24/17

Signature by the Department:

DATED: 4/11/19

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:   
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**SUBMITTAL INFORMATION:**

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in 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

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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_

## Schedule A

**SCHEDULE A**

Section II. New Requestor Information

**NEW REQUESTOR 1: BEDFORD COURTS I LLC**

**Name:** Bedford Courts I LLC  
**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** [bbaron@bfcnyc.com](mailto:bbaron@bfcnyc.com)

**Is the requestor authorized to conduct business in New York State:** Yes

**Name of New Requestor's Representative:** Brandon Baron  
**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** [bbaron@bfcnyc.com](mailto:bbaron@bfcnyc.com)

**Name of Requestor's Consultant:** Michael Burke, Langan  
**Address:** 21 Penn Plaza, 360 West 31<sup>st</sup> Street, 8<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10001  
**Phone:** (212) 479-5400  
**Fax:** (212) 479-5444  
**E-mail:** [mburke@langan.com](mailto:mburke@langan.com)

**Name of Requestor's Attorney:** Michael Bogin, Sive, Paget & Riesel P.C.  
**Address:** 560 Lexington Ave., 15<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10022  
**Phone:** (212) 421-2150  
**Fax:** (212) 421-2035  
**E-mail:** [mbogin@sprlaw.com](mailto:mbogin@sprlaw.com)

**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?** Yes

**Describe Requestor’s Relationship to Existing Applicant:**

**New Requestor Bedford Courts I LLC** will be the beneficial leasehold owner the recreation portion of the redevelopment project (the “NMTC Project”) at 1555 Bedford Avenue, Block 1274, Lot 1 (as subdivided). The City of New York will enter into ground leases with the New York City Land Development Corporation for the property at Block 1274, Lots 1, 2, and 101 (together, f/k/a Block 1274, Lot 1). The ground lease for Lot 1 will be assigned to Bedford Courts Local Development Corporation, which will enter a nominee agreement with Bedford Courts III LLC, which will enter a sublease with **New Requestor Bedford Courts I LLC** with respect to the NMTC Project. Upon completion of the NMTC Project, and satisfaction of conditions to remove the cross-default, the sublease noted above will be terminated and the ground lease assigned to **New Requestor Bedford Courts I LLC**. **New Requestor Bedford Courts I LLC** has a sole member, Bedford Courts I Developer LLC, whose managing member is Bedford Courts I MM Developer LLC. Bedford Courts I MM Developer LLC and existing volunteer Bedford Courts LLC are affiliates under common ownership and control.

**NEW REQUESTOR 2: BEDFORD COURTS III LLC**

**Name:** Bedford Courts III LLC  
**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** [bbaron@bfcnyc.com](mailto:bbaron@bfcnyc.com)

**Is the requestor authorized to conduct business in New York State:** Yes

**Name of New Requestor’s Representative:** Brandon Baron  
**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** [bbaron@bfcnyc.com](mailto:bbaron@bfcnyc.com)

**Name of Requestor’s Consultant:** Michael Burke, Langan  
**Address:** 21 Penn Plaza, 360 West 31<sup>st</sup> Street, 8<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10001  
**Phone:** (212) 479-5400  
**Fax:** (212) 479-5444  
**E-mail:** [mburke@langan.com](mailto:mburke@langan.com)

**Name of Requestor's Attorney:** Michael Bogin, Sive, Paget & Riesel P.C.  
**Address:** 560 Lexington Ave., 15<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10022  
**Phone:** (212) 421-2150  
**Fax:** (212) 421-2035  
**E-mail:** [mbogin@sprlaw.com](mailto:mbogin@sprlaw.com)

**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? Yes**

**Describe Requestor's Relationship to Existing Applicant:**

**New Requestor Bedford Courts III LLC** will be the beneficial leasehold owner of the parking unit, market rate residential, and community facility unit portions of the redevelopment project at 1555 Bedford Avenue, Block 1274, Lot 1 (as subdivided). The City of New York will enter into ground leases with the New York City Land Development Corporation for the property at Block 1274, Lots 1, 2, and 101 (together, f/k/a Block 1274, Lot 1). The ground lease for Lot 1 will be assigned to Bedford Courts Local Development Corporation, which will enter a nominee agreement with **New Requestor Bedford Courts III LLC**, which will enter a sublease with Bedford Courts I LLC respect to the NMTC Project. Upon completion of the NMTC Project, and satisfaction of conditions to remove the cross-default, the sublease noted above will be terminated and the ground lease assigned to Bedford Courts I LLC. The ground lease for Lots 2 and 101 will be assigned to **New Requestor Bedford Courts III LLC**, which will enter a sublease for portions of Lots 2 and 101 to Bedford Courts III HDFC, but will retain leasehold ownership of the community facility portion of the Lot 2 redevelopment project and of the market rate and parking portions of the Lot 101 redevelopment project. The sole member of **New Requestor Bedford Courts III LLC** is Bedford Courts III Developer LLC. The managing member of Bedford Courts III Developer LLC is Bedford Courts III MM Developer LLC. Bedford Courts III MM Developer LLC and existing volunteer Bedford Courts LLC are affiliates under common ownership and control.

**NEW REQUESTOR 3: BEDFORD COURTS III LIHTC LLC**

**Name:** Bedford Courts III LIHTC LLC  
**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** [bbaron@bfcnyc.com](mailto:bbaron@bfcnyc.com)

**Is the requestor authorized to conduct business in New York State: Yes**

**Name of New Requestor's Representative:** Brandon Baron

**Address:** 150 Myrtle Avenue, Suite 2  
**City/Town:** Brooklyn  
**Zip Code:** 11201  
**Phone:** (718) 422-9999  
**Fax:** (718) 422-9960  
**E-mail:** bbaron@bfcnyc.com

**Name of Requestor's Consultant:** Michael Burke, Langan  
**Address:** 21 Penn Plaza, 360 West 31<sup>st</sup> Street, 8<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10001  
**Phone:** (212) 479-5400  
**Fax:** (212) 479-5444  
**E-mail:** mburke@langan.com

**Name of Requestor's Attorney:** Michael Bogin, Sive, Paget & Riesel P.C.  
**Address:** 560 Lexington Ave., 15<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10022  
**Phone:** (212) 421-2150  
**Fax:** (212) 421-2035  
**E-mail:** [mbogin@sprlaw.com](mailto:mbogin@sprlaw.com)

**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? Yes**

**Describe Requestor's Relationship to Existing Applicant:**

**New Requestor Bedford Courts III LIHTC LLC** will be the beneficial subleasehold owner of the LIHTC units portion of the redevelopment project at 1555 Bedford Avenue, Block 1274, Lot 1 (as subdivided). The City of New York will enter into ground leases with the New York City Land Development Corporation for the property at Block 1274, Lots 1, 2, and 101 (together, f/k/a Block 1274, Lot 1. The ground lease for Lots 2 and 101 will be assigned to Bedford Courts III LLC, which will enter a sublease for the LIHTC unit portions of Lots 2 and 101 to Bedford Courts III HDFC, which enter a nominee agreement with **New Requestor Bedford Courts III LIHTC LLC**. The managing member of **New Requestor Bedford Courts III LIHTC LLC** is Bedford Courts III LIHTC MM LLC, whose sole member is Bedford Courts III Managers LLC, whose managing member is Bedford Courts III Developer LLC. The managing member of Bedford Courts III Developer LLC is Bedford Courts III MM Developer LLC. Bedford Courts III MM Developer LLC and existing volunteer Bedford Courts LLC are affiliates under common ownership and control.

**NEW REQUESTOR 4: BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION**

**Name:** Bedford Courts III Housing Development Fund Corporation  
**Address:** 237 West 37th Street 4th Floor,  
**City/Town:** New York, New York  
**Zip Code:** 10018  
**Phone:** (212) 265-6530  
**Fax:** (212) 757-0571  
**E-mail:** lwarshavsky@shfinc.org

**Is the requestor authorized to conduct business in New York State:** Yes

**Name of New Requestor's Representative:** Lee Warshavsky  
**Address:** Settlement Housing Fund, Inc.,  
247 West 37th Street, 4th Floor  
**City/Town:** New York  
**Zip Code:** 10018  
**Phone:** (212) 265-6530 ex 125  
**Fax:** (212) 757-0571  
**E-mail:** lwarshavsky@shfinc.org

**Name of Requestor's Consultant:** Michael Burke, Langan  
**Address:** 21 Penn Plaza, 360 West 31<sup>st</sup> Street, 8<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10001  
**Phone:** (212) 479-5400  
**Fax:** (212) 479-5444  
**E-mail:** mburke@langan.com

**Name of Requestor's Attorney:** Michael Bogin, Sive, Paget & Riesel P.C.  
**Address:** 560 Lexington Ave., 15<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10022  
**Phone:** (212) 421-2150  
**Fax:** (212) 421-2035  
**E-mail:** [mbogin@sprlaw.com](mailto:mbogin@sprlaw.com)

**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?** Yes

**Describe Requestor's Relationship to Existing Applicant:**

**New Requestor Bedford Courts III Housing Development Fund Corporation** will be the record subleasehold owner of the LIHTC unit portions of the redevelopment project at 1555 Bedford Avenue, Block 1274, Lot 1 (as subdivided). The City of New York will enter into ground leases with the New York City Land Development Corporation for the property at Block 1274, Lots 1, 2, and 101 (together, f/k/a Block 1274, Lot 1). The ground lease for Lots 2 and 101 will be assigned to Bedford Courts III LLC, which will enter a sublease for the LIHTC unit portions of Lots 2 and 101 to **New Requestor Bedford Courts III HDFC**, which enter a nominee agreement with Bedford Courts III LIHTC LLC. The managing member of Bedford Courts III LIHTC LLC is Bedford Courts III LIHTC MM LLC, whose sole member is Bedford Courts III Managers LLC. The managing member of Bedford Courts III Managers LLC is Bedford Courts III Developer LLC. The managing member of Bedford Courts III Developer LLC is Bedford Courts III MM Developer LLC. Bedford Courts III MM Developer LLC and existing volunteer Bedford Courts LLC are affiliates under common ownership and control.

**NEW REQUESTOR 5: BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION**

**Name:** Bedford Courts Local Development Corporation  
**Address:** 237 West 37th Street 4th Floor,  
**City/Town:** New York, New York  
**Zip Code:** 10018  
**Phone:** (212) 265-6530  
**Fax:** (212) 757-0571  
**E-mail:** lwarshavsky@shfinc.org

**Is the requestor authorized to conduct business in New York State:** Yes

**Name of New Requestor's Representative:** Lee Warshavsky  
**Address:** Settlement Housing Fund, Inc.,  
247 West 37th Street, 4th Floor  
**City/Town:** New York  
**Zip Code:** 10018  
**Phone:** (212) 265-6530 ex 125  
**Fax:** (212) 757-0571  
**E-mail:** lwarshavsky@shfinc.org

**Name of Requestor's Consultant:** Michael Burke, Langan  
**Address:** 21 Penn Plaza, 360 West 31<sup>st</sup> Street, 8<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10001  
**Phone:** (212) 479-5400  
**Fax:** (212) 479-5444  
**E-mail:** mburke@langan.com

**Name of Requestor's Attorney:** Michael Bogin, Sive, Paget & Riesel P.C.

**Address:** 560 Lexington Ave., 15<sup>th</sup> Floor  
**City/Town:** New York  
**Zip Code:** 10022  
**Phone:** (212) 421-2150  
**Fax:** (212) 421-2035  
**E-mail:** [mbogin@sprlaw.com](mailto:mbogin@sprlaw.com)

**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? Yes**

**Describe Requestor's Relationship to Existing Applicant:**

**New Requestor Bedford Courts Local Development Corporation** will be the record leasehold owner of the NMTC Project at 1555 Bedford Avenue, Block 1274, Lot 1 (as subdivided). Bedford Courts Local Development Corporation will enter a nominee agreement with Bedford Courts III LLC, which will sublease the NMTC portion of the redevelopment project to Bedford Courts I LLC. Bedford Courts I LLC has a sole member, Bedford Courts I Developer LLC, whose managing member is Bedford Courts I MM Developer LLC. Bedford Courts I MM Developer LLC and existing volunteer Bedford Courts LLC are affiliates under common ownership and control.

Section IV. Eligibility Information for New Requestors.

Pursuant to ECL § 27-1405(1), all New Requestors are properly designated as Volunteers because liability has arisen solely as a result of such New Requestor's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants. The City of New York will enter into ground leases with the New York City Land Development Corporation for the property at Block 1274, Lots 1, 2, and 101 (together, f/k/a Block 1274, Lot 1. The ground lease for Lot 1 will be assigned to Bedford Courts Local Development Corporation, which will enter a nominee agreement with Bedford Courts III LLC, which will enter a sublease with Bedford Courts I LLC with respect to the NMTC Project. Upon completion of the NMTC Project, and satisfaction of conditions to remove the cross-default, the sublease noted above will be terminated and the ground lease assigned to Bedford Courts I LLC. The ground lease for Lots 2 and 101 will be assigned to Bedford Courts III LLC, which will enter a sublease for the LIHTC unit portions of Lots 2 and 101 to Bedford Courts III HDFC, which enter a nominee agreement with Bedford Courts III LIHTC LLC. Bedford Courts III LLC will retain leasehold ownership of the community facility portion of the Lot 2 redevelopment project and of the market rate and parking portions of the Lot 101 redevelopment project.

## Entity Information

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 9, 2018.

---

Selected Entity Name: BEDFORD COURTS I LLC  
 Selected Entity Status Information  
**Current Entity Name:** BEDFORD COURTS I LLC  
**DOS ID #:** 5317752  
**Initial DOS Filing Date:** APRIL 05, 2018  
**County:** KINGS  
**Jurisdiction:** NEW YORK  
**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY  
**Current Entity Status:** ACTIVE

Selected Entity Address Information  
**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**  
 THE LIMITED LIABILITY COMPANY  
 150 MYRTLE AVENUE, SUITE 2  
 BROOKLYN, NEW YORK, 11201

#### Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
APR 05, 2018	Actual	BEDFORD COURTS I LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 9, 2018.

---

Selected Entity Name: BEDFORD COURTS III LLC  
 Selected Entity Status Information  
**Current Entity Name:** BEDFORD COURTS III LLC  
**DOS ID #:** 5317153  
**Initial DOS Filing Date:** APRIL 04, 2018  
**County:** KINGS  
**Jurisdiction:** NEW YORK  
**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY  
**Current Entity Status:** ACTIVE

Selected Entity Address Information  
**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**  
 THE LIMITED LIABILITY COMPANY  
 150 MYRTLE AVENUE, SUITE 2  
 BROOKLYN, NEW YORK, 11201

#### Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
APR 04, 2018	Actual	BEDFORD COURTS III LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

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# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 9, 2018.

Selected Entity Name: BEDFORD COURTS III LIHTC LLC

Selected Entity Status Information

**Current Entity Name:** BEDFORD COURTS III LIHTC LLC

**DOS ID #:** 5317160

**Initial DOS Filing Date:** APRIL 04, 2018

**County:** KINGS

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

THE LIMITED LIABILITY COMPANY

150 MYRTLE AVENUE, SUITE 2

BROOKLYN, NEW YORK, 11201

**Registered Agent**

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
APR 04, 2018	Actual	BEDFORD COURTS III LIHTC LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through November 9, 2018.

Selected Entity Name: BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION  
 Selected Entity Status Information  
**Current Entity Name:** BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION  
**DOS ID #:** 5394657  
**Initial DOS Filing Date:** AUGUST 16, 2018  
**County:** NEW YORK  
**Jurisdiction:** NEW YORK  
**Entity Type:** DOMESTIC NOT-FOR-PROFIT CORPORATION  
**Current Entity Status:** ACTIVE

Selected Entity Address Information  
**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**  
 BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION  
 247 WEST 37TH STREET  
 4TH FL.  
 NEW YORK, NEW YORK, 10018

**Registered Agent**  
 NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

**\*Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

**Name History**

Filing Date	Name Type	Entity Name
AUG 16, 2018	Actual	BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through December 11, 2018.

Selected Entity Name: BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION  
 Selected Entity Status Information  
 Current Entity Name: BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION  
 DOS ID #: 5456932  
 Initial DOS Filing Date: DECEMBER 11, 2018  
 County: NEW YORK  
 Jurisdiction: NEW YORK  
 Entity Type: DOMESTIC NOT-FOR-PROFIT CORPORATION  
 Current Entity Status: ACTIVE

#### Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**  
 C/O SETTLEMENT HOUSING FUND, INC.  
 247 WEST 37TH STREET 4TH FLOOR  
 NEW YORK, NEW YORK, 10018

#### Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

#### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
DEC 11, 2018	Actual	BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION

A Fictitious name must be used when the Actual name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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**Corporate/Member Resolutions Demonstrating Authority to Bind**

**MANAGERS' CONSENT AND CERTIFICATE  
BEDFORD COURTS I LLC**

The undersigned are the managers (the "Managers") of Bedford Courts I MM Developer LLC, a New York limited liability company (the "Developer") which is the managing member of Bedford Courts I Developer LLC, a New York limited liability company (the "Managing Member") which is the sole member of Bedford Courts I LLC, a New York limited liability company (the "Company"), and hereby certify as follows and adopt the following resolutions and authorize the Company to take the following actions:

1. The Managers hereby authorize and direct the Developer to authorize and direct the Managing Member, on its own behalf and on behalf of the Company to take the necessary steps to complete and execute the New York State Department of Environmental Conservation ("DEC") Brownfield Cleanup Program (BCP) Application to Amend Brownfield Cleanup Agreement and Amendment (the "Amendment") for BCP Site Number C224252 (the "Project Site");

2. The Managers hereby approve, authorize, ratify, direct and consent to the execution, in the name of and on behalf of the Company, by Donald Capoccia, Brandon Baron, and Joseph Ferrara (each an "Authorized Signatory," and together, the "Authorized Signatories"), to:

- a. Execute any and all documents in connection with the Amendment by the Company for participation in the BCP;
- b. Enter into any and all agreements with DEC in connection with the Company's participation in the BCP;
- c. Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to amendments, agreements, and tax returns;
- d. Take any action necessary or appropriate to the furtherance of the Company's participation in the BCP on behalf of the Company, with the further express authorization to delegate all or any portion of the authority described in this subsection to third party consultant(s), pursuant to written delegation executed by the Authorized Signatory.

3. The taking of any action or the execution of such documents and/or instruments by any Authorized Signatory pursuant to the terms of these resolutions shall be deemed conclusive evidence of the determination of such executing person that such action or execution was appropriate and in the best interests of the Company;

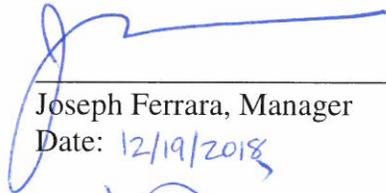
4. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution and delivery of this consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by the controlling member 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.

*(Signatures on following page)*

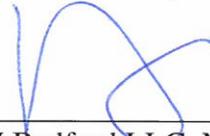
The undersigned hereby represents and warrants that each is authorized to bind the Company, and the signature set forth opposite his name below is his actual signature.



Brandon Baron, Manager  
Date: 12/19/2018



Joseph Ferrara, Manager  
Date: 12/19/2018



C-W Bedford LLC, Manager  
By: C-W Master LLC, its sole member  
By: DAC Master, LLC, its managing member  
By: Donald Capoccia, its sole member  
Date: 12/19/2018

**MANAGERS' CONSENT AND CERTIFICATE  
BEDFORD COURTS III LLC**

The undersigned are the managers (the "Managers") of Bedford Courts III MM Developer LLC, a New York limited liability company (the "Developer") which is the managing member of Bedford Courts III Developer LLC, a New York limited liability company (the "Managing Member") which is the sole member of Bedford Courts III LLC (the "Company"), and hereby certify as follows and adopt the following resolutions and authorize the Company to take the following actions:

1. The Managers hereby authorize and direct Developer to authorize and direct the Managing Member to authorize and direct the Company to take the necessary steps to complete and execute the New York State Department of Environmental Conservation ("DEC") Brownfield Cleanup Program (BCP) Application to Amend Brownfield Cleanup Agreement and Amendment (the "Amendment") for BCP Site Number C224252 (the "Project Site");

2. The Managers hereby approve, authorize, ratify, direct and consent to the execution, in the name of and on behalf of the Company, by Donald Capoccia, Brandon Baron, and Joseph Ferrara (each an "Authorized Signatory," and together, the "Authorized Signatories") of the Company, to:

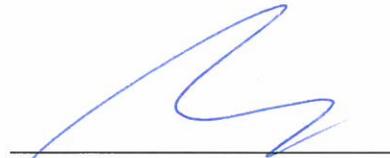
- a. Execute any and all documents in connection with the Amendment by the Company for participation in the BCP;
- b. Enter into any and all agreements with DEC in connection with the Company's participation in the BCP;
- c. Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to amendments, agreements, and tax returns;
- d. Take any action necessary or appropriate to the furtherance of the Company's participation in the BCP on behalf of the Company, with the further express authorization to delegate all or any portion of the authority described in this subsection to third party consultant(s), pursuant to written delegation executed by the Authorized Signatory.

3. The taking of any action or the execution of such documents and/or instruments by any Authorized Signatory pursuant to the terms of these resolutions shall be deemed conclusive evidence of the determination of such executing person that such action or execution was appropriate and in the best interests of the Company;

4. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution and delivery 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 controlling member 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.

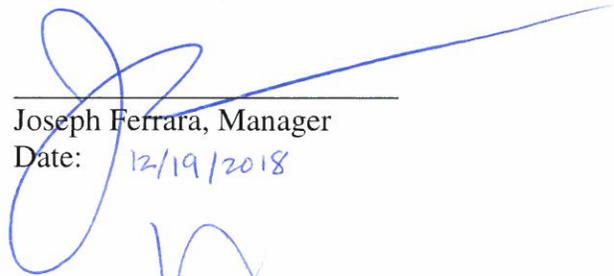
*(Signatures on following page)*

The undersigned hereby represents and warrants that each is authorized to bind the Company, and the signature set forth opposite his name below is his actual signature.



---

Brandon Baron, Manager  
Date: 12/19/2018



---

Joseph Ferrara, Manager  
Date: 12/19/2018



---

C-W Bedford LLC, Manager  
By: C-W Master LLC, its sole member  
By: DAC Master, LLC, its managing member  
By: Donald Capoccia, its sole member  
Date: 12/19/2018

**MANAGERS' CONSENT AND CERTIFICATE  
BEDFORD COURTS III LIHTC LLC**

The undersigned are the managers (the "Managers") of Bedford Courts III MM Developer LLC, a New York limited liability company (the "Developer") which is the managing member of Bedford Courts III Developer LLC, a New York limited liability company (the "Managing Member") which is the managing member of Bedford Courts III Managers LLC, a New York limited liability company (the "III Manager") which is the managing member of Bedford Courts III LIHTC MM LLC, a New York limited liability company (the "III LIHTC MM") which is the managing member of Bedford Courts III LIHTC LLC (the "Company"), and hereby certify as follows and adopt the following resolutions and authorize the Company to take the following actions:

1. The Managers hereby authorize and direct the Developer to authorize and direct the Managing Member to authorize and direct the III Manager to authorize and direct III LIHTC MM to authorize and direct the Company to take the necessary steps to complete and execute the New York State Department of Environmental Conservation ("DEC") Brownfield Cleanup Program (BCP) Application to Amend Brownfield Cleanup Agreement and Amendment (the "Amendment") for BCP Site Number C224252 (the "Project Site");

2. The Managers hereby approve, authorize, ratify, direct and consent to the execution, in the name of and on behalf of the Company, by Donald Capoccia, Brandon Baron, and Joseph Ferrara (each an "Authorized Signatory," and together, the "Authorized Signatories"), to:

- a. Execute any and all documents in connection with the Amendment by the Company for participation in the BCP;
- b. Enter into any and all agreements with DEC in connection with the Company's participation in the BCP;
- c. Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to amendments, agreements, and tax returns;
- d. Take any action necessary or appropriate to the furtherance of the Company's participation in the BCP on behalf of the Company, with the further express authorization to delegate all or any portion of the authority described in this subsection to third party consultant(s), pursuant to written delegation executed by the Authorized Signatory.

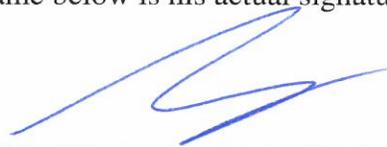
3. The taking of any action or the execution of such documents and/or instruments by any Authorized Signatory pursuant to the terms of these resolutions shall be deemed conclusive evidence of the determination of such executing person that such action or execution was appropriate and in the best interests of the Company;

4. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution and delivery 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 controlling member 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.

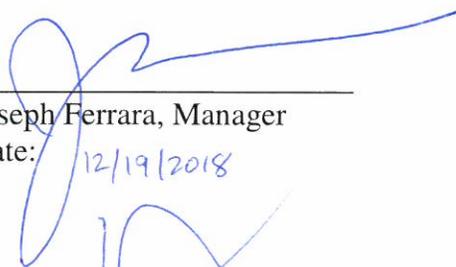
*(Signatures on following page)*

The undersigned hereby represents and warrants that each is authorized to bind the Company, and the signature set forth opposite his name below is his actual signature.



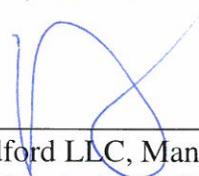
Brandon Baron, Manager

Date: 12/19/2018



Joseph Ferrara, Manager

Date: 12/19/2018



C-W Bedford LLC, Manager

By: C-W Master LLC, its sole member

By: DAC Master, LLC, its managing member

By: Donald Capoccia, its sole member

Date: 12/19/2018

**DIRECTORS' CONSENT AND CERTIFICATE  
BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION**

The undersigned are the directors of Bedford Courts Local Development Corporation (the "Corporation"), and hereby certify as follows and adopt the following resolutions and authorize the Corporation to take the following actions:

1. The Directors hereby authorize and direct the Corporation to take the necessary steps to complete and execute the New York State Department of Environmental Conservation ("DEC") Brownfield Cleanup Program (BCP) Application to Amend Brownfield Cleanup Agreement and Amendment (the "Amendment") for BCP Site Number C224252 (the "Project Site");

2. The Directors hereby approve, authorize, ratify, direct and consent to the execution, in the name of and on behalf of the Corporation, by Alexa Sewell, Garraud Etienne, and Lee Warshavsky (each an "Authorized Signatory," and together, the "Authorized Signatories") of the Corporation, to:

- a. Execute any and all documents in connection with the Amendment by the Corporation for participation in the BCP;
- b. Enter into any and all agreements with DEC in connection with the Corporation's participation in the BCP;
- c. Execute any and all documents in connection with the Corporation's participation in the BCP, including but not limited to amendments, agreements, and tax returns;
- d. Take any action necessary or appropriate to the furtherance of the Corporation's participation in the BCP on behalf of the Corporation, with the further express authorization to delegate all or any portion of the authority described in this subsection to third party consultant(s), pursuant to written delegation executed by the Authorized Signatory.

3. The taking of any action or the execution of such documents and/or instruments by any Authorized Signatory pursuant to the terms of these resolutions shall be deemed conclusive evidence of the determination of such executing person that such action or execution was appropriate and in the best interests of the Corporation;

4. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution and delivery 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 controlling member of the Corporation. Any such revocation shall be effective only as to actions taken by the Corporation subsequent to DEC's receipt of such notice.

*(Signatures on following page)*

The undersigned hereby represents and warrants that each is authorized to bind the Corporation, and the signature set forth opposite his or her name below is his or her actual signature.



Name: Alexa Sewell  
Title: Director  
Date: 12/21/18



Name: Garraud Etienne  
Title: Director  
Date: 12/21/18



Name: Lee Warshavsky  
Title: Director  
Date: 12/21/18

**DIRECTORS' CONSENT AND CERTIFICATE  
BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION**

The undersigned are the directors of Bedford Courts III Housing Development Fund Corporation (the "Corporation"), and hereby certify as follows and adopt the following resolutions and authorize the Corporation to take the following actions:

1. The Directors hereby authorize and direct the Corporation to take the necessary steps to complete and execute the New York State Department of Environmental Conservation ("DEC") Brownfield Cleanup Program (BCP) Application to Amend Brownfield Cleanup Agreement and Amendment (the "Amendment") for BCP Site Number C224252 (the "Project Site");

2. The Directors hereby approve, authorize, ratify, direct and consent to the execution, in the name of and on behalf of the Corporation, by Alexa Sewell, Garraud Etienne, and Lee Warshavsky (each an "Authorized Signatory," and together, the "Authorized Signatories"), to:

- a. Execute any and all documents in connection with the Amendment by the Corporation for participation in the BCP;
- b. Enter into any and all agreements with DEC in connection with the Corporation's participation in the BCP;
- c. Execute any and all documents in connection with the Corporation's participation in the BCP, including but not limited to amendments, agreements, and tax returns;
- d. Take any action necessary or appropriate to the furtherance of the Corporation's participation in the BCP on behalf of the Corporation, with the further express authorization to delegate all or any portion of the authority described in this subsection to third party consultant(s), pursuant to written delegation executed by the Authorized Signatory.

3. The taking of any action or the execution of such documents and/or instruments by any Authorized Signatory pursuant to the terms of these resolutions shall be deemed conclusive evidence of the determination of such executing person that such action or execution was appropriate and in the best interests of the Corporation;

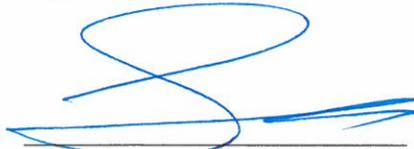
4. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution and delivery of this consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by the controlling member of the Corporation. Any such revocation shall be effective only as to actions taken by the Corporation subsequent to DEC's receipt of such notice.

*(Signatures on following page)*

The undersigned hereby represents and warrants that each is authorized to bind the Corporation, and the signature set forth opposite his or her name below is his or her actual signature.

  
Name: Alexa Sewell  
Title: Director  
Date: 12/21/18

  
Name: Garraud Etienne  
Title: Director  
Date: 12/21/18

  
Name: Lee Warshavsky  
Title: Director  
Date: 12/21/18

## ASSIGNMENT AND ASSUMPTION OF LEASE

This ASSIGNMENT OF LEASE (this "Assignment") is made as of the 31st day of January, 2019 by and among NEW YORK CITY LAND DEVELOPMENT CORPORATION, a local development corporation organized pursuant to Section 1411 of the New York State Not-For-Profit Corporation Law ("Assignor"), having an address at 110 William Street, New York, New York 10038, BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, a New York not-for-profit corporation organized pursuant to Section 402 of the Not-for-Profit Corporation Law of the State of New York ("N-PCL") and Section 1411 of the N-PCL as a local development corporation, ("Nominal Owner"), as nominee for BEDFORD COURTS III LLC, a New York limited liability company having an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 ("Beneficial Owner" and together with Nominal Owner, the "Assignee"), having an address at c/o Settlement Housing Fund, Inc., 247 West 37th Street, 4th Floor, New York, New York 10018, and THE CITY OF NEW YORK, a municipal corporation of the State of New York, having an office in City Hall, New York, New York 10007 (the "City").

WHEREAS, the City is the owner of all of that certain property designated as Block 1274, Lot 1 on the Tax Map of the Borough of Brooklyn, City and State of New York (the "Property") as more particularly described on Exhibit A attached hereto and incorporated herein;

WHEREAS, Assignor entered into that certain Agreement of Commercial Lease, dated on or about the date hereof, between the City, as landlord, and Assignor, as tenant, with respect to the Premises (the "Lease"), with the expectation that, simultaneous with the execution of the Lease, Assignor would assign to Assignee, and Assignee would assume from Assignor, all of Assignor's right, title, interest and obligations as tenant under the Lease;

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest, as tenant, in and to the Lease in accordance with the terms herein, and

WHEREAS, the City consents to the assignment by Assignor of all of its right, title, interest and obligations, as tenant, in and to the Lease to Assignee and Assignee's assumption of all of Assignor's right, title, interest and obligations, as tenant, in and to the Lease from Assignor.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meaning set forth in the Lease.

2. Assignment and Assumption of Lease. Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title, interest as tenant in and to the Lease and all of Assignor's obligations as tenant in and to the Lease. Assignee, for itself and its successors and assigns, hereby accepts the foregoing assignment and, subject to Paragraph 3 below, assumes all liabilities and obligations of Assignor as tenant under the Lease arising on or after the date hereof

and agrees to observe and perform each and every obligation of Assignor as tenant under the Lease.

3. Consent and Release. The City hereby consents to this Assignment and releases Assignor from all liabilities and obligations of Tenant under the Lease (it being acknowledged and agreed that the City will look solely to Assignee for the observance and performance of the liabilities and obligations of Tenant under the Lease arising on or after the date hereof). Assignee releases Assignor and any successor thereto, and its officers, directors and employees from any and all liability from claims or causes of action arising under the Lease and the assignment thereof, and the Premises.

4. Lease Administrator. New York City Economic Development Corporation (“NYCEDC”) shall administer the Lease as Lease Administrator under the Lease until such time as another party shall replace NYCEDC as Lease Administrator, subject to and in accordance with the terms of the Lease.

5. Notices. All notices, demands, consents, requests or other communications provided for or permitted to be given hereunder by a party hereto must be in writing and shall be deemed to have been properly given or served, as follows:

If to Assignor:

Executive Vice President for Property Management  
New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: Executive Vice President for Property Management

with copies to:

New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: General Counsel

If to the City

Chief, Economic Development Division  
New York City Law Department  
100 Church Street  
New York, New York 10007  
Attn: Chief, Economic Development Division

If to Assignee:

Bedford Courts Local Development Corporation  
c/o Settlement Housing Fund, Inc.  
247 West 37th Street, 4th Floor  
New York, New York 10018  
Attn: Lee Warshavsky

With copies to:

Bedford Courts I LLC  
c/o BFC Partners  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attn.: Donald Capoccia

and

Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> floor  
New York, New York 10010  
Attn.: Russell A. Kivler, Esq.

6. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

7. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

8. Recording. This Assignment is intended to be recorded in the City Register immediately following the recordation of the Memorandum of Lease.

*[Signatures Follow on Next Page]*

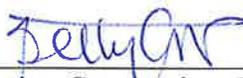
IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

NEW YORK CITY LAND DEVELOPMENT CORPORATION

By:   
Name: **Spencer Hobson**  
Title: **Executive Vice President / Treasurer**

**APPROVED AS TO FORM:**

  
Acting Corporation Counsel  
(mm)

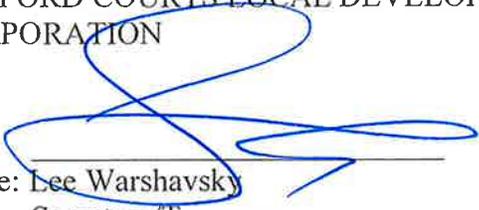
**Acknowledged and consented to:**

THE CITY OF NEW YORK

By:   
Name: *Alicia Glen*  
Title: *Deputy Mayor*

**ASSIGNEE:**

BEDFORD COURTS LOCAL DEVELOPMENT  
CORPORATION

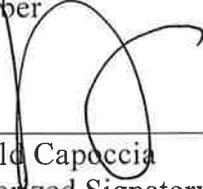
By: 

Name: Lee Warshavsky

Title: Secretary/Treasurer

BEDFORD COURTS III LLC

By: Bedford Courts III Developer LLC,  
its sole member

By: 

Name: Donald Capoccia

Title: Authorized Signatory

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

Maxwell C Padden  
Notary Public, State of New York  
No.02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017/2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

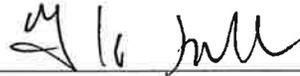
JOSEPHINE MIRANDA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M6164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 2019

On \_\_\_\_\_, 2019, before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

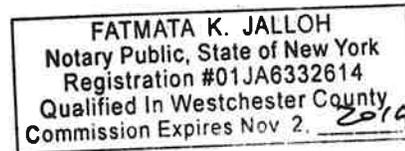
\_\_\_\_\_  
Notary Public

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

On January 30, 2019, before me, the undersigned, personally appeared LEE WARSHAVSKY personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

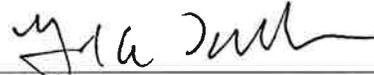


\_\_\_\_\_  
Notary Public



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

On January 30, 2019, before me, the undersigned, personally appeared DONALD CAPOCCIA personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



\_\_\_\_\_  
Notary Public

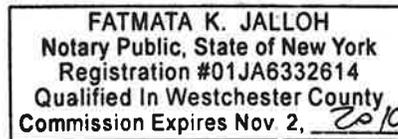


Exhibit A

**LEGAL DESCRIPTION PARCEL**

**BOROUGH OF BROOKLYN, BLOCK 1274, LOT 1:**

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.

**MEMORANDUM OF LEASE**

**THE CITY OF NEW YORK, as Landlord,**

**and**

**NEW YORK CITY LAND DEVELOPMENT CORPORATION, as Tenant**

**Dated: as of January 31, 2019**

**Premises: 1561 Bedford Avenue**

**Block 1274**

**Lot 1**

**City of New York**

**Borough of Brooklyn**

**State of New York**



## MEMORANDUM OF LEASE

- LANDLORD:** THE CITY OF NEW YORK ("Landlord")  
City Hall  
New York, New York 10007
- TENANT:** NEW YORK CITY LAND DEVELOPMENT CORPORATION  
("Tenant")  
110 William Street  
New York, New York 10038
- LEASE:** Agreement of Commercial Lease, dated as of January 31, 2019 (the "Lease"), between Landlord and Tenant.
- PREMISES:** That certain parcel of land lying and being in the City of New York, Borough of Brooklyn, State of New York, bounded as described in Exhibit A attached hereto and made a part hereof.
- TERM:** The initial term of the Lease (the "Initial Term") commences on the date of the Lease (the "Commencement Date") and expire at 11:59 p.m. on (i) the day that is the Forty-Ninth (49<sup>th</sup>) anniversary of the Commencement Date, or, if the Commencement Date shall be any date other than the first day of a calendar month, then the last day of the month in which the Forty-Ninth (49<sup>th</sup>) anniversary of the Commencement Date occurs, *provided* that such date may be extended if Tenant exercises its rights in accordance with the terms of the Lease, or (ii) such earlier date as the Lease may be terminated in accordance with the terms of the Lease, (such date, the "Expiration Date").
- Subject to the terms of the Lease, Tenant is granted the option to extend the Initial Term for up to five (5) consecutive renewal terms of ten (10) years each.
- PROVISIONS:** This Memorandum of Lease is subject to all of the terms, conditions and agreements set forth in the Lease. This Memorandum of Lease is intended to give notice of certain of the terms of the Lease, and is not intended to, and shall not be deemed or construed to, change the provisions of the Lease in any respect. In the event of any conflict or inconsistency between the provisions of this Memorandum of Lease



and the provisions of the Lease, the provisions of the Lease shall prevail.

*[Signature page follows]*



IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease as of the 31<sup>st</sup> day of January, 2019.

LANDLORD:

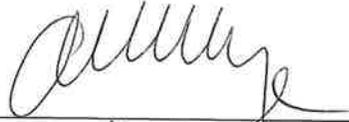
THE CITY OF NEW YORK

ATTEST:

  
\_\_\_\_\_

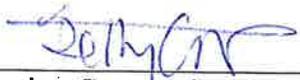
Name: Michael McSweeney  
Title: City Clerk

By:

  
\_\_\_\_\_

Name: Alicia Blum  
Title: Deputy Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_

Acting Corporation Counsel  
(mm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:

  
\_\_\_\_\_

Name: \_\_\_\_\_  
Title: **Spencer Hobson**

**Executive Vice President / Treasurer**

Handwritten initials or signature

Spencer Hobson

Executive Vice President, Treasurer

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**Maxwell C Padden**  
**Notary Public, State of New York**  
**No.02PA6274310**  
**Qualified in Kings County**  
**Commission Expires Jan. 7, 2017** 2021

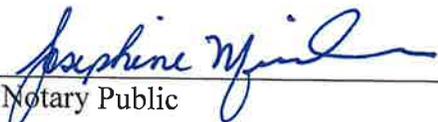
On January 30, 2019, before me, the undersigned, personally appeared Michael McSteeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

LILIA DWYER  
Commissioner of Deeds  
New York County  
Commission Expires Feb. 01, 2020

  
\_\_\_\_\_  
Notary Public

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

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**JOSEPHINE MIRANDA**  
**NOTARY PUBLIC, STATE OF NEW YORK**  
**NO. 01M16164430**  
**QUALIFIED IN RICHMOND COUNTY**  
**MY COMMISSION EXPIRES APRIL 23, 2019**



Exhibit A  
DESCRIPTION OF PREMISES

**BOROUGH OF BROOKLYN, BLOCK 1274, LOT 1:**

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.



**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Memorandum of Lease as of the 31<sup>st</sup> day of January, 2019.

LANDLORD:

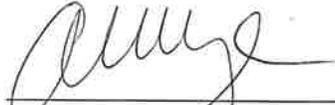
THE CITY OF NEW YORK

ATTEST:



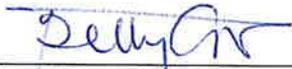
Name: Michael McSweeney  
Title: City Clerk

By:



Name: Nicola Len  
Title: Deputy Mayor

APPROVED AS TO FORM:



Acting Corporation Counsel  
(mm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:



Name: Spencer Hobson  
Title:

Executive Vice President / Treasurer

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**Maxwell C Padden**  
Notary Public, State of New York  
No. 02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, ~~2017~~ 2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**JOSEPHINE MIRANDA**  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M16164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 2019

On January 30, 2019, before me, the undersigned, personally appeared Michael McSweeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**LILIA DWYER**  
Commissioner of Deeds  
New York State  
Clerk of the County of York  
Commission Expires Feb. 01, 2020

**DECLARATION OF INTEREST AND NOMINEE AGREEMENT**  
**(NMTC Leasehold Interests)**

THIS DECLARATION OF INTEREST AND NOMINEE AGREEMENT (the “**Agreement**”) by and between BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION (the “**Bedford Courts LDC**”) a New York not-for-profit corporation organized pursuant to Section 402 of the Not-for-Profit Corporation Law of the State of New York (“**N-PCL**”) and Section 1411 of the N-PCL as a local development corporation, having its office at c/o Settlement Housing Fund, Inc., 247 West 37th Street, 4th Floor, New York, New York 10018, and BEDFORD COURTS III LLC, a New York limited liability company (the “**BC III LLC**” or the “**Company**”), each with an office at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, dated as of the **31** day of January, 2019.

**RECITALS:**

**WHEREAS**, the City of New York, a municipal corporation of the State of New York (the “**City**”), as landlord, and New York City Land Development Corporation, a local development corporation (“**NYCLDC**”), as tenant entered into that certain Agreement of Commercial Lease (the “**Lot 1 Ground Lease**”) with respect ground leasehold interests in the premises located at 1561 Bedford Avenue, Brooklyn, New York and designated as Block 1274 Lot 1 on the Tax Map of the City of New York, Kings County, and more described in **Schedule “A”** annexed hereto and made a part hereof (the “**Property**”)

WHEREAS, simultaneously with the execution of the Lot 1 Ground Lease, NYCLDC executed that certain Assignment and Assumption of Lease, dated as of the date hereof, assigning all of its rights and responsibilities as tenant under the Lot 1 Ground Lease to Bedford Courts LDC, as nominee for and on behalf of BC III LLC, and to BC III LLC as beneficial lessee (“**Initial Assignment of Ground Lease**” and together with Lot 1 Ground Lease, the “**NMTC Ground Lease**”);

**WHEREAS**, Bedford Courts LDC and BC III LLC desire that notwithstanding the transfer of all beneficial leasehold interest in, to and with respect to the Property and the Project (as hereinafter defined), legal or record leasehold title to the Property and the Project (as defined below) shall be held by Bedford Courts LDC;

**WHEREAS**, Bedford Courts LDC and BC III LLC intend to rehabilitate an existing building on the Property into a community recreational facility with additional community space, with an address of 1561 Bedford Avenue, Brooklyn, New York, and to further subject the Property to a leasehold condominium regime pursuant to a Declaration of Condominium (a “**Bedford Courts I Declaration**”) comprised of:

- a. one condominium unit comprised of approximately 3,878 square feet of space for co-generation utilities and equipment and its allocable share of limited common elements and common elements as set forth under the Declaration to be filed (the “**Co-Gen Unit**”);

- b. one condominium unit comprised of approximately 109,642 square feet of community facility and recreational space and its allocable share of limited common elements and common elements as set forth under the Declaration to be filed (the “**Recreational Facility Unit**” and together with the Co-Gen Unit to be filed under Bedford Courts I Declaration as “Bedford Courts I Condominium”, hereinafter the “**Project**”);

**WHEREAS**, after the execution of this Agreement, BC III LLC, Bedford Courts LDC and Bedford Courts I LLC, a New York limited liability company (the “**QALICB**”) shall execute that certain Agreement of Lease (the “**NMTC Sublease**”) whereby BC III LLC shall sublease its equitable and beneficial leasehold interest in the Property and the Project to the QALICB (hereafter as equitable and beneficial subtenant) and Bedford Courts LDC shall sublease its record leasehold in the Property and the Project to itself (hereafter as record subtenant, and nominee for QALICB as equitable and beneficial subtenant);

**WHEREAS**, after the execution of the NMTC Sublease, Bedford Courts LDC and QALICB shall execute a “Declaration of Interest and Nominee Agreement (NMTC Subleasehold Interests)” (the “**Sublease NMTC Nominee Agreement**”) that shall further allocate and set forth the rights, interests, terms and conditions of Bedford Courts LDC, as record and nominal subtenant in the Property and the Project, and QALICB as equitable and beneficial subtenant in the Property and the Project;

**WHEREAS**, the Project will be financed by one or more loans and equity investments (the “**NMTC Loans**” and any documents in connection thereto the “**NMTC Loan Documents**”);

**WHEREAS**, New York City Housing Development Corporation (“**HDC**”) has made one or more loans to BC III LLC and Bedford Courts III LIHTC LLC (“**BC III LIHTC**”) (the “**Residential Mortgage Loan**”) to construct on Block 1274, Lots 2 and 101 two (2) mixed-use, buildings that will be subjected to a six (6) unit condominium (the “**Bedford Courts II and III Condominium**” and together with Lots 2 and 101, the “**Residential Project**”), which Residential Mortgage Loan is secured by those certain leasehold and subleasehold mortgages that encumber the Property (collectively, the “**Residential Mortgage**”) and other related security documents and financing statements given by BC III LLC in favor of HDC (collectively, the “**Residential Mortgage Loan Documents**”); and

**WHEREAS**, on or shortly after the issuance of a temporary certificate of occupancy for the NMTC Project, pursuant to the terms of the Residential Mortgage Loan Documents and HDC/HPD Regulatory Agreement (as defined below), the Property and Project will be released from (a) the lien of the Residential Mortgage and remove QALICB as a debtor from any Uniform Commercial Code financing statements related thereto, and (b) the lien of that certain Regulatory Agreement executed by and among BC III LLC, Bedford Courts LDC, BC III LIHTC and Bedford Courts III Housing Development Fund Corporation (“**HDFC**”) encumbering the Property and the Residential Project (the “**HDC/HPD Regulatory Agreement**”); and

**WHEREAS**, after the issuance of a temporary certificate of occupancy for the Project, and pursuant to the terms of the NMTC Loan Documents, NMTC Ground Lease, and NMTC Sublease, the parties to this Agreement shall take certain actions as set forth in Section 8(m) below.

**NOW, THEREFORE**, in consideration of the sum of One and 00/100 Dollars (\$1.00), as well as other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. The Recitals above are integrated herein as if set forth at length. Bedford Courts LDC's acquisition and holding of legal and/or record leasehold title of the Property and Project were each and all effected and performed by Bedford Courts LDC solely as a nominee of, and on behalf of Company. Although Bedford Courts LDC will hold legal or record leasehold title to the Property and Project such title shall only be as nominee legal or record titleholder on behalf of BC III LLC. As a result, the parties hereby acknowledge and agree that as between BC III LLC and Bedford Courts LDC, BC III LLC possesses all of the equitable and beneficial leasehold interest in the Property, and will possess all the equitable and beneficial leasehold interest in the Project, such that BC III LLC, and not Bedford Courts LDC shall have an:

(a) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Property and the Project due to obsolescence or exhaustion, and shall bear 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 as well as the absolute right to any and all tax benefits that may inure to 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 pay for and maintain property and liability 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 property and liability insurance coverage shall include the mortgage lenders, Bedford Courts LDC, and Bedford Courts LDC's sole member, Settlement Housing Fund, Inc. ("**SHF**"), together with such other parties as are required pursuant to the NMTC Ground Lease, as certificate holders and 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 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 lease, operate, manage and sell the Property and the Project in accordance with this Agreement and any and all documents executed in connection with the regulation, financing, development, operation 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 Bedford Courts LDC'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.

2. Bedford Courts LDC hereby agrees at the direction of BC III LLC to execute any and all documents necessary to grant to the financial institution or institutions making the Residential Loans, any subordination, non-disturbance, and attornment agreements, estoppel certificates, recognition agreements, and any similar documentation necessary to establish the rights, privileges and priorities of the Residential Mortgage lender and lenders of the NMTC Loans, with respect to this Agreement, the NMTC Sublease, the NMTC Loans, the Sublease NMTC Nominee Agreement and any other NMTC Project documents executed by Bedford Courts LDC. Further, Bedford Courts LDC also hereby agrees that at the direction of BC III LLC to execute any and all documents necessary to grant to the financial institution or institutions making the NMTC Loans a mortgage or mortgages and any similar security interests on the Property and the Project, as well as any documents including but not limited documents that may arise in connection with this Agreement, the NMTC Sublease, the NMTC Loans, the Sublease NMTC Nominee Agreement and any other NMTC Project documents executed by Bedford Courts LDC, except for mortgage notes or loan notes, required to be executed by Bedford Courts LDC in connection with the financing and development of the Property and the operation and management of the Project, provided that Bedford Courts LDC shall execute such documents for the sole purpose of encumbering its record leasehold interest in the Property and the Project, and provided further that all such mortgages, estoppels, recognition agreements and other documents shall be non-recourse to Bedford Courts LDC in its capacity as the legal or record leasehold owner of the Property. Bedford Courts LDC hereby 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 any documents or instruments deemed to be required to be executed by the Company, in

connection with all aspects of the conversion of financing for the Project from construction to permanent, on the following conditions: (i) Company shall advise Bedford Courts LDC of the need to execute conversion documents on not less than five (5) business days' notice; (ii) should Bedford Courts LDC fail to comply with Company's request based upon a failure to respond, Company shall then have the right to execute all such documents in the name and on behalf of Bedford Courts LDC as if Bedford Courts LDC were the party executing the same, provided that the execution and delivery of such documents complies with the Project Documents, the Not-for-Profit Corporation Law of the State of New York, and Bedford Courts LDC's Certificate of Incorporation and by-laws.

### 3. Indemnifications.

(a) Company shall fully protect, defend, indemnify, and hold Bedford Courts LDC, SHF, and their officers, directors, members, affiliates, agents and employees (each an "Indemnified Party" and collectively the "Indemnified 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) ownership of the Property from and after the date of transfer of title to the Property to Bedford Courts LDC, (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 negligence of any of the Indemnified Parties (collectively, "Claims"). The foregoing indemnification shall include, but shall not be limited to Company's primary obligation to defend all reasonable Claims, 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 the Indemnified Parties 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 such Indemnified Parties 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 Bedford Courts LDC 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. Company's obligations and liabilities under this section shall survive (x) completion of the Project and (y) any foreclosure involving the Property, or any part thereof, or Bedford Court LDC'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 3, the Company, upon written notice from such Indemnified Party, shall assume the investigation and defense of such action or proceeding, including the employment of counsel selected by the Company, but reasonably acceptable to the Indemnified Party (except if such counsel is appointed by insurance carrier). Each Indemnified Party shall have the right, if such Indemnified Party and Company 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 the reasonable fees and expenses of such separate counsel, pursuant to Section 3(a) or 3(b), as applicable.

This Section 3 shall survive the termination of this Agreement.

4. Bedford Courts LDC agrees that all proceeds of any insurance policies and condemnation proceeds received by it (if any), which relate to its tenancy of the Property, shall be received in its capacity as nominee of Company and shall be immediately deposited in such account or accounts as may be required pursuant to the NMTC Ground Lease, the Residential Mortgage, the NMTC Sublease, the NMTC Loan documents, as applicable, as the Company may direct, including, but not limited to, liability, property, casualty and title insurance proceeds.

5. Bedford Courts LDC hereby irrevocably and unconditionally agrees, promptly upon the request of Company, to execute and deliver to Company an assignment of any ground lease to the Property or other conveyance, sublease or assignment instrument transferring all or a portion of the Project in proper recordable form that transfers and conveys to Company all of Bedford Courts LDC's right, title and interest in and to the Property and Project. Bedford Courts LDC 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 Bedford Courts LDC, in the name, place and stead of Bedford Courts LDC with the same force and effect as if such deed was executed and recorded by Bedford Courts LDC. The parties agree that Bedford Courts LDC'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 Bedford Courts LDC of the provisions of this Paragraph 5. Notwithstanding anything to the contrary herein, Bedford Courts LDC 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, and/or Bedford Courts LDC's Certificate of Incorporation and by-laws. Bedford Courts LDC hereby consents to and authorizes the Company to sublease the Company's equitable and beneficial leasehold interests in the Property (as such a subleasehold interest) and the Company's equitable and beneficial interests in the Project to QALICB pursuant to the NMTC Sublease. Bedford Courts LDC further consents to sublease its record leasehold interests, pursuant to the NMTC Sublease or any similar subleasehold instrument, and which shall provide and hereby affirms that there shall be no merger of Bedford Courts LDC's record leasehold interests in the Property and Project with the record subleasehold estate created by the NMTC Sublease by reason of fact that Bedford Courts LDC or the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly the NMTC Sublease or the record subleasehold estate created by the NMTC Sublease or any instrument creating or in furtherance of such record subleasehold estate, and no such merger shall occur unless and until all persons, corporations, firms and other entities having an interest (including a security interest) in the NMTC Sublease or any other instrument that grants such record, subleasehold estate, shall join in a written instrument effecting such merger and shall duly record the same.

6. Reserved.

7. Company and Bedford Courts LDC 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 Bedford Courts LDC shall hold legal title to the Property, as between Bedford Courts LDC and the Company, the Company shall have complete and exclusive possession and control of the Property and Bedford Courts LDC shall not have any right to possess or control the Property;

(b) Company is the "owner" and Bedford Courts LDC 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, and Company is entitled to all tax benefits, including depreciation and low income housing tax credits, with respect to the Property;

(c) Bedford Courts LDC is not, and shall not be, entitled to receive any proceeds of any of the NMTC Loans or the Residential Loans and/or otherwise have any rights, title, interests or benefits from, of, to and/or under any of the NMTC Loans or Residential Loans;

(d) Except as expressly provided in Paragraph 2 hereof, Bedford Courts LDC 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 Bedford Courts LDC 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) Bedford Courts LDC 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 Bedford Courts LDC shall be void, unenforceable and of no force or effect and shall not be binding upon Company, provided, however, that notwithstanding the foregoing Bedford Courts LDC shall at the request of Company and for the benefit of the Project, apply for a New York State sales and use tax exemption ("Sales Tax Exemption") and, at Company's request, join as a party any contract and agreement, so as to enable associated Project development costs, expenses and charges related to the construction and development of the Project to benefit from the Sales Tax Exemption;

(f) Bedford Courts LDC 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 if such participation by Bedford Courts LDC is necessary to protect or enforce Bedford Courts LDC's and/or the Company's respective interests in the Property and/or the Project, Bedford Courts LDC 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 Bedford Courts LDC against any and all claims arising from any such legal actions or proceedings; and

(g) Bedford Courts LDC 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 Bedford Courts LDC 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.

#### 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) Except as provided in Section 5 or otherwise provided in this Agreement, 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 also to:

Wells Fargo Community Investment Holdings, LLC  
401 B Street, Suite 304-A  
MAC E2901-031  
San Diego, CA 92101  
Attention: Loan Administrator

Citibank, N.A.  
388 Greenwich Street, 8<sup>th</sup> Floor  
New York, New York 10013  
Attention: Tricia Yarger

National Community Investment Fund  
135 LaSalle, Suite 2040  
Chicago, IL 60603  
Attention: Terry Burm

(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 Bedford Courts LDC hereunder.

(i) So long as Bedford Courts LDC shall hold record title to the Property and the Project, the Company shall file the yearly Federal and State Tax Returns, the NYS CHAR410 Form, and the yearly NYS CHAR500 Forms on behalf of Bedford Courts LDC, and provide such Tax Returns and CHAR Forms to Bedford Courts LDC for execution, at no charge to Bedford Courts LDC.

(j) For purposes of this provision 8(j), “Government Financing Document” shall mean all City, State or Federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments. Notwithstanding anything contained herein to the contrary, if there is an Event of Default under any Government Financing Document, as defined above, Bedford Courts LDC shall have the right to enter the Property and Project to cure the default as agent for and on behalf of the Company, provided that Company is not diligently acting to cure such default.

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

(l) On or shortly after the issuance of a temporary certificate of occupancy for the Project, Bedford Courts LDC and the Company will, pursuant to the terms of the Residential Mortgage Loan Documents and HDC/HPD Regulatory Agreement, execute any documents necessary to release the Property and Project from (a) the lien of the Residential Mortgage and remove QALICB as a debtor from any Uniform Commercial Code financing statements related thereto, and (b) that certain HDC/HPD Regulatory Agreement.

(m) After the issuance of a temporary certificate of occupancy for the Project, and pursuant to the terms of the NMTC Loan Documents, NMTC Ground Lease, and NMTC Sublease:

- i. the Company shall assign its interests in the NMTC Ground Lease, as held under that certain Initial Assignment of Ground Lease, to the QALICB;
- ii. the Sublease NMTC Nominee Agreement shall be amended (whether by its terms or separate written instrument) to reflect that QALICB holds direct equitable and beneficial leasehold interests in the Property and Project and that Bedford Courts LDC holds direct record leasehold interests in the Property and Project, as nominee for QALICB, and if necessary an amendment shall be recorded against the Property;
- iii. this Agreement shall be terminated of record against the Property as set forth in Section 8(n); and
- iv. the NMTC Sublease shall be terminated pursuant to its terms and, and if necessary an instrument of termination shall be executed and recorded against the Property.

(n) This Agreement shall terminate upon by execution of a written instrument executed by the parties, such document may be and recorded against the Property to evidence the termination of this Agreement.

(o) This Agreement shall become effective as of the date hereof and shall continue in full force and effect for the duration of any applicable governmental regulatory agreement or for such longer term as may be permitted under New York law or until terminated by mutual written agreement of the parties or otherwise terminated in accordance with the terms of this Agreement, or as required by New York State Law.

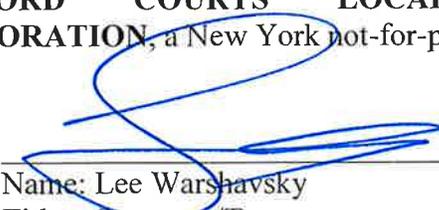
(p) In the event that Bedford Courts LDC determines that it no longer wishes to continue in its role as nominee hereunder, Bedford Courts LDC may arrange for a substitute New York not-for-profit corporation, organized as a local development corporation pursuant to Section 1411 of the N-PCL to take its place, provided that the substituting entity and the substitution is approved and consented by the Company, and all of the Project participants, lenders governmental agencies, tax credit investors and credit enhancers and other parties-in-interest as otherwise may be required under the documents executed by the Company and/or Bedford Courts LDC in connection with Project or any of the NMTC Loans, and further provided that such substitution would be at the sole cost and expense of the Bedford Courts LDC including but not limited to any reasonable attorneys' fees and transfer taxes, if any, incurred by the Company as a result of such request for substitution.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

**RECORD OWNER AND NOMINEE FOR EQUITABLE AND BENEFICIAL OWNER:**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION**, a New York not-for-profit corporation

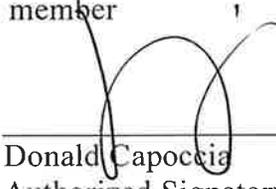
By: 

Name: Lee Warshavsky  
Title: Secretary/Treasurer

**EQUITABLE AND BENEFICIAL OWNER:**

**BEDFORD COURTS III LLC**

By: Bedford Courts III Developer LLC,  
its sole member

By: 

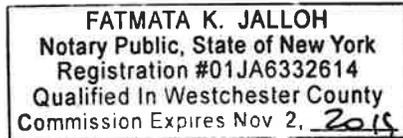
Name: Donald Capoccia  
Title: Authorized Signatory

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

On the 30<sup>th</sup> day of January, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared LEE WARSHAVSKY, 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.

*Fatmata K. Jalloh*

Notary Public

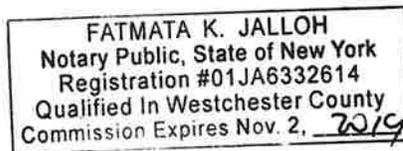


STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On the 30<sup>th</sup> day of January, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared DONALD CAPOCCIA 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.

*Fatmata K. Jalloh*

Notary Public



**SCHEDULE "A"**  
LEGAL DESCRIPTION OF LOT 1

**LOT 1:**

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.

**DECLARATION OF INTEREST AND NOMINEE AGREEMENT  
(LEASEHOLD INTERESTS)**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION**

**AND**

**BEDFORD COURTS III LLC**

---

1561 Bedford Avenue, Brooklyn, New York  
Block 1274 Lot 1

---

Record and Return to:

**HIRSCHEN SINGER & EPSTEIN LLP**  
902 Broadway, 13th Floor  
New York, NY 10010  
Attn: Russell A. Kivler, Esq.

AGREEMENT OF LEASE

between

BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, as record sublessor and  
nominee for

BEDFORD COURTS III LLC,

collectively, the “Sublessor” or “Lessor”

and

BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, as record sublessee and  
nominee for

BEDFORD COURTS I LLC,

collectively, the “Sublessee” the “Lessee”

Dated as of January 31, 2019

Property located at:

1561 Bedford Avenue  
Brooklyn, New York  
Kings County Block 1274 Lot 1

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 Definitions.....	- 1 -
ARTICLE 2 Demise, Term, Initial Tenant Improvements and Assignment on Turnover Date.....	- 9 -
ARTICLE 3 Rent .....	- 11 -
ARTICLE 4 Use; Maintenance; Compliance with Laws .....	- 12 -
ARTICLE 5 Services .....	- 14 -
ARTICLE 6 Leasehold Mortgages .....	- 15 -
ARTICLE 7 Subordination.....	- 21 -
ARTICLE 8 Default and Remedies .....	- 22 -
ARTICLE 9 Surrender Upon Termination Following an Event of Default .....	- 25 -
ARTICLE 10 Insurance .....	- 26 -
ARTICLE 11 Non-Liability, Indemnification and Costs .....	- 27 -
ARTICLE 12 Brokerage.....	- 28 -
ARTICLE 13 Lessor’s Liability; Lessee’s Remedies.....	- 28 -
ARTICLE 14 Assignment, Mortgaging, Subletting, Etc.....	- 29 -
ARTICLE 15 Personal Property .....	- 30 -
ARTICLE 16 Lessor’s Access.....	- 30 -
ARTICLE 17 Late Charges and Interest.....	- 31 -
ARTICLE 18 Asbestos or Other Hazardous Substances.....	- 31 -
ARTICLE 19 Preparation of Property; “As Is” Condition .....	- 32 -
ARTICLE 20 Casualty.....	- 32 -
ARTICLE 21 Condemnation .....	- 33 -
ARTICLE 22 Change of Condition .....	- 34 -
ARTICLE 23 Estoppel Certificate.....	- 35 -
ARTICLE 24 Notices .....	- 35 -
ARTICLE 25 Miscellaneous.....	- 37 -
EXHIBIT A     Approved Plans.....	A-1
EXHIBIT B     Substantial Completion Notice .....	B-1
EXHIBIT C     Intentionally Omitted .....	C-1
EXHIBIT D     Subordination, Non-Disturbance and Attornment Agreement .....	D-1
EXHIBIT E     Condominium Declaration.....	E-1
EXHIBIT F     Assignment and Assumption of Ground Lease Agreement.....	F-1
EXHIBIT G     Construction Schedule .....	G-1
EXHIBIT H     Condominium Plans.....	H-1
EXHIBIT I     Memorandum of Lease .....	I-1

This index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision of thereof.

THIS AGREEMENT OF LEASE (this “Lease”), dated as of January \_\_, 2019, is executed by and between Bedford Courts Local Development Corporation, a New York not-for-profit corporation (“BCLDC”), as record sublessor and nominee for Bedford Courts III LLC, a New York limited liability company (“BC III” and together with BCLDC, the “Sublessor” or “Lessor”), and BCLDC as record sublessee and nominee for Bedford Courts I LLC, a New York limited liability company (“QALICB” and together with BCLDC, the “Sublessee” or “Lessee”).

WITNESSETH:

A. The City of New York, a municipal corporation of the State of New York (the “City”), as landlord, and New York City Land Development Corporation, a local development corporation (“NYCLDC”), as tenant entered into an Agreement of Commercial Lease with respect ground leasehold interests in the premises located at Block 1274 Lot 1 on the Tax Map of the City of New York, Kings County dated as of the date hereof (the “Original Ground Lease”).

B. Simultaneously with the execution of the Original Ground Lease, NYCLDC executed that certain Assignment and Assumption of Lease assigning all of its rights and responsibilities as tenant under the Ground Lease to BCLDC as nominee for BC III (“Initial Assignment of Ground Lease” and together with Original Ground Lease, the “Ground Lease”).

C. BC III and BCLDC entered into that certain Declaration of Interest and Nominee Agreement (NMTC Leasehold), dated as of even date herewith (the “Leasehold Nominee Agreement”). Pursuant to the Leasehold Nominee Agreement, BCLDC is the record leasehold owner of the Project (defined below) and BC III is the beneficial and equitable leasehold owner of the Project.

D. QALICB and BCLDC entered into that certain Declaration of Interest and Nominee Agreement (NMTC Subleasehold), dated as of even date herewith (the “Subleasehold Nominee Agreement”). Pursuant to the Subleasehold Nominee Agreement, BCLDC is the record subleasehold owner of the Project and QALICB is the beneficial and equitable subleasehold owner of the Project.

E. Lessor intends to construct and lease the Project to Lessee subject to the terms of this Lease.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereto covenant and agree as follows:

ARTICLE 1  
Definitions

The following terms used in this Lease shall have the following meanings:

1.01 “Additional Rent” shall have the meaning set forth in Section 3.02 of this Lease.

1.02 “Additional Rent Estimate” shall have the meaning set forth in Section 3.02 of this Lease.

1.03 “Approved Plans” shall mean the list of plans and specifications for the construction of the Project attached as Exhibit A hereto as may be updated or amended from time to time in accordance with the Mortgage Documents.

1.04 “Architect” shall mean Marvel Architects PLLC or any replacement thereof appointed by BC III with the consent of QLICI Lenders and the Direct Lender.

1.05 “Assessed Valuation” shall mean the amount for which the Property is assessed for the purpose of imposition of Taxes.

1.06 “Assignment and Assumption of Ground Lease Agreement” shall have the meaning set forth in Section 2.05 of this Lease.

1.07 “Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy”, as now or hereafter in effect or any successor statute thereto.

1.08 “Base Rate” shall mean the annual rate of interest publicly announced from time to time by Citibank, N.A., or its successor, in New York, New York as its “base rate” or “prime rate” (or such other term as may be used by Citibank, N.A, from time to time, for the rate presently referred to as its “base rate” or “prime rate”).

1.09 “Base Rent” shall have the meaning set forth in Section 3.01 of this Lease.

1.10 “BCLDC” shall have the meaning set forth in the recitals.

1.11 “Building” shall mean that certain building to be built at 1561 Bedford Avenue, Brooklyn, New York, as more particularly described in the Approved Plans.

1.12 “Business Days” shall mean each Monday through Friday inclusive, except any of such days on which banks are closed in New York City.

1.13 “CADA” shall mean that certain Construction Administration and Disbursement Agreement dated as of the date hereof among BC III, QALICB, QLICI Lenders, and Wells Fargo, in its capacity as Administrator, a depository bank and Direct Lender.

1.14 “Calendar Year” shall mean each calendar year all or any portion of which occurs during the Term.

1.15 “Commencement Date” shall have the meaning set forth in Section 2.03 of this Lease.

1.16 “Common Areas” or “Common Elements” shall have the meaning set forth in the Condominium Declaration.

1.17 “Common Charges” shall have the meaning set forth in the Condominium Declaration.

1.18 “Completion” shall mean, with respect to the Property, the occurrence of each of the following: (a) the Initial Improvements have achieved Substantial Completion and all “punch-list” items have been completed, (b) all construction equipment, materials and debris have been removed from the Property, (c) Contractor has delivered to Lessor the close-out items for the Initial Improvements as required by the Construction Contract and (d) the final certificate of occupancy and all other permits required for occupancy of the Building have been issued.

1.19 “Condominium Declaration” shall mean that certain Bedford Courts I Condominium Declaration to be recorded against the Property, expected to be substantially in the form attached hereto as Exhibit E.

1.20 “Condominium Plans” shall mean the condominium floor plans to be recorded against the Property, expected to be substantially in the form attached hereto as Exhibit H.

1.21 “Condominium Units” shall mean the to be constructed Co-Gen Condo Unit, and the Recreational Facility Condo Unit, together with an undivided right to access and use the Common Elements as depicted in the Condominium Plans and the rights (inclusive of the development rights) to the portion of the Property where the Co-Gen Condo Unit, and the Recreational Facility Condo Unit will be located (each individually, a “Condominium Unit”).

1.22 “Construction Schedule” shall mean the schedule for construction of the Property delivered by BC III to QALICB, Direct Lender and QLICI Lenders on the date hereof, as such schedule may be amended from time to time in the event of Force Majeure Causes or with the consent of QLICI Lenders and Direct Lender, and a copy of such schedule is attached hereto as Exhibit G.

1.23 “Consulting Engineer” shall mean KOW Building Consultants.

1.24 “Contractor” shall mean Armory Builder III LLC or any replacement thereof selected by Lessor and Lessee and approved by QLICI Lenders and Direct Lender.

1.25 “Co-Gen Condo Unit” shall mean the space to be located in the basement, which will be comprised of approximately 3,878 gross square feet of co-gen space as more particularly described in the Condominium Declaration and depicted in the Condominium Plans.

1.26 “Date of the Taking” shall have the meaning set forth in Section 21.01 of this Lease.

1.27 “Delivery of Possession Date” shall have the meaning set forth in Section 2.04(b) of this Lease.

1.28 “Direct Leasehold Mortgage” shall mean that certain mortgage granted by Lessee to Direct Lender securing the Direct Loan.

1.29 “Direct Lender” shall mean Wells Fargo (as defined below).

1.30 “Direct Loan” shall mean, collectively, those certain loans from the Direct Lender to Lessee in the aggregate principal amount of \$1,003,078.

1.31 “Direct Loan Documents” shall mean the building loan agreements, the project loan agreements, Direct Leasehold Mortgage and the other documents evidencing or securing the Direct Loan.

1.32 “Event of Default” shall have the meaning set forth in Section 8.01 of this Lease.

1.33 “Expiration Date” shall have the meaning set forth in Section 2.03 of this Lease.

1.34 “Force Majeure Causes” shall mean causes beyond a party’s reasonable control, including any act of God or a public enemy, act of any military, civil or regulatory authority, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power or other utility, or any other similar cause which could not have been prevented with the exercise of reasonable care by such party.

1.35 “Ground Lease” shall have the meaning set forth in the recitals.

1.36 “Hazardous Substance(s)” shall have the meaning set forth in the Section 18.01 of this Lease.

1.37 “HDC” shall mean the New York City Housing Development Corporation.

1.38 “HDC Construction Financing” shall mean, collectively, (i) the HDC tax-exempt bond financing in the approximate combined amount \$53,500,000 (“HDC Bond Loan”); (ii) the HDC co-first priority mortgage loan in the approximate amount of \$56,768,007 (the “HDC Bank Loan”); (iii) the HDC second lien priority mortgage loan in the approximate amount of \$15,000,000 (the “HDC Second Loan”); (iv) the HDC third lien priority mortgage loan, made by HDC from a grant made by HPD to HDC, in the approximate amount of \$31,075,000 (the “HDC Third Loan”); (v) the HDC fourth lien priority mortgage loan , made by HDC from a grant made by HPD to HDC, in the approximate amount of \$2,000,000 (the “HDC Fourth Loan”) and (vi) the HDC fifth lien priority mortgage loan, made by HDC from a grant made by HPD to HDC, in the approximate amount of \$10,000,000 (the “HDC Fifth Loan”).

1.39 “HDC Construction Mortgages” shall mean collectively those certain mortgages granted by BCLDC, HDFC, LIHTC LLC, and BC III to HDC securing the HDC Construction Financing.

1.40 “HDFC” shall mean Bedford Courts III Housing Development Fund Corporation, a New York not-for-profit corporation.

1.41 “HPD” shall mean the New York City Department of Housing Preservation and Development.

1.42 “Initial Improvements” shall have the meaning set forth in Section 2.04(a) of this Lease.

1.43 “Laws” shall mean all laws, statutes, resolutions, codes, rules, requirements, regulations, orders or similar items of any governmental or quasi-governmental department, bureau, agency or authority having or asserting jurisdiction over the ownership, operation, occupancy, maintenance or use the Building, including without limitation the Americans with Disabilities Act.

1.44 “Lease” shall have the meaning set forth in the first paragraph of this Lease.

1.45 “Lessee” shall have the meaning set forth in the first paragraph of this Lease.

1.46 “Lessee’s Cost Contribution” shall have the meaning set forth in Section 2.04 of this Lease.

1.47 “Lessee’s Property” shall have the meaning set forth in Section 15.01 of this Lease.

1.48 “Lessor” shall have the meaning set forth in the first paragraph of this Lease.

1.49 “Letter of Credit” shall mean that certain letter of credit to be issued and delivered to HDC in connection with the HDC Construction Financing by the Letter of Credit Issuer, or any other letters of credit which may be substituted therefor and accepted by HDC.

1.50 “Letter of Credit Issuer” shall initially mean Wells Fargo, and any entity or entities in the future that issue a Letter of Credit for the HDC Construction Financing.

1.51 “LIHTC LLC” shall mean Bedford Courts III LIHTC LLC, a New York limited liability company.

1.52 “Limited Common Elements” shall have the meaning set forth in the Condominium Declaration.

1.53 “Memorandum of Lease” shall mean the Memorandum of Lease between Lessor and Lessee substantially in the form of Exhibit I hereto.

1.54 “Mortgage Documents” shall mean the HDC Construction Mortgages, Direct Leasehold Mortgage and the QLICI Leasehold Mortgage (including any assignments, amendments, modifications thereto).

1.55 “Project” means the mixed-use project, including the to be constructed Building, substantially in accordance with the Approved Plans, and the Property on which the Building will be located.

1.56 “Property” shall mean the property located at 1561 Bedford Avenue, Brooklyn New York (Kings County Block 1274 Lot 1) upon which the Building is expected to be constructed.

1.57 “QLICI Leasehold Mortgage” shall mean that certain mortgage granted by Lessee to QLICI Lenders securing the QLICI Loan.

1.58 “QLICI Lenders” shall mean collectively, (i) Citi NMTC Subsidiary CDE XXXV, LLC (ii) NYCR Sub-CDE 6, LLC, (iii) Wells Fargo Community Development Enterprise Round 12 Subsidiary 24, LLC and (iv) NCIF New Markets Capital Fund XXXV CDE, LLC.

1.59 “QLICI Loan” shall mean, collectively, those certain loans from the QLICI Lenders to Lessee in the aggregate principal amount of \$25,490,000.

1.60 “QLICI Loan Documents” shall mean the building loan agreements, the project loan agreements, QLICI Leasehold Mortgage and the other documents evidencing or securing the QLICI Loan.

1.61 “Recreational Facility Condo Unit” shall mean the space to be located on the cellar through the third floor, which will be comprised of approximately 109,642 gross square feet of community facility and office space as more particularly described in the Condominium Declaration and depicted in the Condominium Plans.

1.62 “Regulatory Agreement” shall mean that certain Regulatory Agreement for the that certain residential “Project” (as such term is more fully defined therein), to be entered into by and among the BC III, LIHTC LLC, Bedford Courts III Housing Development Fund Corporation, a New York not-for-profit corporation, BCLDC, HPD and HDC (as each may be amended or supplemented from time to time).

1.63 “Regulatory Documents” shall mean all documents and agreements into which Lessor and/or Lessee currently or hereafter enter(s) that provide for income restrictions, use restriction rent restrictions or any other obligations, terms and conditions including, but not limited to, the Regulatory Agreement.

1.64 “Rent” shall have the meaning set forth in Section 3.08 of this Lease.

1.65 “Replacement Lease” shall have the meaning set forth in Section 6.02 of this Lease.

1.66 “Security Deposit (Sublease)” shall have the meaning set forth in Section 3.02(d) of this Lease.

1.67 “Servicer” shall initially mean Wells Fargo and any entity or entities in the future that service the loans secured by the HDC Construction Mortgages as set forth in that certain Servicing and Release Agreement.

1.68 “Servicing and Release Agreement” shall mean that certain servicing and release agreement between Lessor, LIHTC LLC, Wells Fargo and HDC.

1.69 “SNDA” shall have the meaning set forth in Section 7.01 of this Lease.

1.70 “Substantial Completion” shall mean, with respect to the Initial Improvements or the Project, as the case may be: (a) the Initial Improvements or the Project, as the case may be, has been constructed and equipped in a good and workmanlike manner, free from mechanic’s and similar liens and known defects or violations of applicable Laws, in substantial accordance with

the Approved Plans and the Construction Contract, except for completion of “punch-list” items that do not adversely affect the use or occupancy of the Initial Improvements or the Project, as the case may be, for their intended purposes in any material respect; (b) all required utilities for the normal operation of the Initial Improvements or the Project, as the case may be, are available and connected; (c) temporary certificate of occupancy has been issued with respect to the Initial Improvements or the Project, as the case may be, by the appropriate governmental authority so that legal occupancy of the Initial Improvements or the Project, as the case may be, is permitted; (d) Architect has delivered to BC III a certificate of Substantial Completion in the form of AIA Form G704, including the “punch-list” prepared by Architect of the items of work required to be completed in order to achieve Completion of the Initial Improvements or the Project, as the case may be and (e) as determined in accordance with the QLICI Loan Documents and the Direct Loan Documents.

1.71 “Substantial Completion Notice” shall mean the form attached hereto as Exhibit B pursuant to which Lessor and Lessee will confirm Substantial Completion and the Turnover Date (as defined herein).

1.72 “Successor Landlord” shall have the meaning set forth in Section 7.02 of this Lease.

1.73 “Superior Mortgage” shall have the meaning set forth in Section 7.01 of this Lease.

1.74 “Superior Mortgagee” shall have the meaning set forth in Section 7.01 of this Lease.

1.75 “Taxes” shall mean, (i) all real estate taxes, assessments, business improvement district assessments and charges and other governmental levies, impositions or charges, whether general, special, ordinary, extraordinary, foreseen or unforeseen, which may be assessed, levied or imposed upon all or any part of the Property or in connection with the use thereof taking into account any type of real estate tax abatements (including, without limitation, any transit, personal property, sales, rental, use, gross receipts, business improvement district assessments, or occupancy taxes, vault rental and other taxes and assessments) and, the taxes and assessments levied against the Property, and (ii) all expenses (including reasonable attorneys’ fees and disbursements and experts’ and other witnesses’ fees) incurred in contesting any of the foregoing or the Assessed Valuation of the Property. Taxes shall not include (w) sewer and water rents, (x) interest or penalties incurred by Lessor as a result of Lessor’s late payment of Taxes, (y) franchise, transfer, gift, inheritance, estate, net income or similar taxes imposed upon Lessor, or (z) deed transfer, transfer of economic interests or recordation taxes. For purposes hereof, “Taxes” for any Calendar Year shall be deemed to be the Taxes which are assessed, levied or imposed for such Calendar Year regardless of when due or paid. If any Taxes are assessed on a fiscal year (rather than a Calendar Year), Lessor shall have the right to equitably allocate such Taxes on a Calendar Year basis. Lessor shall have the right to equitably allocate any tax rebates, refunds or exemptions to such portion or uses of the Property to which any such rebate, refund or exemptions relate. If Lessor elects to pay any assessment in annual installments, then (i) such assessment shall be deemed to have been so divided and to be payable in the maximum number of installments permitted by law, and (ii) there shall be deemed included in Taxes for each Calendar

Year the installments of such assessment becoming payable during such Calendar Year, together with interest payable during such Calendar Year on such installments and on all installments thereafter becoming due as provided by law, all as if such assessment had been so divided. If at any time the methods of taxation prevailing on the Commencement Date shall be altered so that in lieu of or as an addition to the whole or any part of Taxes, there shall be assessed, levied or imposed (1) a tax, assessment, levy, imposition or charge based on the gross income or rents received from the Property whether or not wholly or partially as a capital levy or otherwise, (2) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon the value of all or any part of the Property and imposed upon Lessor, (3) a license fee measured by the rents, or (4) subject to the exclusions above, any other tax, assessment, levy, imposition, charge or license fee however described or imposed, including business improvement district impositions, then all such taxes, assessments, levies, impositions, charges or license fees or the part thereof so measured or based shall be deemed to be Taxes.

1.76 “Term” shall have the meaning set forth in Section 2.03 of this Lease.

1.77 “Transfer” shall have the meaning set forth in Section 14.04 of this Lease.

1.78 “Transfer Price” shall have the meaning set forth in Section 2.05 of this Lease.

1.79 “Transferee” shall have the meaning set forth in Section 14.04 of this Lease.

1.80 “Turnover Conditions” shall have the meaning set forth in Section 2.06 of this Lease.

1.81 “Turnover Date” shall mean the date on which all of the Turnover Conditions have been satisfied, which Lessor anticipates to cause to occur no later than July 31, 2023, which date shall be subject to extension commensurate with any delays due to Force Majeure Causes.

1.82 “Wells Fargo” shall mean Wells Fargo Bank, National Association, its successors and/or assigns.

## ARTICLE 2

### Demise, Term, Initial Tenant Improvements and Assignment on Turnover Date

2.01 Demise. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Property, upon the terms, covenants and conditions set forth herein, for the Term. Concurrently with the execution and delivery of this Lease, the parties shall execute the Memorandum of Lease, which shall be recorded with the Register of the City of New York, Kings County.

2.02 Modifications; No Merger. No agreement shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing, refers expressly to this Lease, and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge, termination or effectuation of the abandonment is sought and by the holder of each Superior Mortgage, the QLICI Lenders, the Direct Lender and the Letter of Credit Issuer. Notwithstanding any provision of this Lease or any law to the contrary, there shall be no merger of this Lease or any

subleasehold interest or estate created by this Lease in any portion of the Project with any superior estate held by a party by reason of the fact that the same party may acquire, own, hold, directly or indirectly, both the Subleasehold interest or estate created by this Lease in any portion of the Project and such superior estate; and this Lease shall not be terminated, in whole or as to any portion of the Project, except as expressly provided in this Lease. For the avoidance of doubt, the beneficial ownership of the Property held by BC III and the subleasehold estate created by this Lease, held by BCLDC as record sublessor and nominee for QALICB, shall not merge and shall remain separate and distinct, notwithstanding the union of said estates either in Lessor, Lessee or any third party by purchase, assignment or otherwise. The interests so acquired shall not merge with any other interests of Successor Landlord in the Property if such merger would result in the termination of this Lease.

## 2.03

(a) Initial Term. The initial term of this Lease (the “Initial Term”) shall commence on the date hereof (the “Commencement Date”) and shall end on the earlier of (a) the Turnover Date, and (b) at 11:59 p.m. on the day preceding the forty-ninth (49th) anniversary of the Commencement Date (the “Expiration Date”), or until such earlier date as the Term shall cease and terminate as herein provided. As used herein “Expiration Date” shall mean the originally-scheduled Expiration Date or such earlier date as the Term shall cease and terminate as herein provided for any reason.

(b) Renewal Term. Lessee shall have the option to extend this Lease for up to five (5) additional periods of ten (10) years each (collectively referred to as the “Renewal Terms” and each as a “Renewal Term”) (the Initial Term and the Renewal Terms are collectively referred to as the “Term”) to commence upon the expiration of the Initial Term, or the immediately preceding Renewal Term as the case may be, provided that (i) Lessee provides a Renewal Notice as set forth below in Section 2.03(c) of this Lease, and (ii) at the time of such renewal and/or at the beginning of the Renewal Term, Lessee shall not be in Default beyond all applicable grace and/or cure periods and no Event of Default shall exist. Notwithstanding any provision herein to the contrary, in no event shall the Term of this Lease extend beyond the date immediately preceding the ninety-ninth (99th) anniversary of the Effective Date (the “Final Expiration Date”). Any Renewal Term shall be on the same terms and conditions applicable during the Initial Term except as to the Base Rent, which shall be determined based on fair market appraisal as more particularly provided for in Ground Lease Section 3.2 and Ground Lease Section 35.1.

(c) Renewal Notice. Each Renewal Term shall be exercised in writing by Lessee (“Renewal Notice”) at least six (6) months but not more than twelve (12) months prior to the expiration of the Initial Term, or the immediately preceding Renewal Term, as the case may be, TIME BEING OF THE ESSENCE. No later than three (3) months prior to commencement of the applicable Renewal Term, Lessee must provide Lessor with an executed Renewal Letter of Intent. In the event that (i) Lessee fails to give Lessor a Renewal Notice or Renewal Letter of Intent within the respective periods specified herein or (ii) there is a continuing Event of Default, Lessee shall have waived or forfeited its right to extend this Lease for any such Renewal Term and this Lease shall expire on the then current Expiration Date.

(d) Renewal Letter of Intent. No later than three (3) months prior to the commencement of a Renewal Term, Lessee shall execute a renewal letter of intent (“Renewal Letter of Intent”) which confirms Lessee’s intent to exercise its renewal option.

(e) Terms Governing Renewal Term(s). If the Term has been extended for a Renewal Term by Lessee providing the Renewal Notice and Renewal Letter of Intent required by and in accordance with and subject to the terms of Section 2.03(c), the Term shall automatically be extended for the applicable Renewal Term without the necessity for execution of an extension or renewal lease. The Term, as extended for such Renewal Term(s), shall be upon all of the same terms, covenants and conditions as shall be in effect hereunder, except that (i) Base Rent shall be determined in accordance with the provisions of Ground Lease Section 3.2 and Ground Lease Section 35.1; and (ii) Lessee shall have no further right to extend or renew the Term other than as provided herein.

#### 2.04 Delivery of the Project/Construction of Initial Tenant Improvements.

(a) Lessor, acting on behalf of Lessee, shall construct and equip the Project substantially in accordance with the Approved Plans (the improvements to be constructed in substantial accordance with the Approved Plans being the “Initial Improvements”), applicable Laws and the Construction Schedule. Lessor has hired Contractor and entered into the Construction Contract for construction of the Initial Improvements. Lessee shall pay Lessor \$28,766,216 (“Lessee’s Cost Contribution”) for the design, development and construction of the Initial Improvements as may be increased to account for change orders in accordance with the Construction Contract; provided, however, that Lessee shall not be obligated to pay for any change order unless such change order has been approved by the QLICI Lenders pursuant to the QLICI Loan Documents or the approval of the Direct Lender and QLICI Lenders to such change order is not required in accordance with the Direct Loan Documents and the QLICI Loan Documents. Lessee’s Cost Contribution will be financed by the QLICI Loan and the Direct Loan and secured by the QLICI Leasehold Mortgage and the Direct Loan Mortgage. QALICB shall make payments to BC III for the Initial Improvements from the proceeds of the QLICI Loan and the Direct Loan as construction progresses in accordance with the CADA, the QLICI Loan Documents and the Direct Loan Documents. Substantial Completion of the Initial Improvements will be determined in accordance with the QLICI Loan Documents and the Direct Loan Documents and will be confirmed by execution and delivery of the Substantial Completion Notice by BC III, QALICB, Direct Lender and QLICI Lenders. In connection with the determination of Substantial Completion, the Direct Lender and QLICI Lenders have agreed to rely (absent manifest error) on the Substantial Completion Notice and the Consulting Engineer’s certificate of completion as evidence that (i) the Initial Improvements has been constructed and equipped in a good and workmanlike manner, free-from known defects or violations of applicable laws, in substantial accordance with the Approved Plans and the Construction Contract, except for completion of “punch-list” items that do not adversely affect the use or occupancy of the Building for their intended purposes in any material respect; (ii) all required utilities for the normal operation of the Project are available and connected. Promptly following Substantial Completion of the Initial Improvements, Lessor shall achieve Completion thereof, and such Completion obligation shall survive the Turnover Date.

(b) Lessor shall deliver possession of the Property and all improvements thereon to Lessee on the date hereof (the “Delivery of Possession Date”), but reserving to Lessor all necessary rights to enter upon the Property with such personnel, equipment, and materials as shall be needed to construct the Project. Lessee hereby waives any right to rescind this Lease under the provisions of Section 223-a of the Property Law of the State of New York, and agrees that the provisions of this Article are intended to constitute “an express provision to the contrary” within the meaning of said Section 223-a.

(c) In order to induce Lessee to enter into the lease, BC III agrees to provide funding to QALICB, a tenant improvement allowance in the amount not to exceed \$8,308,342 (“Tenant Improvement Allowance”), to be applied in accordance with and subject to the terms and provisions of Section 2.04(a) of this Lease and to the extent not applied by BC III to the Initial Improvements, or by QALICB to such Initial Improvement expenses, any remaining amount of the Tenant Improvement Allowance shall be distributed to the Bedford Courts I MM Developer LLC, a New York limited liability company, the managing member of QALICB’s sole member.

(d) Survival of Core Obligations. Notwithstanding anything contained in this Lease to the contrary or the expiration or earlier termination of this Lease, any and all obligations of either party accruing prior to the expiration or termination of this Lease shall survive the expiration or earlier termination of this Lease, and either party shall promptly perform all such obligations whether or not this Lease has expired or terminated. Such obligations shall include any and all Completion obligations of Lessor as set forth in this Lease, and with the exception of Base Rent and Additional Rent, any and all payment obligations of Lessee, including, but not limited to Lessee’s Cost Contribution.

2.05 Assignment of BC III’s Equitable and Beneficial Interest in the Property on Turnover Date. On the Turnover Date, BC III shall assign all of its equitable and beneficial interest in the Property to QALICB and QALICB shall accept all of BC III’s interest in the Property and assume the obligations of BC III under the Ground Lease, free and clear of all liens and encumbrances other than Permitted Encumbrances (as defined in the QLICI Loan Documents and in the Direct Loan Documents). The terms of such assignment and assumption of BC III’s beneficial and equitable interest in the Property shall be set forth in the Assignment and Assumption of Ground Lease Agreement to be executed between BCLDC, BC III and QALICB in form substantially similar to Exhibit F hereto (the “Assignment and Assumption of Ground Lease Agreement”). The Assignment and Assumption of Ground Lease Agreement shall provide, among other things, that the transfer price for such assignment and assumption of BC III’s beneficial and equitable interest in the Property shall be equal to One Dollar (\$1.00) (the “Transfer Price”).

2.06 Turnover Conditions. By the Turnover Date, Lessor shall, at Lessor’s sole expense, cause or have caused the following to occur: (i) Substantial Completion (ii) the Property to be released from the lien of the HDC Construction Mortgages and all other mortgages encumbering the Property, except for the QLICI Leasehold Mortgage and the Direct Leasehold Mortgage, (iii) the Property to be released from the lien of the Regulatory Agreements, if so permitted, pursuant to their terms, prior to conversion of HDC Construction Financing, (iv) the recordation of the Condominium Declaration against the Property (which will be recorded at or

prior to Substantial Completion of the Project), (v) the assignment of BC III's equitable and beneficial leasehold interests in the Property, pursuant to that certain Assignment and Assumption of Ground Lease Agreement (as defined herein), upon which this Lease shall be terminated, (vi) the termination of the Leasehold Nominee Agreement, (vii) cause the title insurance company to confirm in writing to the QLICI Lenders and Direct Lender that it is prepared to (a) remove the pending disbursements clause from the policy and (b) amend the legal description of such policy to refer to the Condominium Units and related interest created by the Condominium Declaration and show that the QLICI Leasehold Mortgage is a second priority lien on Lessee's record leasehold interest in the Property and that the Direct Leasehold Mortgage is a first priority lien on Lessee's record leasehold interest in the Property, and (viii) if necessary, the amendment of the Subleasehold Nominee Agreement to clarify that all equitable and beneficial interest to the Project is held by QALICB.

### ARTICLE 3

#### Rent

3.01 Lease Base Rent. The base rent (the "Base Rent") due and payable by Lessee in connection with the leasing of the Property is One Dollar (\$1.00) per year of the Term of this Lease, plus all "Base Rent" as such term is defined in the Ground Lease.

3.02 Additional Rent.

(a) During the period commencing on the Delivery of Possession Date until the Expiration Date, Lessee shall pay to Lessor all charges for the Building, including all Taxes imposed on the Property, for the entire term of this Lease as Additional Rent, including (without duplication) all "Additional Rent" as such term is defined in the Ground Lease, including the payment of \$450,000 as defined as "Additional Rent" in the Ground Lease; provided that, in no event shall Lessee be obligated to pay any penalty or charge imposed under the Ground Lease and treated as "Additional Rent" thereunder that arises from a default or failure of performance by Lessor not caused by a default or failure of performance by Lessee.

(b) Promptly following the Turnover Date, Lessor shall furnish to Lessee a statement setting forth (i) the Taxes for the Building for the fiscal year(s) during the Term, and (ii) Lessor's estimate of the Taxes for the Common Elements and the Limited Common Elements based on either actual invoices or in the absence of invoices the those projected costs attached as Exhibit 2 to the Declaration (the "Additional Rent Estimate"). Lessee shall have the right to review and comment on the amounts and underlying assumptions set forth in the Additional Rent Estimate, and Lessor shall reasonably cooperate with Lessee in connection therewith.

(c) Lessor and Lessee acknowledge that, except as otherwise provided to the contrary in this Lease, it is their intent and agreement that this Lease be a "TRIPLE NET" lease and that as such, the provisions contained in this Lease are intended to pass on to Lessee or reimburse Lessor for the costs and expenses reasonably associated with this Lease, the Ground Lease, the Building and the Project, and Lessee's operation therefrom except as expressly described herein. To the extent such costs and expenses payable by Lessee cannot be charged directly to, and paid by, Lessee, such costs and expenses shall be paid by Lessor but reimbursed by Lessee as Additional Rent.

(d) Sublease Security Deposit. Lessee and Lessor hereby acknowledge and confirm that Lessor is holding a security deposit in the amount of \$25,000 (the “Security Deposit (Sublease)”) which amount shall be used by Lessor to fund the “Security Deposit”, as such term is defined in the Ground Lease, and such amount shall continue to be held by Lessor in accordance with the terms and conditions of the Lease.

(i) Application of Security Deposit (Sublease). Without limiting its rights and remedies hereunder, at law or in equity, Lessor may use, retain or apply all or any portion of the Security Deposit (Sublease) to satisfy any cost or expense arising from the occurrence of an Event of Default hereunder, or any other cost or expense incurred by Lessor in connection with the failure of Lessee (beyond any applicable cure period) to pay Base Rent, Additional Rent, Lessee’s Cost Contribution or any other amount payable by Lessee hereunder, when such Rent or other amount becomes due and payable, or the failure of Lessee to perform when due (beyond any applicable cure period) any other term, covenant or condition of this Lease, or to satisfy any other liability incurred by Lessee to Lessor under this Lease as and when due (beyond any applicable cure period), provided that the application of any portion of the Security Deposit (Sublease) to the cure of any such Event of Default shall not be deemed to have cured such Event of Default unless the entire outstanding amount due or damages suffered by Lessor shall have been paid in full and the Security Deposit (Sublease) shall have been replenished by Lessee so that the balance thereof is equal to the amount immediately prior to such application.

(ii) Return of Security Deposit (Sublease). Upon the termination of this Lease and upon the consummation of the assignment of BC III’s beneficial and equitable leasehold interest in the Property and Project to QALICB and QALICB’s assumption of same, such Security Deposit (Sublease) shall continue to be held by the landlord under the Ground Lease. Within one hundred and twenty (120) days after the expiration of the term of the Ground Lease, the remaining portion of the Security Deposit, including any interest, shall be returned to Lessee, provided that, Lessee is not in default of the Ground Lease and Tenant is current in all obligations under such lease and any other agreement in connection with the Ground Lease.

3.03 Assessed Valuation Proceedings. Only Lessor may institute proceedings to reduce the Assessed Valuation of the Property. If Lessor receives a refund of Taxes (either on the Property or on the Building) during the Term, Lessor shall pay Lessee the amount equal to such refund, net of any expenses incurred by Lessor in achieving such refund and net of any sums then owed by Lessee to Lessor. Lessor shall not be obligated to file any application or institute any proceeding seeking a reduction in Taxes or the Assessed Valuation.

3.04 Rent and Rental Offsets. In addition to the Base Rent and Additional Rent payable pursuant to Sections 3.01 and 3.02 above, Lessee shall pay, within ten (10) days following receipt of demand therefor, additional rent consisting of any late fees, interest and any other sums of money as shall become due from and payable by Lessee to Lessor hereunder, all to be paid in lawful money of the United States of America to Lessor at its office, or such other

place, or to such agent, as Lessor may designate by notice to Lessee. The Base Rent. Additional Rent and such additional sums referenced above are sometimes hereinafter collectively called the “Rent.” If Lessee is in arrears in the payment of Rent, Lessee waives Lessee’s right, if any, to designate the items against which any payments made by Lessee are to be credited, and Lessor may apply any payments made by Lessee to any items Lessor sees fit, regardless of any request by Lessee.

3.05 No Waiver. No payment by Lessee or receipt or acceptance by Lessor of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor’s right to recover the balance or pursue any other remedy in this Lease or at law.

#### ARTICLE 4

##### Use; Maintenance; Compliance with Laws

4.01 Use. Lessee shall be entitled to use the Property for all purposes permitted under the terms of the Ground Lease and shall not use the Property for any purposes not so permitted.

4.02 Maintenance of Property. Lessee covenants and agrees that it shall take good care of the Property, in a manner consistent with the maintenance of similar commercial/retail, community facility or parking properties in the New York City metropolitan area.

4.03 Negative Covenants as to Use. Lessee shall not at any time use or occupy or knowingly allow the use or occupancy of the Property, or suffer or permit anything to be done in, brought into or kept on the Property, which in any manner in the sole discretion of Lessor (i) violates the certificate of occupancy for the Property, if any, or for the Building; (ii) damages the Property or the Building or any equipment, facilities or systems therein; (iii) constitutes a violation of Laws, any Superior Mortgage or the requirements of insurance policies relating to or covering the Property; (iv) violates the Regulatory Documents; (v) impairs or tends to impair the proper and economic maintenance, operation and repair of the Building and/or its equipment, facilities or systems; (vi) annoys or inconveniences or tends to annoy or inconvenience other tenants or occupants of the Building; (vii) constitutes a nuisance, public or private; or (viii) makes unobtainable from reputable insurance companies authorized to do business in New York State any fire insurance with extended coverage, or liability, elevator, boiler or other insurance at standard rates required to be furnished by Lessor under the terms of any mortgages covering the Building.

4.04 Lessor’s Right to Perform. In the event Lessee fails to comply with any of its obligations hereunder or under the Regulatory Agreement or the Mortgage Documents, to the extent same shall be a lien on the Property, Lessor shall, without waiving any of its rights hereunder, and after notice thereof to Lessee and a reasonable period of time (not to exceed thirty (30) days) for Lessee to cure such failure, and without Lessor waiving any of its rights hereunder, be required to perform or cause the performance of such obligations, and Lessee shall reimburse Lessor for all costs Lessor reasonably incurs in connection therewith within ten (10) Business Days following receipt of Lessor’s invoice therefor.

4.05 Lessor's Right to Injunctive Relief. Lessee acknowledges that Lessor's damages resulting from any breach of the provisions of this Article are difficult, if not impossible, to ascertain, and concedes that, among other remedies for such breach permitted by law or the provisions of this Lease, Lessor shall be entitled to enjoin Lessee from any violation of said provisions.

4.06 Maintenance of Building. Lessor shall keep the Building (including the exterior, the roof, all structural elements of the Project, all Building systems, all common areas, all facilities located in the Building) in good order and repair and otherwise in a condition consistent with similarly situated buildings. Lessor shall maintain all Common Elements and Limited Common Elements, and the land on which the Building is located, in a clean and safe manner, and otherwise in a condition consistent with similarly situated buildings.

4.07 Lessee's Compliance with Laws. Subject to Lessor's obligations herein, including Lessor's obligation to construct the Initial Improvements in compliance with applicable Laws, Lessee shall cause the interior of the Property to comply with all applicable Laws. Lessee shall not use or suffer or permit any person to use the Property for any unlawful purposes. Lessee shall obtain, comply with and maintain all necessary licenses, permits, certificates and other permissions required from time to time by any governmental authority having jurisdiction over the Property, for the proper and lawful operation and use thereof. Lessee shall operate the Property in compliance with all Laws and the Regulatory Documents, to the extent same shall be not be released against the Property.

4.08 Lessor's Compliance with Laws. Lessor shall cause the Building and all structural elements thereof (including the structural elements of the exterior and interior of the Property such as walls, ceilings, windows, doorways, bathrooms, closets and hallways) to comply with all applicable Laws and shall obtain, comply with and maintain all necessary licenses, permits, certificates and other permissions required from time to time by any governmental authority having jurisdiction over the Building, for the proper and lawful operation and use thereof. Lessor shall operate the Building, including the Common Elements and the Limited Common Elements, in compliance with all Laws and the Regulatory Documents.

4.09 Notice of Non-Compliance. Lessee shall give prompt notice to Lessor of any notice it receives of the violation of any Law with respect to the Property or the use or occupation thereof and shall provide a copy of such notice to the mortgagee under the HDC Construction Mortgages and any other Superior Mortgagee (as hereinafter defined) and to the Letter of Credit Issuer.

4.10 Capital Improvements. Lessee shall not be entitled to make any capital improvements to the Property without Lessor's prior written consent.

4.11 Compliance with Mortgage Documents. Lessee shall cooperate with Lessor to allow Lessor to fulfill and perform its obligations under the HDC Construction Mortgage; provided that in no event shall Lessee have any liability for any of the indebtedness thereunder.

4.12 Applicability of Certain Covenants Prior to Completion/Turnover Date. The covenants of Lessee set forth in Article 4 related to the Lessee's use, occupancy, maintenance,

operation and leasing of the Property or compliance with Laws, the Mortgage Documents and/or compliance with the Regulatory Agreement shall, to the extent applicable, commence and become effective upon the date hereof and shall continue until the Mortgages have been satisfied. Nothing herein shall relieve Lessee of its obligation to pay Rent under this Lease prior to the Turnover Date.

4.13 Compliance with HPD/HDC. Lessee shall fully cooperate with Lessor, HPD, and HDC with respect to Lessor's respective applications for the HDC Construction Financing, including, without limitation, execution and delivery of such documentation as may be required by HPD and/or HDC in connection therewith promptly upon Lessor's request therefor.

## ARTICLE 5 Services

5.01 Services Provided by Lessor at Lessee's Sole Cost and Expense. Lessor shall, at Lessee's sole cost and expense, supply or cause to be supplied to the Property all utilities or services required by law and otherwise reasonably required for the operation thereof, including, without limitation, heat, air-conditioning, water, ventilation, gas, steam, electricity and elevator and all such utilities will be separately metered as part of the Initial Improvements. Lessor shall, at Lessee's sole cost and expense, be responsible for the payment of all utilities incurred prior to the Turnover Date.

5.02 Cessation of Such Services. Lessor reserves the right without liability to Lessee and without constituting any claim of constructive eviction, to stop or interrupt any heating, lighting, ventilating, air-conditioning, gas, steam, power, water, waste disposal, electricity, elevator, labor or other service by reason of Force Majeure Cause. No such stoppage or interruption shall entitle Lessee to any diminution or abatement of rent or other compensation nor shall this Lease or any of the obligations of Lessee be affected or reduced by reason of any such stoppage or interruption.

## ARTICLE 6 Leasehold Mortgages

6.01 Right to Enter Into Leasehold Mortgages.

(a) Lessee shall have the right, at any time, and from time to time, without the consent of Lessor in each instance, (i) to mortgage or pledge the leasehold estate and interest of Lessee under this Lease without limit as to amount and on any terms Lessee may deem desirable, solely to one or more Institutional Mortgagees and (ii) to assign Lessee's interest under this Lease and any subleases and the rentals thereunder to any Leasehold Mortgagee as additional collateral for the payment of such mortgage indebtedness (the documents referred to in clauses (i) and (ii) above referred to collectively, as the "Leasehold Mortgage"). For purposes of this Lease, a consolidated mortgage that shall consolidate more than one mortgage into a single mortgage lien shall be deemed to be a single mortgage. The making and delivery of any Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease nor of the leasehold estate and interest of Lessee under this Lease, nor shall any Leasehold Mortgage, as such, be deemed to be an assignee or transferee of this Lease or the leasehold

estate so as to require such Leasehold Mortgagee, as such, to assume the performance of, or be bound to perform, any of the terms, covenants or conditions on the part of Lessee under this Lease to be performed. The exercise by a Recognized Leasehold Mortgagee of its rights and remedies under the Leasehold Mortgage, including, without limitation, the foreclosure of the Leasehold Mortgage or the assignment in lieu of foreclosure of the Leasehold Mortgage, shall not be deemed to be a Transfer. In addition, any assignment of this Lease by a Permitted Purchaser shall not be deemed to be a Transfer. Subject to the terms and provisions of this Article, any Permitted Purchaser may become the legal owner and holder of Lessee's leasehold estate by foreclosure of the Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagee's rights and remedies under the Leasehold Mortgage and upon so becoming the legal owner and holder, such Permitted Purchaser shall assume the performance of, and be bound to perform, all of the terms, covenants and conditions on the part of the Lessee under this Lease thereafter to be performed, and shall thereafter effect a cure of all Events of Default hereunder in accordance with the provisions of this Article. In no event shall any Leasehold Mortgage encumber Lessor's record leasehold interest in the Property.

(b) For purposes of this Article, the following terms shall have the following meanings:

(i) "Institutional Mortgagee" shall mean (i) any foreign or domestic commercial, national or savings bank, savings and loan association, trust company, insurance company, investment bank, real estate investment trust, governmental agency, body or entity, commercial credit corporation, or employee benefit, pension or retirement plan or fund; (ii) an investment bank or a commercial bank or trust company acting as trustee or fiduciary of various pension funds or tax-exempt funds; (iii) another business entity with similar institutional characteristics and business practices as the foregoing which may include a hedge fund, opportunity fund or private equal equity fund; (iv) any conduit, corporation or other entity created in connection with a public or private offering conducted by an investment bank for the purpose of lending money to Lessee; (v) any other reputable foreign or domestic lender-mortgagee making loans within the New York City metropolitan area (such as, without limitation, an eleemosynary institution or foundation, publicly-held corporation or its pension funds); (vi) any Permitted Agency; and (vii) an entity directly or indirectly controlled by, in control of or under common control with any party specified in clauses (i) through (v). For the avoidance of doubt, the Lessor acknowledges that the Direct Lender and the QLICI Lenders are Institutional Mortgagees.

(ii) "Permitted Agency" shall mean the City of New York, the State of New York or any agency, department, bureau or branch thereof.

(iii) "Permitted Purchaser" shall mean (i) any Leasehold Mortgagee or its successor, or any designee of such Leasehold Mortgagee (including, without limitation, any purchaser of the leasehold estate in the Property at a foreclosure sale or the assignee of the Lease at an "assignment in lieu of foreclosure" sale with respect to this Lease) and (ii) any party acquiring Lessee's interest in this

Lease from a Leasehold Mortgagee or any other person under the preceding clause (i).

(iv) “Leasehold Mortgagee” shall mean the mortgagee of a Leasehold Mortgage that shall be permitted in accordance with the terms of this Lease, including without limitation the QLICI Lenders, the Direct Lender or any Permitted Purchaser of the such Leasehold Mortgage.

(c) Whenever Lessee shall give a Leasehold Mortgage in accordance with the terms of this Lease, then so long as such Leasehold Mortgage shall remain unsatisfied and such Leasehold Mortgagee shall have notified Lessor in writing of the name and post office address in the United States of America to whom any notices under Section 6 of this Article shall be given (any such Leasehold Mortgagee being a “Recognized Leasehold Mortgagee”), the provisions of Section 6.02 shall apply with respect to, and inure to the benefit of, such Recognized Leasehold Mortgagee. Lessor acknowledges the QLICI Lenders and Direct Lender, each as Recognized Leasehold Mortgagees.

#### 6.02 Amendments/ Leasehold Mortgagee Right to Cure.

(a) No cancellation, surrender or acceptance of surrender of this Lease shall be entered into without the prior written consent of the Recognized Leasehold Mortgagee, and in the event the Amendment takes place prior to the Turnover Date, Superior Mortgagee. The preceding sentence shall not apply to a termination of this Lease following an event of a default beyond the expiration of any applicable notice and cure period by Lessee hereunder, that Lessor shall have complied with the provisions of this Section 6.02. In addition, no amendment or modification of this Lease shall be entered into without the prior written consent of the Recognized Leasehold Mortgagee and, in the event such amendment or modification takes place prior to the Turnover Date, HDC, HPD or the Servicer.

(b) Lessor, upon serving Lessee any notice of a default under this Lease pursuant to the provisions of Article 8 or any other notice of default to Lessee under the provisions of, or with respect to, this Lease, shall at the same time serve by personal delivery or by overnight express mail service, with receipt, or by certified mail, return receipt requested, a copy of such notice upon the Recognized Leasehold Mortgagee, and no such notice of default to Lessee shall be deemed to have been duly given to Lessee unless and until a copy of the same shall be given to the Recognized Leasehold Mortgagee. If, upon the expiration of the period of time given to Lessee under the provisions of this Lease to remedy the default, or to cause it to be remedied or to cause action to remedy a default provided in Article 8 to be commenced, such default shall not have been cured by Lessee, the Recognized Leasehold Mortgagee shall have the right, (i) during a period of sixty (60) days after the expiration of the applicable notice and cure period, in the case of a non-monetary default by Lessee under this Lease which is susceptible of a cure by the Leasehold Mortgagee (a “Curable Non-Monetary Default”), to remedy such default, cause it to be remedied or with respect to a default which is of such a nature that it cannot be cured within such period of time, cause action to remedy such a default to be commenced within such 60-day period and thereafter proceed diligently to cure such default or institute within such 60-day period an action to foreclose the Leasehold Mortgage and thereafter prosecute such action with diligence, and (ii) during a period of sixty (60) days after the

expiration of the applicable notice and cure period, in the case of a default in the payment of Base Rent or Additional Rent by Lessee (a "Monetary Default"), to remedy or cause to be remedied any Monetary Default which is the basis of a default notice, then during the applicable periods set forth in clause (i) or (ii) above, Lessor shall not terminate this Lease on account of a Curable Non-Monetary Default or a Monetary Default. If such Recognized Leasehold Mortgagee shall (i) fail to cure a Monetary Default within the applicable cure period provided in this Article 6 or (ii) in the case of a Curable Non-Monetary Default, if the Recognized Leasehold Mortgagee shall at any time, notify Lessor, in writing, that it has relinquished possession of the Property or that it will not institute foreclosure proceedings, or, if such proceedings shall have been commenced, that it has discontinued such proceedings, Lessor shall have the right to terminate this Lease and to take any other action it deems appropriate by reason of any default by Lessee, unless Lessee shall have cured the default prior to Lessor's delivery to Lessee of notice of the termination of this Lease. Any such termination shall be subject to Section 6.02(d) of this Lease. Lessor shall accept performance by or on behalf of the Recognized Leasehold Mortgagee, who has complied with the provisions of this Section 6.02 as if the same had been performed by Lessee. Such acceptance shall not thereby create any rights against Lessor in favor of such Recognized Leasehold Mortgagee, nor shall such Recognized Leasehold Mortgagee thereby be subrogated to any interest or right of Lessor. Nothing contained in this Article 6 shall be construed as to require the Leasehold Mortgagee to cure any defaults under this Lease.

(c) With respect to each Recognized Leasehold Mortgagee, Lessor agrees that it shall not terminate this Lease or exercise any of its rights to dispossess Lessee by reason of such default if (1) before the expiration of the sixty (60) day grace or cure period within which a Monetary Default may be remedied by the Recognized Leasehold Mortgagee provided in Subparagraph (b) of Section 6.02 above, the Recognized Leasehold Mortgagee shall have paid to Lessor all Base Rent and Additional Rent then in default; and (2) in the case of any other default (subject to the later provisions of this Section 6.02(c) with respect to Events of Default Requiring Possession or Non-Curable Non-Monetary Defaults, as such terms are hereinafter defined), provided that all Base Rent and Additional Rent then in default hereunder shall have been paid within the period provided in Subparagraph (b) of Section 6.02 hereof and all other Base Rent and Additional Rent under this Lease that shall thereafter accrue shall have been paid within the period provided in Subparagraph (b) of Section 6.02, within the sixty (60) day grace or cure period set forth in Subparagraph (b) of Section 6.02 hereof, the Recognized Leasehold Mortgagee, shall have cured or shall be engaged in curing all defaults hereunder and shall diligently complete such cure or comply with the provisions of this Subparagraph (c) within the time periods set forth in this Subparagraph (c) (it being agreed that the Recognized Leasehold Mortgagee shall be deemed to be engaged in curing an Event of Default Requiring Possession or a Curable Non-Monetary Default for so long as it is undertaking the actions described in clauses (A) or (B) below). The parties acknowledge that (i) there are certain types of defaults by Lessee under this Lease which are capable of being cured by a Recognized Leasehold Mortgagee only if the Recognized Leasehold Mortgagee shall acquire possession of the Property ("Events of Default Requiring Possession"), and (ii) there are other types of defaults by Lessee under this Lease (i.e., assignments in violation of the terms of this Lease and Lessee's bankruptcy) which are inherently incurable or not susceptible of cure by a Recognized Leasehold Mortgagee ("Non-Curable Non-Monetary Defaults"). Anything herein contained to the contrary notwithstanding, Lessor, following the expiration of any applicable notice and cure periods that shall be available to the Recognized Lessor Mortgagee pursuant to Subparagraph (b) and

Subparagraph (c) of this Section 6.02, shall take no action to effect termination of this Lease without first giving the Recognized Leasehold Mortgagee, a period of one hundred eighty (180) days following such Recognized Leasehold Mortgagee's receipt of a copy of a termination notice to Lessee from Lessor, within which either (A) to institute, in the event of any Defaults Requiring Possession or any Non-Curable Non-Monetary Defaults, and thereafter diligently prosecute steps to obtain possession of the Property and thereafter promptly commence and act diligently to cure such default after obtaining such possession, in the case of a Events of Default Requiring Possession, or (B) to institute and thereafter diligently prosecute foreclosure proceedings or otherwise diligently acquire, with respect to the Recognized Leasehold Mortgagee, Lessee's interest under this Lease, in the case of a default described in Sections 8.01(a)(ii) or another Non-Curable Non-Monetary Default; provided that the Recognized Leasehold Mortgagee keeps Base Rent, Additional Rent and other payments hereunder current until (i) such Event of Default Requiring Possession is cured or (ii) in the case of a Non-Curable Non-Monetary Default, the Permitted Purchaser acquires Lessee's interest under this Lease at a foreclosure sale after foreclosure of the Leasehold Mortgage or by an assignment of this Lease in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagee's rights and remedies under the Leasehold Mortgage. Any such termination of this Lease shall be subject to Section 6.02(d). Notwithstanding the foregoing, (x) no Recognized Leasehold Mortgagee shall be obligated to continue such possession (once obtained or to continue such foreclosure proceedings (once commenced) after any default described in clause (A) or clause (B) of the preceding sentence of this Subsection (c) shall have been cured, and (y) nothing herein contained shall preclude Lessor, subject to the provisions of this Article 6, from exercising any rights or remedies under this Lease with respect to any other default by Lessee during the pendency of such foreclosure proceedings or the period when the Recognized Leasehold Mortgagee, is taking steps to obtain possession of the Property, subject, however, to the Recognized Leasehold Mortgagee's cure rights set forth in Sections 6.02(b) and (c) with respect to any such other default by Lessee. Any Non-Curable Non-Monetary Default shall be deemed to have been waived by Lessor, in the case of the Leasehold Mortgage, as against the Permitted Purchaser, upon (i) completion of such foreclosure proceedings, including consummation of the foreclosure sale or (ii) upon acquisition by the Permitted Purchaser of Lessee's interest in this Lease by a conveyance thereof in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagee's rights and remedies under the Leasehold Mortgage, it being understood and agreed that such Permitted Purchaser may become the legal owner and holder of this Lease through such foreclosure proceedings or by assignment of this Lease in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagee's rights and remedies under the Leasehold Mortgage. The foregoing shall not be deemed to be a waiver by Lessor of any defaults in the payment of net rent or additional rent or any other defaults by Lessee hereunder.

(d) If this Lease shall terminate by reason of the occurrence of an Event of Default under this Lease or by reason of a rejection of this Lease under the Bankruptcy Code, Lessor shall give prompt notice thereof to the Recognized Leasehold Mortgagee. Subject to the provisions of Subsection 6.01(c) of this Article 6, Lessor shall, on written request of the Recognized Leasehold Mortgagee, made at any time within sixty (60) days after the giving of such notice by Lessor, enter into a new lease of the Property (the "Replacement Lease") with the Permitted Purchaser, within sixty (60) days after receipt of such request, which Replacement Lease shall have the same priority as this Lease and shall be effective as of the date of such

termination of this Lease for the remainder of the term of this Lease, at the same net rent and additional rent and upon the same terms, covenants, conditions and agreements as are herein contained, including, without limitation, Section 2.05; provided that the Permitted Purchaser, as the case may be, shall (i) contemporaneously with the execution and delivery of the Replacement Lease, pay to Lessor the Base Rent and Additional Rent which are due under this Lease, (ii) at the time of the execution and delivery of said Replacement Lease, pay to Lessor, without duplication of any amount that shall be paid pursuant to clause (i) above, any and all sums for Base Rent and Additional Rent which would have been due hereunder from the date of termination of this Lease (had this Lease not been terminated) to and including the date of the execution and delivery of the Replacement Lease, together with all actual and reasonable expenses including, but not limited to, reasonable attorney's fees and disbursements incurred by Lessor in connection with the termination of this Lease and with the execution and delivery of the Replacement Lease, less the net amount of all sums received by Lessor from any occupants of any part or parts of the Property up to the date of the execution of the Replacement Lease, and (iii) on or prior to the execution and delivery of the Replacement Lease, agree in writing that following the execution and delivery of the Replacement Lease, such Permitted Purchaser will perform or cause to be performed all of the other covenants and agreements herein contained on Lessee's part to be performed which are susceptible of being cured by the Permitted Purchaser to the extent that Lessee shall have failed to perform the same to the date of execution and delivery of the Replacement Lease, it being further agreed that the such Permitted Purchaser shall have a reasonable period of time after Permitted Purchaser obtains physical possession of the Property to cure any non-monetary covenants and agreements that are unperformed at the execution and delivery of the Replacement Lease. Following written request from the Leasehold Mortgagee, Lessor shall deliver to the Leasehold Mortgagee a statement setting forth Lessor's good faith determination of the amount of Base Rent and Additional Rent that shall be payable by Lessee under this Lease, it being agreed that such statement shall not be conclusive if Lessor shall thereafter determine that such statement, in good faith, contained an error regarding the amount of Base Rent and Additional Rent that shall be payable by Lessee under this Lease. Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Property to the Permitted Purchaser, unless Lessor at the time of the execution and delivery of the Replacement Lease shall have obtained physical possession thereof. Except as specifically set forth herein, until the Replacement Lease is executed and delivered by the Permitted Purchaser, such Permitted Purchaser shall have no liability hereunder or under the Replacement Lease. The name of any Recognized Leasehold Mortgagee may be added as an additional named insured to any insurance carried by Lessee. The Recognized Leasehold Mortgagee shall not be liable for the performance of Lessee's obligation under this Lease unless such Recognized Leasehold Mortgagee has succeeded to and has possession of the interest of Lessee under this Lease.

(e) Notwithstanding anything to the contrary in this Section 6.02, Lessor shall accept the performance of Lessee's obligations under this Lease at any time (including, without limitation, prior to the occurrence of any Event of Default) by any Recognized Leasehold Mortgagee, subject to the time periods for curing defaults set forth in this Lease.

(f) The periods in which a Recognized Leasehold Mortgagee is permitted to cure any Monetary Default or Curable Non-Monetary Default under Section 6(b) and/or Section 6(c) above shall be extended by a period commensurate with any period that such Recognized

Leasehold Mortgagee is legally prohibited from doing so, such as (but not limited to) by reason of any automatic stay under the Bankruptcy Code or by order of any court.

(g) Reserved.

(h) Reserved.

6.03 Provided that (a) a Replacement Lease shall have been granted to a Permitted Purchaser pursuant to Section 6.02 hereof, or (b) the Permitted Purchaser shall have become the legal owner and holder of Lessee's leasehold estate, by foreclosure or other legal proceedings, by assignment in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagees' rights and remedies under the Leasehold Mortgage, then the Permitted Purchaser shall be liable for the performance of all of Lessee's covenants (other than then existing Non-Curable Non-Monetary Defaults), and be subject to all of the terms and conditions of the Replacement Lease or this Lease, as the case may be (including, without limitation, the provisions of Article 14) under such Replacement Lease or this Lease, as the case may be, from and after the effective date of such Replacement Lease or such acquisition of such estate by foreclosure or other legal proceedings, assignment in lieu of foreclosure or otherwise in connection with the exercise of the Leasehold Mortgagee's rights and remedies under the Leasehold Mortgage (subject in all events to the limitations of this Lease). Notwithstanding anything to the contrary herein, a Leasehold Mortgagee and any affiliate thereof (in either case acting as a Permitted Purchaser) shall be automatically and entirely released and discharged from the performance of all terms, covenants and conditions of Lessee under this Lease, or of the lessee under the Replacement Lease, as the case may be, accruing after the date that such Leasehold Mortgagee or affiliate shall have assigned its interest in the leasehold estate of Lessee or the Replacement Lease, as the case may be, and such assignee shall have delivered to Lessor an agreement, in form reasonably acceptable to Lessor, pursuant to which the assignee assumes and agrees to perform all of the terms, covenants and conditions of this Lease (other than then existing Non-Curable Non-Monetary Defaults) or such Replacement Lease, as the case may be.

6.04 If any actual or prospective Leasehold Mortgagee requires any modification(s) to this Lease as a condition to such financing, then Lessor shall, at Lessee's or such Leasehold Mortgagee's request, promptly execute and deliver to Lessee such instruments in recordable form (if applicable) effecting such modification(s) as such actual or prospective Leasehold Mortgagee shall require, provided that such modification(s) do not modify the Base Rent, Additional Rent or the Term and do not otherwise reduce Lessor's rights or increase Lessor's obligations under this Lease, in either event, other than to a de minimis extent such as, by way of example, the giving of additional notices to the Leasehold Mortgagee. Lessee shall reimburse Lessor for the reasonable out-of-pocket attorney's fees incurred by Lessor in connection with any such modifications.

6.05 Notwithstanding anything to the contrary contained in this Lease, Lessor's obligations pursuant to this Article shall apply solely to one (1) Recognized Leasehold Mortgagee at any given time notwithstanding that there may be more than one (1) Leasehold Mortgagee encumbering the Property as permitted herein at any given time. By way of example, if there are three Leasehold Mortgages affecting the Property at a given time, only one Leasehold Mortgagee of such Leasehold Mortgages shall be a Recognized Leasehold Mortgagee and the provisions of Sections 6.02 and 6.03 shall not apply with respect to, and shall not inure to the benefit of, such

other Leasehold Mortgagees and Lessor shall have no obligation pursuant to Section 6.02 or 6.03 hereof with respect to such Leasehold Mortgagees. The sole Recognized Leasehold Mortgagee shall be the first Leasehold Mortgagee of whom notice has been provided to Lessor unless such Recognized Leasehold Mortgagee otherwise directs, in form reasonably acceptable to Lessor, that another Leasehold Mortgagee shall be the sole Recognized Leasehold Mortgagee (and Lessee hereby approves of Lessor complying with such directive by such Recognized Leasehold Mortgagee). Notwithstanding the foregoing, for all purposes under this Section, the QLICI Lenders and the Direct Lender shall be deemed to collectively constitute one (1) Recognized Leasehold Mortgagee.

## ARTICLE 7 Subordination

7.01 Subordination. This Lease, the leasehold estate created by this Lease and all rights of Lessee under this Lease are or shall be subject and subordinate to the HDC Construction Mortgages, the Regulatory Documents and any and all mortgages now or hereafter affecting the Property, or the Property of which the Property forms a part, and to any renewals, modifications, consolidations, replacements, amendments, restatements or extensions of any such mortgages, upon the execution of any such documents, provided that the subordination of this Lease to any such mortgage is conditioned upon the execution and delivery by the applicable mortgagee to Lessee and QLICI Lenders or Direct Lender of a subordination, non-disturbance and attornment agreement in form reasonably acceptable to Lessee, Direct Lender and QLICI Lenders. Upon the execution of this Lease, Lessor and Lessee agree to enter into a subordination, non-disturbance and attornment agreement substantially in the form attached hereto as Exhibit D (the “SNDA”) with the holders of the Superior Mortgages (as such term is defined in this Section 7.01) and the Direct Lender and QLICI Lenders. Any mortgage to which this Lease is, at the time referred to, subject and subordinated to, is herein called “Superior Mortgage” and the holder of a Superior Mortgage is herein called “Superior Mortgagee.”

7.02 Modifications to Lease, etc. No alteration or modification of any of the provisions of this Lease shall be made unless the same shall have been approved by (a) the mortgagee under the HDC Construction Mortgages and the Servicer as long as the HDC Construction Mortgages constitutes a lien on the Project and is held by the mortgagee under the HDC Construction Mortgages or the Servicer, (b) the Letter of Credit Issuer, (c) any other Superior Mortgagee, (d) the Direct Lender, and (e) the QLICI Lenders.

7.03 Superior Mortgagee Rights. The rights of any Superior Mortgagee under this Lease, including any right to notice and consent, remain only so long as such Superior Mortgagee’s mortgage is outstanding.

7.04 Lessee Financial Obligations. Lessor shall be solely responsible for all payments under the Mortgage Documents (but specifically excluding the QLICI Leasehold Mortgage and the Direct Leasehold Mortgage) and, notwithstanding Lessee’s agreement that the Lease is subordinate to and subject to any Superior Mortgage, Lessor shall hold Lessee harmless against any assertion or claim by lenders or any other party, directly or indirectly, for payment of all or any portion of the amount owed under the Mortgage Documents.

ARTICLE 8  
Default and Remedies

8.01 Lessee's Defaults and Lessor's Remedies.

(a) Each of the following events shall be an "Event of Default" hereunder (except that the occurrence of any of the following events which is caused by the action or inaction of Lessor or, if Lessee's managing member is an entity controlled by Lessor, the action or inaction of such managing member, shall not be considered an Event of Default):

(i) Lessee fails to pay when due any installment of Base Rent or Additional Rent and such default shall continue for ten (10) days after notice of such default is given to Lessee (except to the extent such Rent is otherwise subject to deferral pursuant to the terms of this Lease); or

(ii) if any case, proceeding or other action shall be commenced or instituted against Lessee, seeking to adjudicate Lessee bankrupt or insolvent, or seeking an order for relief against Lessee as debtor, or reorganization, arrangement, composition, adjustment, winding up, liquidation, dissolution or similar relief with respect to Lessee or its debts under any present or future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or seeking appointment of any trustee, receiver, examiner, assignee, sequestrator, custodian or liquidator or similar official of Lessee or of all or any part of Lessee's property, which either (i) results in the entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect or (ii) remains undismissed for a period of sixty (60) days; or if any case, proceeding or other action shall be commenced or instituted against Lessee seeking issuance of a warrant of execution, attachment, distraint or similar process against Lessee or any of Lessee's property which results in either (x) the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days after the entry thereof or (y) the taking or occupancy of the Property or an attempt to take or occupy the Property; or

(iii) Lessee fails to observe or perform any other term, covenant or condition of this Lease and such failure continues for more than thirty (30) days after notice by Lessor to Lessee of such default, or if such default is of a nature that it cannot be completely remedied within thirty (30) days, failure by Lessee to commence to remedy such failure within said thirty (30) days, and thereafter diligently take all steps necessary to remedy such default, provided in all events the same is completed within sixty (60) days.

(b) Upon the occurrence of an Event of Default, Lessor, at its option, and without limiting the exercise of any other right or remedy Lessor may have on account of such Event of Default, and without any further demand or notice, may give to Lessee notice of (i) the termination of this Lease, in which event this Lease and the Term shall come to an end and

expire upon the termination date set forth in such notice with the same force and effect as if the date set forth in the notice was the Expiration Date stated herein, and/or (ii) the termination of Lessee's right of possession of the Property, in which event Lessee's right of possession of the Property shall come to an end and expire upon the termination date set forth in such notice; and Lessee shall then quit and surrender the Property to Lessor, but Lessee shall remain liable for damages as provided in this Article 8 and/or to the extent permitted by law and/or as provided in the Regulatory Agreements. Any termination notice may be given simultaneously with any notice of default given to Lessee, provided, however, such termination notice shall not become effective until the expiration of any applicable notice and/or cure period to which Lessee is entitled under this Lease. Notwithstanding the terms of this Section 8.01(b), Lessor may not terminate this Lease pursuant to this Section 8.01(b) or pursuant to any other provision of this Lease without the prior written consent of (1) the mortgagee under the HDC Construction Mortgage and Servicer, if the HDC Construction Mortgage continues to constitute a lien on the Project and is held by the mortgagee under the HDC Construction Mortgage or the Servicer, (2) QLICI Lenders as long as the QLICI Leasehold Mortgage remains in effect, (3) the Direct Lender as long as the Direct Leasehold Mortgage remains in effect, (4) each Superior Mortgagee then secured by a Superior Mortgage, and (5) the Letter of Credit Issuer, if there is at such point in time a credit facility in connection with any bonds issued by HDC for the Project. In addition, any termination of this Lease pursuant to this Section 8.01(b) shall be subject to Section 6.02(d).

(c) Notwithstanding anything to the contrary herein, the failure of Lessee to make any payment of Lessee's Cost Contribution when Lessor believes such payment is due and payable under this Lease shall not be a default hereunder, and such payments shall be deemed to be not due and payable, if and for so long as any of the conditions set forth in the CADA or any of the QLICI Loan Documents or the Direct Loan Documents to the disbursement of the corresponding amount of the QLICI Loan or Direct Loan are not satisfied. The obligation of any Permitted Purchaser to make any payments under this Lease or a Replacement Lease shall be conditioned upon satisfaction of such conditions.

#### 8.02 Lessor's Damages.

(a) If this Lease and the Term, or Lessee's right to possession of the Property, terminate as provided in Section 8.01, then:

(i) Lessee shall pay to Lessor all items of Rent payable under this Lease by Lessee to Lessor prior to the date of termination;

(ii) Lessor may retain all monies, if any, paid by Lessee to Lessor, whether as prepaid Rent or otherwise, which monies, to the extent not otherwise applied to amounts due and owing to Lessor, shall be credited by Lessor against any damages payable by Lessee to Lessor;

(iii) Lessee shall pay to Lessor, on demand, as liquidated and agreed final damages, a sum equal to the amount by which the Rent for the period which otherwise would have constituted the unexpired portion of the Term (assuming the Additional Rent during such period to be an amount the same as was payable for the year immediately preceding such termination or re-entry, increased in each

succeeding year by five percent (5%) (on a compounded basis)) exceeds the then fair and reasonable rental value of the Property, for the same period (with both amounts being discounted to present value at a rate of interest equal to the then Base Rate); and

(b) Nothing contained in this Article 8 shall be deemed to limit or preclude the recovery by Lessor from Lessee of the maximum amount allowed to be obtained as damages, or of any sums or damages to which Lessor may be entitled in addition to the damages set forth in this Section 8.02.

8.03 Attorneys' Fees. If Lessee fails to pay any rent when due or Lessee otherwise fails to fully and timely perform its obligations under this Lease, and Lessor engages an attorney in connection with such failure, Lessee shall pay upon demand the reasonable attorneys' fees incurred by Lessor regardless of whether Lessor initiates legal action in connection with such failure.

8.04 Remedies. If this Lease and the Term, or Lessee's right to possession of the Property, terminate as provided in this Lease:

(a) Lessee shall quit and surrender the Property to Lessor, and Lessor and its agents may immediately, or at any time after such termination, re-enter the Property or any part thereof, without notice, either by summary proceedings, or by any other applicable action or proceeding, or by force (to the extent permitted by law) or otherwise in accordance with applicable legal proceedings (without being liable to indictment, prosecution or damages therefor), and may repossess the Property and dispossess Lessee from the Property.

(b) Lessor, at Lessor's option, may, upon vacancy of any unit in the Property, relet such unit, either in the name of Lessor or otherwise, to such lessee or lessees, for any term ending before, on or after the Expiration Date, at such rental and upon such other conditions (which may include concessions and free rent periods) as Lessor, in its sole discretion, may determine consistent with the Regulatory Documents. Lessor shall have no obligation to accept any lessee offered by Lessee and shall not be liable for failure to relet or, in the event of any such reletting, for failure to collect any rent due upon any such reletting; and no such failure shall relieve Lessee of, or otherwise affect, any liability under this Lease. Lessor, at Lessor's option, may make such alterations, decorations and other physical changes in and to the Property as Lessor, in its sole discretion, considers advisable or necessary in connection with such reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting any such liability.

(c) Lessee, on its own behalf and on behalf of all persons claiming through or under Lessee, including all creditors (excluding any Leasehold Mortgagee), hereby waives all rights which Lessee and all such persons might otherwise have under any law (i) to the service of any notice of intention to re-enter or to institute legal proceedings, (ii) to redeem, or to re-enter or repossess the Property, (iii) to restore the operation of this Lease, after (A) Lessee shall have been dispossessed by judgment or by warrant of any court or judge, (B) any re-entry by Lessor, or (C) any expiration or early termination of the Term of this Lease, whether such dispossession, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of

this Lease, and (iv) to any notice to quit the Property. The words “redeem,” “redemption,” “re-enter,” “re-entry” and “re-entered” as used in this Lease shall not be deemed to be restricted to their technical legal meanings.

(d) Upon the breach or threatened breach by Lessee, or any persons claiming through or under Lessee, of any term, covenant or condition of this Lease, Lessor shall have the right to enjoin such breach and to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Lease for such breach. The rights to invoke the remedies set forth above are cumulative and shall not preclude Lessor from invoking any other remedy allowed at law or in equity.

## ARTICLE 9

### Surrender Upon Termination Following an Event of Default

9.01 Surrender. If this Lease is terminated on account of an Event of Default, then on the Expiration Date, Lessee shall surrender the Property to Lessor, and all of Lessee’s Property shall remain with the Property and become the property of Lessor without further payment. If the Property are not surrendered and vacated as and at the time required by the preceding sentence, Lessee shall be liable to Lessor for all losses and damages which Lessor may incur or sustain by reason thereof, including, without limitation, legal fees and disbursements, and Lessee shall indemnify Lessor against all claims made by any succeeding lessees against Lessor or otherwise arising out of or resulting from the failure of Lessee to timely surrender and vacate the Property in accordance with the provisions of this Section 9.01. The parties recognize and agree that the damage to Lessor resulting from any failure by Lessee to timely surrender the Property will be substantial, will exceed the amount of monthly rent theretofore payable hereunder, and will be impossible of accurate measurement. Lessee therefore agrees that if possession of the Property is not surrendered to Lessor within two (2) days after the Expiration Date as arising above, then Lessee will pay Lessor as liquidated damages for each month and for each portion of any month during which Lessee holds over in the Property after expiration or termination of the Term of this Lease, a sum equal to two (2) times the Rent which was payable per month under this Lease during the last six (6) months of the initial term of this Lease. The aforesaid obligations shall survive the termination of this Lease as provided above.

## ARTICLE 10

### Insurance

10.01 Lessee Insurance. From the Commencement Date to the Turnover Date, Lessor shall maintain in full force and effect with insurance companies and in amounts that are consistent with the requirements of the QLICI Loan Documents and the Direct Loan Documents:

- (a) all risk property insurance against loss or damage by fire, windstorm, vandalism and malicious mischief and such other hazards as are included in so-called “extended coverage” covering the Property and the Initial Improvements for their full replacement value, such insurance to include a replacement cost endorsement and a “waiver of co-insurance” clause;
- (b) comprehensive general liability insurance for bodily and personal injury (including contractor’s liability) and property damage occurring in or about the Property;

(c) such other insurance as is required under the Mortgage Documents or typically maintained by owners of properties under construction in New York City;

(d) Lessor agrees to include in its fire insurance policy or policies on the Property and Initial Improvements appropriate clauses pursuant to which the insurance company or companies (i) waive the right of subrogation against Lessee, its agents, employees and contractors with respect to losses payable under such policy or policies and/or (ii) agree that such policy or policies shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for losses covered by such policy or policies; and

(e) Lessor hereby waives any and all right of recovery which it might otherwise have against Lessee, its servants, and employees for loss or damage to, the Property or the Initial Improvements, notwithstanding that such loss or damage may result from the negligence or fault of Lessee, its servants, agents or employees.

10.02 Lessee shall give immediate notice to Lessor of any accident, loss or damage or dangerous or defective condition in, to or of the Property or any part thereof of which Lessee has knowledge. Such notice shall not, however, be deemed or construed to impose upon Lessor any obligation to perform any work to be performed by Lessee under this Lease.

## ARTICLE 11

### Non-Liability, Indemnification and Costs

11.01 Indemnification by QALICB. QALICB shall indemnify and save harmless BC III and BCLDC from and against (i) all claims arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring during such period in or about the Building (including the Property), where such accident, injury or damage results or is claimed to have resulted from any act or negligence of QALICB or QALICB's agents, contractors, servants, employees, invitees or visitors occurring during the period from and after the Delivery of Possession Date to the Expiration Date, and (ii) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of QALICB to be fulfilled, kept, observed and performed if such breach, violation or non-performance occurs during the period from and after the Delivery of Possession Date to the Expiration Date. This indemnity and hold harmless agreement shall include indemnity from and against any and all loss, damages, liability, fines, suits, demands, costs and expenses of any kind or nature incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof including without limitation, reasonable attorneys' fees and disbursements if QALICB fails to provide such defense. Notwithstanding the foregoing, this indemnification shall not apply to the extent any such claim arises from BC III's or BC III's agents', contractors' servants', employees', invitees' or visitors' negligence or willful misconduct.

11.02 Indemnification by BC III. BC III shall indemnify and save harmless QALICB and BCLDC from and against (i) all claims arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring during the term of this Lease in or about the Building (including the Property), where such accident, injury or damage occurs during the period from the Commencement Date to the Turnover Date, and thereafter where such accident, injury or damage occurs in or about the Building but not within

the Property, and (ii) all lawful claims of persons claiming a leasehold interest in the Property by, through or under BC III. This indemnity and hold harmless agreement shall include indemnity from and against any and all loss, damages, liability, fines, suits, demands, costs and expenses of any kind or nature incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof including without limitation, reasonable attorneys' fees and disbursements if BC III fails to provide such defense. Notwithstanding the foregoing, this indemnification shall not apply to the extent any such claim arises from QALICB's or QALICB's agents', contractors' servants', employees', invitees' or visitors' gross negligence or willful misconduct. BC III's obligations under this Section 11.02 are personal to BC III to the extent arising from occurrences during BC III's ownership, and, in the event of a foreclosure, deed in lieu of foreclosure or similar transfer of ownership of the Property, no transferee, purchaser in foreclosure, nominee or designee of such a purchaser or any successor lessor shall be liable for such obligations of BC III to the extent arising from occurrences during BC III's ownership.

11.03 Reserved.

11.04 Prevailing Party. After any litigation or proceeding between the parties hereto with respect to any matter arising under this Lease, the successful party shall be entitled to reimbursement of all costs (including, without limitation, court costs and expert witness fees), expenses and attorneys' fees that it may actually incur in connection with or in furtherance of any litigation or proceeding to enforce or interpreting the terms of this Lease against the other party. The successful party shall be deemed to be the party that shall have obtained a final, non-appealable order or judgment with respect to such litigation or proceeding that is more in favor of the successful party than the other party. The unsuccessful party shall reimburse the successful party for all such costs, expenses and attorneys' fees within ten (10) days after being billed therefor.

ARTICLE 12  
Brokerage

12.01 Representation as to No Brokers; Indemnification. Lessor and Lessee each represent and warrant to the other that it has not dealt with or negotiated with any broker in connection with this Lease. Lessor and Lessee each agree to hold harmless and indemnify the other from and against any and all claims, liabilities and expenses, including, without limitation, legal fees, and other costs, that arise out of or in connection with a claim for brokerage fees as a result of this Lease, which may be made by any person, firm or corporation claiming by, through or under the indemnifying party.

ARTICLE 13  
Lessor's Liability; Lessee's Remedies

13.01 Limitation on Lessor's Liability. Notwithstanding anything contained in this Lease or in any rule of law or statute to the contrary, to the extent that Lessor shall at any time have any liability under, pursuant to or in connection with this Lease, Lessee shall only pursue any such rights or remedies against the interest of Lessor in the Building and the rents, profits and issues therefrom. In no event, and under no circumstances, shall Lessor or any direct or indirect

officer, employee, agent, member, partner or principal (disclosed or undisclosed) of Lessor have any personal liability or monetary obligation of any kind under or pursuant to this Lease.

13.02 Limitation on Lessee's Liability. Notwithstanding anything contained in this Lease or in any rule of law or statute to the contrary, to the extent that Lessee shall at any time have any liability under, pursuant to or in connection with this Lease, Lessor shall only pursue any such rights or remedies against the interest of Lessee in the Building and the rents, profits and issues therefrom. In no event, and under no circumstances, shall Lessee or any direct or indirect officer, employee, agent, member, partner or principal (disclosed or undisclosed) of Lessee have any personal liability or monetary obligation of any kind under or pursuant to this Lease.

13.03 Lessee Remedy. Lessee agrees that its sole remedies in cases where Lessor's reasonableness (where required) in exercising its judgment or withholding its consent or approval is applicable pursuant to a specific provision of this Lease, or any rider or separate agreement relating to this Lease, if any, shall be those in the nature of an injunction, declaratory judgment or specific performance, the rights to money damages or other remedies being hereby specifically waived.

#### ARTICLE 14

##### Assignment, Mortgaging, Subletting, Etc.

14.01 Assignment, Mortgaging, Etc. Except as otherwise provided in Section 6.01 and Section 14.02, Lessee covenants and agrees for Lessee and its successors, assigns and legal representatives, that neither this Lease nor the term and estate hereby granted, nor any part hereof or thereof, will be assigned, mortgaged, pledged, encumbered or otherwise transferred (whether voluntarily, involuntarily, by operation of law or otherwise), nor shall the entire Property be subleased, other than to a Permitted Purchaser, without the prior written consent of the mortgagee under the HDC Construction Mortgage and each Superior Mortgage, the Letter of Credit Issuer, HPD and the Lessor. For purposes hereof, the term "assignment" shall include a sublease of the entire Property, regardless of whether for the remaining or some lesser portion of the Term, and the term "assignee" shall include any subtenant in connection with such a sublease.

14.02 Subletting. Lessee may sublet the Property or portions thereof (including, but not limited to, subleases to affiliates of Sublessor) provided, however, (i) each such sublease shall expressly be made subject and subordinate to the provisions of this Lease, (ii) the term of any subletting shall not extend beyond the Term of this Lease, (iii) no sublease shall affect or reduce any obligation of Lessee or right of Lessor hereunder, and (iv) all obligations of Lessee hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety, as though no subletting had been made.

14.03 Assignment by Lessor. Lessor reserves the right to sell, convey, assign or transfer (in either event, a "Transfer") its interest in and to the Building or the Property at any time to another person (a "Transferee"), so long as such sale, conveyance or assignment does not violate the terms of the Regulatory Documents or the Mortgage Documents, and provided: (i) to the extent approval is required under the Regulatory Documents, HDC Construction Mortgages, the QLICI Leasehold Mortgage documents, the Direct Loan Documents or the Letter of Credit Issuer's documents, the Transfer is approved in writing by the mortgagee under the HDC

Construction Mortgages, HPD, the QLICI Lenders, the Direct Lender or the Letter of Credit Issuer, as applicable, and such written consent is provided to the Lessee, (ii) the Transferee agrees to be subject to the terms of the Lease, and (iii) Lessor provides written notice of the Transfer to Lessee. The foregoing notwithstanding, the terms of this Section 14.03 shall not apply to the Lessee's purchase of the Property in accordance with Section 2.05.

14.04 Lessor Obligations After Transfer. Except as may be provided in the Assignment and Assumption of Ground Lease Agreement, and subject to the terms of Section 2.04(d) of this Lease, Lessor's obligations under this Lease arising from and after the date of such assignment shall not be binding upon the Lessor named herein after such assignment or transfer by such Lessor (or upon any subsequent lessor thereafter) of its interest in the Building or the Property, as the case may be, and in the event of any such Transfer, Lessor (and any such subsequent lessor) shall be entirely freed and relieved of all covenants and obligations of Lessor hereunder arising from and after the date of Transfer, and the transferee of Lessor's interest (or that of such subsequent lessor) in the Building or the Property, as the case may be, shall be deemed to have assumed all obligations under this Lease arising from and after the date of Transfer.

## ARTICLE 15

### Personal Property and Improvements

15.01 Ownership of Personal Property and Initial Improvements. All fixtures (including trade fixtures), leasehold improvements (including without limitation the Initial Improvements), equipment, appliances, furniture, furnishings and personal property located in the Property (collectively, "QALICB's Property") shall be the property of QALICB during the Term. QALICB's Property shall remain upon and be surrendered with the Property and Project and become Lessor's Property on termination of this Lease following an Event of Default at no cost to Lessor. At all times during the Term, legal and beneficial title to the leasehold improvements (including without limitation the Initial Improvements) shall be vested in QALICB and during the Term, to the extent permitted by applicable law, Lessee alone shall be entitled to all of the tax attributes of ownership, including, without limitation, the right to claim depreciation or cost recovery deductions. Neither BCLDC or BC III will claim tax credits, depreciation or any other federal or state income tax benefits with respect to the Property, or take any action which is inconsistent with this provision. BC III and QALICB shall file all tax returns in a manner that is consistent with such treatment. Notwithstanding anything to the contrary contained herein, all legal and beneficial title to the leasehold improvements (including without limitation the Initial Improvements) shall be vested in BCLDC and QALICB, pursuant to the Subleasehold Nominee Agreement and in accordance with Section 2.03 hereof, upon the termination of this Lease and upon the consummation of the assignment of BC III's beneficial and equitable leasehold interest in the Property to QALICB and QALICB's assumption of same.

15.02 Limitation on Security Agreement. Lessee covenants and agrees that no security agreement, whether by way of conditional bill of sale, chattel mortgage or instrument of similar import, shall be placed upon any improvement made by Lessee which is affixed to the Property of which the Property form a part or shall be placed upon any of Lessee's Property, except for the personal property security interests securing the QLICI Loan, the Direct Loan and except for the QILICI Leasehold Mortgage and the Direct Leasehold Mortgage, which mortgages attach to the subleasehold and leasehold estate in the Initial Improvements.

15.03 Discharge of Lien. If any lien or UCC financing statement is filed against the Property, Building, improvements, Property or Lessee's Property, other than those securing the QLICI Loan, the Direct Loan Lessee will, upon ten (10) days' prior written notice thereof from Lessor, cause such lien or notice to be removed or discharged at Lessee's sole cost and expense, and Lessee's failure to do so shall constitute an Event of Default.

ARTICLE 16  
Lessor's Access

16.01 Access. Prior to the Turnover Date, Lessee shall permit Lessor, Letter of Credit Issuer, HPD, HDC and the mortgagee under the HDC Construction Mortgage to have access to the Property sufficient to allow Lessor to perform its obligations under this Lease, the Regulatory Documents and the Mortgage Documents or to allow Lessor to perform necessary or desirable interior and exterior renovations and repairs and construction for the proper operation and maintenance of the Building or to the extent necessary to accommodate the requirements of other tenants and lessees. All such work shall be done, so far as practicable in the good faith judgment of Lessor, in such manner as to avoid unreasonable and unnecessary interference with Lessee's use of the Property but shall not be required to be done on an overtime or expedited basis and in no event whatsoever shall Lessee be entitled to a reduction or abatement of Rent as a result thereof. Lessor and Lessee, as applicable, shall permit QLICI Lenders, Direct Lender, Consulting Engineer and their respective employees, agents, contractors and representatives access to the Property to inspect the progress of the construction of the Initial Improvements at reasonable times agreed to by the parties and in accordance with all safety regulations.

ARTICLE 17  
Late Charges and Interest

17.01 Late Charge. If Lessee shall fail to pay any installment of Base Rent, Additional Rent or any other sums or charges due hereunder for more than ten (10) days after the same becomes due and payable, Lessee shall pay Lessor a late charge of ten cents (\$0.10) for each dollar of the same as shall not have been paid to Lessor within said ten (10) day period. Such late charge shall be without prejudice to any of Lessor's rights and remedies hereunder or at law for nonpayment of rent, shall be in addition thereto and shall be deemed to be additional rent.

17.02 Default Interest. If Lessee shall fail to pay any installment of Base Rent, Additional Rent or any other sum of money which shall become due and payable by Lessee to Lessor pursuant to the terms of this Lease or by reason of Lessee's occupancy of the Property after the date on which such installment or payment is due, in addition to (and not in lieu of) the late charge provided for above, Lessee shall pay interest thereon at a rate equal to the lesser of six (6%) percent above the prime rate from time to time set forth in The Wall Street Journal, calculated on the basis of the actual days elapsed, based on a 360-day year, or the maximum rate of interest allowed by applicable law(s), if any, then prevailing, from the date on which such installment or payment is due to the date of payment thereof, and such interest shall be deemed to be additional rent.

17.03 No Notices Required. Nothing contained in this Article 17 shall be deemed to require Lessor to give the notices therein or herein (if any) provided for prior to the

commencement of a summary proceeding for nonpayment of rent or a plenary action for the recovery of rent on account of any default in the payment of the same, it being intended that such notices are for the sole purpose of creating a conditional limitation hereunder pursuant to which this Lease shall terminate and if Lessee thereafter remains in possession or occupancy, it shall become a holdover Lessee.

## ARTICLE 18

### Asbestos or Other Hazardous Substances

18.01 Covenant as to Hazardous Substances. Lessor, prior to the Delivery of Possession Date, and Lessee, from and after the Delivery of Possession Date, shall not cause or permit any Hazardous Substances (hereinafter defined) to be brought or remain upon, or kept or used in or about, the Property or the Building. As used in this Lease, "Hazardous Substance(s)" shall mean any hazardous, toxic or radioactive substance, material, matter or waste (other than cleaning fluids, customary household supplies and other substances customarily used in the maintenance of the Building) which is or becomes regulated by any federal, state or local law, rule regulation, code, ordinance or any other governmental restriction or requirement.

18.02 Performance of Work. If prior to the Delivery of Possession Date any laws, orders, rules or regulations of any applicable governmental authority require that any Hazardous Substances contained in or about the Building (including the Property) be dealt with in any particular manner in connection with any alterations, additions or improvements of the Building (including the Property) or otherwise, then it shall be Lessor's obligation to deal with such asbestos or any other Hazardous Substances in accordance with all such laws, orders, rules and regulations. Lessee shall be responsible for removal of any Hazardous Substances brought into the Property (or the Building) by Lessee after the Delivery of Possession Date.

## ARTICLE 19

### Preparation of Property; "As Is" Condition

19.01 As-Is Condition. From time to time, Lessee shall inspect the Property. Except for the obligations of Lessor under this Lease and Lessor's representations herein, Lessee agrees that the Property shall be leased to the Lessee by Lessor, and that Lessee shall accept possession of the Property on the date hereof strictly on an "as is, where is, with all faults" basis, and that except for Lessor's representations and warranties set forth in this Lease, this Lease shall be without representations or warranties of any kind or nature, express, implied, or otherwise, including, but not limited to, any representation or warranty concerning title to the Property, the physical condition of the Property (including, but not limited to, the condition of the soil or the improvements), the environmental condition of the Property (including, but not limited to, the presence or absence of Hazardous Substances on, in or under the Property), the accuracy, completeness, methodology of preparation or otherwise of any environmental report, the compliance of the Property with applicable laws and regulations (including, but not limited to, zoning and building codes or development or use rights respecting the Property), the financial condition of the Property, Lessor, or any of its direct or indirect members or constituents, or any other matter respecting any income, expenses, charges, liens or encumbrances, rights or claims on, affecting or pertaining to Lessor or the Property or any part thereof. All prior agreements between the parties with respect to the leasing of the Property by Lessor to Lessee are merged into

this Lease which alone and fully and completely express the agreement of the parties with respect to the foregoing subject and which are entered into after full investigation, neither party relying upon any statement or representations not set forth herein. As of the date hereof, Lessor shall assign to the Lessee, any and all rights and claims against contractors and material suppliers with respect to any defects or deficiencies in labor or materials, including under any warranties of contractors and suppliers.

ARTICLE 20  
Casualty

20.01 Casualty. If the Building or the Property shall be partially or substantially damaged or destroyed by fire or other casualty Lessee so notify Lessor of its plans to repair the damage to and restore and rebuild the Building and the Property (including Lessee's Property) and promptly following receipt of such notice, Lessor shall notify Lessee of the estimate period of repair as hereinafter required. Unless otherwise agreed by the Lessee and each Recognized Leasehold Mortgagee (each in their sole discretion), Lessor shall proceed with reasonable diligence to repair the Building and the Property (including Lessee's Property) to substantially their former condition, consistent with the Approved Plans, to the extent that the same may be feasible (subject to reasonable changes which Lessor shall deem desirable and Lessee and each Recognized Leasehold Mortgagee approves) and so as to constitute complete and rentable Building and Property. To the extent, if any, that insurance proceeds under the policy or policies carried by Lessor as required by this Lease are insufficient to pay the costs of such proposed repair, restoration and/or rebuilding, Lessee shall contribute funds in the amount of such deficiency. Lessor shall carry out such repair, restoration and/or rebuilding with reasonable dispatch after the damage or destruction and the collection of the insurance proceeds attributable to such damage and the contribution of Lessee funds, if applicable.

20.02 Untenantability. If all or part of the Property shall be damaged or destroyed or rendered completely or partially untenantable on account of fire or other casualty affecting the Building or the Property, the Base Rent and Additional Rent hereunder shall be abated in the proportion that the untenantable area of the Property bears to the total area of the Property, for the period from the date of the damage or destruction to the date on which Lessor has substantially completed its restoration obligations hereunder. Notwithstanding the foregoing Lessee shall pay to Lessor all "Additional Rent" as such term is defined in the Ground Lease, including the payment of \$450,000 as defined as "Additional Rent" in the Ground Lease; provided that, in no event shall Lessee be obligated to pay any penalty or charge imposed under the Ground Lease and treated as "Additional Rent" thereunder that arises from a default or failure of performance by Lessor not caused by a default or failure of performance by Lessee.

20.03 No Liability. Lessee shall not be entitled to terminate this Lease, and Lessor shall have no liability to Lessee for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Property or of the Building pursuant to this Article 20.

20.04 Express Agreement. The provisions of this Article 20 shall be deemed an express agreement governing any case of damage or destruction of the Property by fire or other casualty, and Section 227 of the Property Law of the State of New York, providing for such a contingency

in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

ARTICLE 21  
Condemnation

21.01 Total Condemnation. If the whole of the Building or the Property shall be taken by condemnation or in any other manner for any public or quasi-public use or purpose, this Lease and the term and estate hereby granted shall terminate as of the date of vesting of title on such taking ("Date of the Taking"), and the Base Rent and Additional Rent shall be prorated and adjusted as of such date.

21.02 Partial Condemnation. If a substantial portion of the Building shall be so taken, this Lease shall be unaffected by such taking, except that Lessor or Lessee may, at their option, if Lessor or Lessee determines that operation of the Building in the manner and for the uses existing immediately prior to such taking is not feasible or desirable, and regardless of whether all or any portion of the Property was taken, terminate this Lease by giving notice to that effect within thirty (30) days after the Date of the Taking, and the Base Rent and Additional Rent shall be prorated and adjusted as of such termination date, except that with respect to any portion of the Property which is the subject of the taking, if earlier, as of the Date of the Taking. Upon such partial taking and this Lease continuing in force as to any part of the Property, the Base Rent and Additional Rent shall be adjusted according to the rentable area remaining (it being understood that the portion of the Property affected by such taking shall be deleted from the Property as of the Date of the Taking).

21.03 Award. If this Lease is terminated, Lessee shall be entitled to receive the award, which shall be paid to the QLICI Lenders and Direct Lender. Lessee shall have the right to make a separate claim for any of Lessee's Property taken. In the event of the expiration or earlier termination of this Lease, Lessor shall be entitled to receive the entirety of any such condemnation award or payment.

21.04 Temporary Condemnation. If the temporary use or occupancy of all or any part of the Property shall be taken by condemnation or in any other manner for any public or quasi-public use or purpose during the term of this Lease, Lessee shall be entitled, except as hereinafter set forth, to receive that portion of the award or payment for such taking which represents compensation for the use and occupancy of the Property and for the taking of Lessee's Property, and Lessor shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Property. This Lease shall be and remain unaffected by such taking, and Lessee shall continue to be responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Base Rent and Additional Rent when due. If the period of temporary use or occupancy shall extend beyond the Expiration Date of and any extensions of this Lease, that part of the award which represents compensation for the use and occupancy of the Property (or a part thereof) shall be divided between Lessor and Lessee so that Lessee shall receive so much thereof as represents the period up to and including such Expiration Date and extensions and Lessor shall receive so much thereof as represents the period after such Expiration Date and extensions. All monies paid as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Base Rent and Additional

Rent have been paid shall be received, held and applied by Lessor as a trust fund for payment of the Base Rent and Additional Rent becoming due hereunder.

21.05 Restoration. In the event of a taking of less than the whole of the Building which does not result in termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Property which does not result in a termination of this Lease, unless otherwise agreed by the Lessee and each Leasehold Mortgagee (each in their sole discretion), Lessee, at its expense, and whether or not any award or awards shall be sufficient for the purpose, shall direct Lessor to proceed with reasonable diligence to repair the remaining parts of the Building and the Property (including Lessee's Property) to substantially their former condition, consistent with the Approved Plans, to the extent that the same may be feasible (subject to reasonable changes which Lessor shall deem desirable and Lessee approves) and so as to constitute complete and rentable Building and Property.

ARTICLE 22  
Change of Condition

22.01 Change of Condition. Lessor shall not be liable for any change of condition in the Property caused by the compliance with any change after the date hereof in laws, rules, orders, ordinances, requirements, or regulations of any Federal, State, County or Municipal authority or government, including any change required by law for off-street parking or similar legislation, or by revocation by any such authority or authorities of any permit or license heretofore granted on account of any such change in laws after the date hereof, or by construction or operation of any public or quasi-public work, or by the erection of any building or buildings upon any adjacent property, or by change of environment. Lessor shall not be liable for interference with or loss of light or other incorporeal hereditaments caused by anybody other than Lessor, or caused by or for the City or any governmental or quasi-governmental agency or authority in connection with the construction of any public or quasi-public work.

ARTICLE 23  
Estoppel Certificate

23.01 Estoppel Certificate. Each party agrees, at any time and from time to time, as reasonably requested by the other party, QLICI Lenders, Direct Lender, Superior Mortgagee, HPD, HDC or the mortgagee under the HDC Construction Mortgage, upon not less than ten (10) days' prior notice, to execute and deliver to the requesting party, QLICI Lenders, Direct Lender, Superior Mortgagee, HPD, HDC and the mortgagee under the HDC Construction Mortgage a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force as modified and stating the modifications), certifying the dates to which the Base Rent and Additional Rent have been paid, and stating whether or not, to the certifying party's actual knowledge, the requesting party is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the certifying party may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the requesting party may be dealing.

ARTICLE 24  
Notices

24.01 Notices. All consents, notices, demands, requests, approvals or other communications given under this Lease shall be in writing and shall be deemed sufficiently given or rendered only if delivered by hand (provided a signed receipt is obtained) or if sent by registered or certified mail (return receipt requested) or by a nationally recognized overnight delivery service making receipted deliveries, addressed to Lessor and Lessee as follows, and to any Superior Mortgagee who shall require copies of notices and whose address is provided to Lessee, or to such other address(es) as Lessor and Lessee may designate as its new address(es) for such purpose by notice given to the other in accordance with the provisions of this Article 24. Parties acknowledge that the mortgagee under the HDC Construction Mortgage, as a Superior Mortgagee, and the Servicer, as servicer of the HDC Construction Mortgage, each requires that it receive all notices hereunder while the HDC Construction Mortgage remains in effect. Any such approval, consent, notice, demand, request or other communication shall be deemed to have been given on the date of receipted delivery, refusal to accept delivery or when delivery is first attempted but cannot be made due to a change of address for which no notice is given or three (3) Business Days after it shall have been mailed as provided in this Article, whichever is earlier.

- If to Lessor: Bedford Courts III LLC  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attention: Winthrop Wharton
- With a copy to: Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> Floor  
New York, New York 10010  
Attention: Russell A. Kivler, Esq.
- With a copy to: Bedford Courts Local Development Corporation  
c/o Settlement Housing Fund, Inc.  
247 West 37th Street, 4th Floor,  
New York, New York 10018  
Attention: Lee Warshavsky, Esq.
- If to Lessee: Bedford Courts I LLC  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attention: Winthrop Wharton
- With a copy to: Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> Floor  
New York, New York 10010  
Attention: Russell A. Kivler, Esq.
- With a copy to: New York City Housing Development Corporation  
110 William Street

New York, New York 10038  
Attention: President

With a copy to: New York City Housing Development Corporation  
110 William Street  
New York, New York 10038  
Attention: General Counsel

With a copy to: Sidley Austin LLP  
787 Seventh Avenue  
New York, NY 10019  
Attention: Aviva Yakren, Esq.

If to Direct Lender: Wells Fargo Bank, National Association  
Community Lending and Investment  
150 East 42nd Street, 36th Floor  
MAC: J0161-367  
New York, New York 10017  
Attention: Page W. Travelstead

With a copy to: Sidley Austin LLP  
787 Seventh Avenue  
New York, NY 10019  
Attention: Aviva Yakren, Esq.

If to QLICI Lenders: Citi NMTC Subsidiary CDE XXXV, LLC  
c/o Citibank NMTC Corporation  
390 Greenwich Street, 2nd Floor  
New York, New York 10013  
Attention: Gina D. Nisbeth

With a copy to: Manatt, Phelps & Phillips, LLP  
7 Times Square  
New York, New York 10036  
Attention: Neil Faden, Esq.

With a copy to: NYCR Sub-CDE 6, LLC  
c/o NYCR-CDE, LLC  
99 Hudson Street, 15th Floor  
New York, New York 10013  
Attention: George L. Olsen

and a copy to: Cannon Heyman & Weiss, LLP  
726 Exchange Street, Suite 500  
Buffalo, New York 14210  
Attention: Timmon M. Favaro, Esq.

With a copy to: Wells Fargo Community Development Enterprise Round 12  
Subsidiary 24, LLC  
401 B Street, Suite 304A  
MAC E2901 031  
San Diego, CA 92101  
Attention: NMTC Loan Administrator  
Loan Number: 1018606  
Telephone: (202) 303-3052  
Facsimile: (866) 723-1089  
Email: Donna.Y.Gatlin-Mteeka@WellsFargo.com

and a copy to: Nixon Peabody, LLP  
799 9th Street NW, Suite 500  
Washington, DC 20001  
Attention: Greg Doran, Esq.,

and a copy to: Wells Fargo & Company  
Wells Fargo Law Department  
45 Fremont Street, 26th Floor  
San Francisco, California 94105-2204  
Attention: Bina Galal (Community Lending and Investment)

With a copy to: NCIF New Markets Capital Fund XXXV CDE, LLC  
135 LaSalle, Suite 2040  
Chicago, Illinois 60603

and a copy to: Dentons US LLP  
233 South Wacker Drive, Suite 5900  
Chicago, Illinois 60606-6361  
Attention: Scott Lindquist, Esq

ARTICLE 25  
Miscellaneous

25.01 Certain Interpretational Rules. For purposes of this Lease, whenever the words “include,” “includes,” or “including” are used, they shall be deemed to be followed by the words “without limitation,” whenever the circumstances or the context requires, the singular shall be construed as the plural, the masculine shall be construed as the feminine and/or the neuter and vice versa, and the words “hereof,” “herein,” “hereunder” and words of similar import shall be deemed to refer to this Lease in its entirety rather than one section, subsection or paragraph of the Lease. The words “Expiration Date,” “termination of this Lease,” “expiration of this Lease” and words of similar import shall refer to the date that this Lease terminates, whether on the originally-scheduled Expiration Date or such earlier date by operation of the terms and provisions of this Lease. This Lease shall be interpreted and enforced without the aid of any canon, custom or rule of law requiring or suggesting construction against the party drafting or causing the drafting of the provision in question.

25.02 Independent Covenant. Each term, covenant, agreement, obligation or other provision of this Lease on Lessee's part to be performed shall be deemed and construed as a separate and independent covenant of Lessee, not dependent upon any of the other terms of this Lease. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. In the event of any action, suit, arbitration, dispute or proceeding affecting the terms of this Lease, no weight shall be given to any deletions or striking out of any of the terms of this Lease contained in any draft of this Lease and no such deletion or strike out shall be entered into evidence in any such action, suit, arbitration, dispute or proceeding nor given any weight therein.

25.03 Governing Law. This Lease shall be governed in all respects by, and construed in accordance with, the laws of the State of New York, without respect to conflicts of law principles.

25.04 Reasonable Modification. If, in connection with obtaining financing for the Building, a bank, insurance company or other lending institution or credit provider or credit enhancer shall request reasonable modifications to this Lease as a condition to such financing, Lessee will not unreasonably withhold, condition or delay its consent thereto, provided that such modifications do not materially increase the obligations of Lessee hereunder or materially adversely affect the leasehold interest hereby created.

25.05 Exercise of Rights. Lessee shall not be entitled to exercise any right of termination or other option granted to it by this Lease (if any) at any time when an Event of Default exists .

25.06 Exhibits. The Schedules and/or Exhibits annexed to this Lease shall be deemed part of this Lease with the same force and effect as if such Schedules and/or Exhibits were numbered Articles of this Lease.

25.07 Non-Collectibility of Rents. If at the commencement of, or at any time or times during the term of this Lease, the rents reserved in this Lease shall not be fully collectible by reason of any Federal, State, County or City law, proclamation, order or regulation, or direction of a public officer or body pursuant to law, Lessee shall enter into such agreements and take such other steps (without additional expense to Lessee) as Lessor may request and as may be legally permissible to permit Lessor to collect the maximum rents which may from time to time during the continuance of such legal rent restriction be legally permissible (and not in excess of the amounts reserved therefor under this Lease). Upon the termination of such legal rent restriction prior to the expiration of the term of this Lease, (a) the rents shall become and thereafter be payable hereunder in accordance with the amounts reserved in this Lease for the periods following such termination and (b) Lessee shall pay to Lessor, if legally permissible, an amount equal to (1) the rents which would have been paid pursuant to this Lease but for such legal rent restriction, less (2) the rents paid by Lessee to Lessor during the period or periods such legal rent restriction was in effect.

25.08 No Requirement to Demonstrate Waste. Lessor shall not, in connection with its disapproval of any alteration, improvement, addition or change in or to the Property proposed by Lessee, be required to find or demonstrate that the same, if performed, would constitute waste.

25.09 Intentionally Omitted

25.10 Partial Invalidity. If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

25.11 Headings. The Article headings of this Lease are for convenience only and are not to be given any effect whatsoever in construing this Lease.

25.12 Authorization and Counterparts. Lessor and Lessee each represent that the individual signing at the foot of this Lease on its behalf is duly authorized to sign this Lease on its behalf. Delivery of an executed counterpart of a signature page to this Lease by facsimile shall be as effective as delivery of a manually executed counterpart of this Lease.

25.13 Recordation. Lessee may, at its sole cost and expense, record a memorandum of this Lease, the form and substance of which have been approved by Lessor (such approval not to be unreasonably withheld), in the applicable land records.

25.14 Quiet Enjoyment. Lessor hereby covenants that Lessee, upon performing all of its obligations in this Lease, shall quietly and exclusively have and enjoy the Property during the Term, without hindrance or molestation by Lessor or any party claiming rights by, on behalf of or through Lessor, subject however in all events to the terms and conditions set forth in this Lease.

25.15 Third Party Beneficiary. The Letter of Credit Issuer, QLICI Lenders, Direct Lender, and the mortgagee under the HDC Construction Mortgage are intended third party beneficiaries of this Lease with the right to enforce its provisions so long as the HDC Construction Mortgage, Direct Leasehold Mortgage and QLICI Leasehold Mortgage, as applicable, are outstanding. HDC and HPD are also intended third party beneficiaries of this Lease with the right to enforce their provisions so long as, in each case, their respective Regulatory Agreements encumber the Property. There shall be no third party beneficiaries of this Lease other than the entities listed in this Section 25.15.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto hereby execute this Lease as of the date first above written.

**LESSOR:**

**BEDFORD COURTS LOCAL  
DEVELOPMENT CORPORATION,**  
a New York not-for-profit corporation

By: \_\_\_\_\_

Name: Lee Warshavsky

Title: Secretary/Treasurer

**BEDFORD COURTS III LLC,**  
a New York limited liability company

By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_

Name: Donald Capoccia

Title: Authorized Signatory

**LESSEE:**

**BEDFORD COURTS LOCAL  
DEVELOPMENT CORPORATION,**  
a New York not-for-profit corporation

By: \_\_\_\_\_

Name: Lee Warshavsky

Title: Secretary/Treasurer

**BEDFORD COURTS I LLC,**  
a New York limited liability company

By: Bedford Courts I Developer LLC,  
its sole member

By: \_\_\_\_\_

Name: Donald Capoccia

Title: Authorized Signatory

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

On the 30th day of January in the year 2019, before me, the undersigned, a notary public in and for said state, personally appeared **LEE WARSHAVSKY**, 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 on behalf of which the individual acted, executed the instrument.

*Fatmata K. Jalloh*

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

FATMATA K. JALLOH  
Notary Public, State of New York  
Registration #01JA6332614  
Qualified In Westchester County  
Commission Expires Nov 2, 2019

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

On the 30th day of January in the year 2019, before me, the undersigned, a notary public in and for said state, personally appeared **DONALD CAPOCCIA**, 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 on behalf of which the individual acted, executed the instrument.

*Fatmata K. Jalloh*

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

FATMATA K. JALLOH  
Notary Public, State of New York  
Registration #01JA6332614  
Qualified In Westchester County  
Commission Expires Nov 2, 2019

**EXHIBIT A**

**APPROVED PLANS**

List of Plans and Specifications

(see attached)

BEDFORD COURTS III LLC  
ARMORY BUILDERS III LLC  
GENERAL CONTRACTOR CONTRACT

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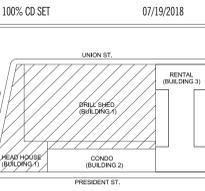
EXHIBIT A  
PLANS AND SPECIFICATIONS



**BEDFORD UNION ARMORY  
BLDG 01 - DRILL SHED AND HEAD HOUSE  
100% CD SET  
12.06.2018**

- CLIENT: BEDFORD COURTS, LLC  
150 49TH AVE, 2ND FL, BROOKLYN, NY 11201
- STRUCTURAL ENGINEER: SEVERUD ASSOCIATES  
469 SEVENTH AVE, SUITE 900, NEW YORK, NY 10018
- MEP ENGINEER: ROOBYN CARONALE, P.C. CONSULTING ENGINEERS  
224 WEST 29TH ST, 4TH FL, NEW YORK, NY 10001
- ENVELOPE: BURO HAPPOLD  
100 BROADWAY, NEW YORK, NY 10005
- SUSTAINABILITY: BRIGHT POWER  
11 HANOVER SQUARE 21ST FL, NEW YORK, NY 10005
- CIVIL ENGINEERING: BROOKER ENGINEERING  
74 LAFAYETTE AVE, SUITE 501, SUFFERN, NY 10901
- POOL CONSULTANT: TRACE POOL DESIGN  
333 WESTCHESTER AVE, WHITE PLAINS, NY 10604
- EXPECTING/CODE CONSULTING: JIM ZIMING  
295 BROADWAY, SUITE 800, NEW YORK, NY 10007
- LIGHTING CONSULTING: LIGHTING WORKSHOP  
20 JAY ST, SUITE 504, BROOKLYN, NY 11201
- VERTICAL TRANSPORTATION: UNITED ELEVATOR CONSULTANTS, INC.  
ONE PENN PLAZA, SUITE 4507, NEW YORK, NY 10019
- VERTICAL TRANSPORTATION: UNITED ELEVATOR CONSULTANTS, INC.  
ONE PENN PLAZA, SUITE 4507, NEW YORK, NY 10019
- COGENERATION CONSULTANT: INTEGRATED ENERGY CONCEPTS  
3445 WINTON PLACE, SUITE 240, ROCHESTER, NY 14623

DATE	DESCRIPTION
APRIL 19, 2018	DOB #1
MAY 24, 2018	50% CD SET
JULY 19, 2018	100% CD SET
DEC 06, 2018	DOB #3



KEY PLAN

PROJECT NO. 1316  
**BEDFORD UNION ARMORY  
 BUILDING 01  
 DRILL SHED AND HEAD HOUSE**  
 1555 Bedford Ave. Brooklyn NY 11225

TITLE



DRAWING #: T-000.00

1 of 113

DOB #: 320912456

DRAWING INDEX						
Sheet Number	Sheet Name	D.O.B. FILING SET	50% CD SET	BID SET	DOB #2 10/26 /2018	
01-TITLE						
T-000	TITLE	X	X	X	X	
02-GENERAL						
G-000	SHEET INDEX	X	X	X	X	
G-010	PROJECT SUMMARY, SYMBOLS, LEGEND & ABBREVIATIONS	X	X	X	X	
G-015	GENERAL NOTES AND SPECIAL INSPECTIONS	X	X	X	X	
G-020	ACCESSIBILITY NOTES	X	X	X	X	
G-021	ACCESSIBILITY DIAGRAMS	X	X	X	X	
G-022	ACCESSIBILITY DIAGRAMS	X	X	X	X	
G-030	SURVEY	X	X	X	X	
G-040	SITE PHOTOS	X	X	X	X	
02A-EGRESS						
EG-001	LIFE SAFETY AND EGRESS PLAN	X	X	X	X	
EG-002	LIFE SAFETY AND EGRESS PLAN	X	X	X	X	
EG-003	LIFE SAFETY AND EGRESS PLAN	X	X	X	X	
EG-004	LIFE SAFETY AND EGRESS PLAN	X	X	X	X	
03-ZONING						
Z-000	AREA MAP, ZONING MAP, TAX MAP, FLOOD ZONE MAP	X	X	X	X	
Z-001	ZONING ANALYSIS		X	X	X	
Z-002	ZONING ANALYSIS	X	X	X	X	
Z-004	ZONING ANALYSIS	X	X	X	X	
Z-005	ZONING ELEVATIONS	X	X	X	X	
04-REMOVALS						
D-001	SELECT REMOVAL NOTES	X	X	X	X	
D-100	BASEMENT REMOVALS PLAN	X	X	X	X	
D-101	FIRST FLOOR REMOVALS PLAN	X	X	X	X	
D-102	SECOND FLOOR REMOVALS PLAN	X	X	X	X	
D-103	THIRD FLOOR REMOVALS PLAN	X	X	X	X	
D-104	ROOF REMOVALS PLAN	X	X	X	X	
D-105	ENLARGED BASEMENT FLOOR REMOVALS PLAN	X	X	X	X	
D-106	ENLARGED FIRST FLOOR REMOVALS PLAN	X	X	X	X	
D-107	ENLARGED SECOND & THIRD FLOOR REMOVALS PLAN	X	X	X	X	
D-200	BASEMENT REMOVALS REFLECTED CEILING	X	X	X	X	
D-201	FIRST FLOOR REMOVALS REFLECTED CEILING	X	X	X	X	
D-202	SECOND FLOOR REMOVALS REFLECTED CEILING	X	X	X	X	
D-203	THIRD FLOOR REMOVALS REFLECTED CEILING	X	X	X	X	
D-300	SELECT REMOVALS ELEVATION - NORTH & EAST	X	X	X	X	
D-301	SELECT REMOVALS ELEVATION - SOUTH & WEST	X	X	X	X	
05-ARCH						
A-001	SITE PLAN	X	X	X	X	
A-010	FINISH, FIXTURES & APPLIANCE SCHEDULES	X	X	X	X	
A-020	INTERIOR PARTITION TYPES	X	X	X	X	
A-021	TYPICAL SHAFTWALL DETAILS			X	X	
A-030	HORIZONTAL ASSEMBLIES & THRESHOLDS	X	X	X	X	
A-050	TYPICAL SOFFIT DETAILS & CEILING ASSEMBLIES	X	X	X	X	
A-060	DOOR SCHEDULE	X	X	X	X	
A-061	DOOR TYPES	X	X	X	X	
A-062	DOOR DETAILS			X	X	
A-063	BASE DETAILS			X	X	
A-080	CURTAIN WALL SCHEDULE & TYPES			X	X	
A-081	CURTAIN WALL SCHEDULE & TYPES			X	X	
A-082	CURTAIN WALL DETAILS - KAWNEER		X	X	X	
A-083	CURTAIN WALL DETAILS - INSCAPE		X	X	X	
A-100	BASEMENT PLAN	X	X	X	X	
A-101	FIRST FLOOR PLAN	X	X	X	X	
A-102	SECOND FLOOR PLAN	X	X	X	X	
A-103	THIRD FLOOR PLAN	X	X	X	X	
A-104	ROOF PLAN	X	X	X	X	
A-110	ENLARGED PLANS-BASEMENT	X	X	X	X	
A-111	ENLARGED PLANS-FIRST FLOOR	X	X	X	X	
A-113	ENLARGED PLANS-FIRST FLOOR PLAN-COURTS	X	X	X	X	
A-114	ENLARGED PLAN & SECTION - POOL	X	X	X	X	
A-116	ENLARGED PLANS-SECOND & THIRD FLOOR PLAN	X	X	X	X	
A-120	BASEMENT FLOORING PLAN	X	X	X	X	
A-121	FIRST FLOOR FLOORING PLAN	X	X	X	X	
A-122	SECOND FLOOR FLOORING PLAN	X	X	X	X	
A-123	THIRD FLOOR FLOORING PLAN	X	X	X	X	
A-190	LIGHTING FIXTURE SCHEDULE	X	X	X	X	
A-191	LIGHTING FIXTURE SCHEDULE	X	X	X	X	
A-200	BASEMENT FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-201	FIRST FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-202	SECOND FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-203	THIRD FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-210	ENLARGED BASEMENT REFLECTED CEILING PLAN	X	X	X	X	
A-211	ENLARGED FIRST FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-212	ENLARGED FIRST FLOOR AND SECOND FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-213	ENLARGED SECOND & THIRD FLOOR REFLECTED CEILING PLAN	X	X	X	X	
A-300	EXTERIOR ELEVATIONS - 3D	X	X	X	X	
A-301	EXTERIOR ELEVATIONS - NORTH & EAST	X	X	X	X	
A-302	EXTERIOR ELEVATIONS - SOUTH & WEST	X	X	X	X	
A-310	BUILDING SECTIONS - LONGITUDINAL	X	X	X	X	
A-311	BUILDING SECTION - TRANSVERSE	X	X	X	X	
A-320	INTERIOR ELEVATIONS - FIRST FLOOR		X	X	X	
A-321	INTERIOR ELEVATIONS - OPEN OFFICE & CUBICLES	X	X	X	X	
A-322	INTERIOR ELEVATIONS - POOL		X	X	X	
A-323	INTERIOR ELEVATIONS - POOL		X	X	X	
A-324	INTERIOR ELEVATIONS - FITNESS & LOCKER ROOMS		X	X	X	
A-325	INTERIOR ELEVATIONS - GALLERY	X	X	X	X	
A-350	SECTION DETAILS - GALLERY	X	X	X	X	
A-351	SECTION DETAILS - MECH & POOL SECTIONS	X	X	X	X	
A-400	ENLARGED PLAN, ELEVATION & SECTIONS - BEDFORD ENTRANCE	X	X	X	X	
A-401	ENLARGED PLANS - BEDFORD ENTRANCE		X	X	X	
A-402	ENLARGED SECTIONS - BEDFORD ENTRANCE		X	X	X	
A-403	ENLARGED PLAN, ELEVATION & SECTION - PRESIDENT ENTRANCE	X	X	X	X	
A-404	ENLARGED PLAN, ELEVATION & SECTION - UNION ENTRANCES	X	X	X	X	
A-500	ENLARGED PLANS, ELEVATIONS & SECTIONS - ELEVATOR & CHAIR LIFT	X	X	X	X	
A-510	ENLARGED PLANS AND SECTIONS - NEW STAIR 1	X	X	X	X	
A-511	ENLARGED PLANS AND SECTIONS - NEW STAIR 2, 2A	X	X	X	X	
A-512	STAIR DETAILS - NEW METAL STAIRS	X	X	X	X	
A-513	STAIR DETAILS - NEW CONCRETE STAIRS	X	X	X	X	
A-520	ENLARGED PLANS AND SECTIONS - EXG STAIR A	X	X	X	X	

DRAWING INDEX						
Sheet Number	Sheet Name	D.O.B. FILING SET	50% CD SET	BID SET	DOB #2 10/26 /2018	
A-521	ENLARGED PLANS AND SECTIONS - EXG STAIR B	X	X	X	X	
A-530	ENLARGED SECTIONS & DETAILS - BULKHEAD		X	X	X	
A-540	ENLARGED PLANS, ELEVATIONS AND SECTIONS - RAMPS AND STEPS	X	X	X	X	
A-550	ENLARGED BATHROOM PLAN & ELEVATIONS	X	X	X	X	
A-551	ENLARGED BATHROOM PLAN & ELEVATIONS	X	X	X	X	
A-552	ENLARGED BATHROOM PLAN & ELEVATIONS	X	X	X	X	
A-553	ENLARGED BATHROOM PLAN & ELEVATIONS			X	X	
A-554	ENLARGED BATHROOM & LOCKER PLAN & ELEVATIONS	X	X	X	X	
A-555	ENLARGED BATHROOM & LOCKER PLAN & ELEVATIONS	X	X	X	X	
A-600	EXTERIOR DETAILS - FOUNDATION	X	X	X	X	
A-601	EXTERIOR DETAILS - EXTERIOR		X	X	X	
A-602	EXTERIOR DETAILS - EXTERIOR		X	X	X	
A-603	EXTERIOR DETAILS - EXTERIOR			X	X	
A-610	INTERIOR DETAILS - DRILL SHED			X	X	
A-611	INTERIOR DETAILS - DIVIDER CURTAIN			X	X	
A-612	INTERIOR DETAILS - POOL		X	X	X	
A-613	INTERIOR DETAILS - RAILINGS		X	X	X	
A-650	MILLWORK - ENTRANCE DESKS			X	X	
06-CIVIL						
BPP-100	BUILDING PAVEMENT PLAN TYPE A		X	X		
BPP-101	BUILDING PAVEMENT PLAN TYPE A		X	X		
BPP-102	BUILDING PAVEMENT PLAN TYPE A		X	X		
ST-100	STREET TREE PLAN		X	X		
ST-101	STREET TREE PLAN		X	X		
06-STRUC						
FO-101	BASEMENT AND FOUNDATION FRAMING PLAN	X	X	X		
FO-102	FIRST FLOOR AND FOUNDATION FRAMING PLAN	X	X	X		
FO-200	FOUNDATION SECTIONS	X	X	X		
S-103	SECOND FLOOR FRAMING PLAN	X	X	X		
S-104	THIRD FLOOR AND GALLERY FRAMING PLAN	X	X	X		
S-105	ROOF FRAMING PLAN	X	X	X		
S-300	SUPERSTRUCTURE SECTIONS	X	X	X		
S-700	TYPICAL STEEL DETAILS I	X	X	X		
S-701	TYPICAL CONCRETE DETAILS II	X	X	X		
S-702	TYPICAL CONCRETE REPAIR DETAILS		X	X		
S-703	TYPICAL DETAILS		X	X		
S-710	GENERAL NOTES	X	X	X		
07-MECH						
M-001	MECHANICAL COVER SHEET	X	X	X		
M-100	MECHANICAL BASEMENT PLAN	X	X	X		
M-101	MECHANICAL 1ST FLOOR PLAN	X	X	X		
M-102	MECHANICAL 2ND FLOOR PLAN	X	X	X		
M-103	MECHANICAL 3RD FLOOR PLAN	X	X	X		
M-104	MECHANICAL ROOF PLAN	X	X	X		
M-300	MECHANICAL SCHEDULE	X	X	X		
M-400	MECHANICAL DETAILS		X	X		
M-401	MECHANICAL DETAILS		X	X		
M-700	COVER SHEET - MECHANICAL WORK			X		
M-701	PLOT PLAN, MECHANICAL LEGEND & ABBREVIATIONS		X	X		
M-801	COGEN & BOILER EXHAUST & MAKE UP AIR PLANS		X	X		
M-802	ROOF PLANS MECHANICAL		X	X		
M-803	COGEN PIPING LAYOUT PLANS & SECTIONS		X	X		
M-804	COGEN & BOILER EXHAUST & MAKE UP AIR SECTIONS		X	X		
M-805	3D VIEWS		X	X		
M-901	CENTRAL PLANT SYSTEM SCHEMATIC		X	X		
M-902	CHILLED WATER SYSTEM SCHEMATIC		X	X		
M-911	SCHEDULES - MECHANICAL		X	X		
M-912	SCHEDULES - MECHANICAL		X	X		
M-913	SYSTEM CONTROL POINT SCHEDULE		X	X		
M-914	SYSTEM CONTROL POINT SCHEDULE		X	X		
M-921	DETAILS - MECHANICAL		X	X		
M-922	DETAILS - MECHANICAL		X	X		
M-923	DETAILS - MECHANICAL		X	X		
07A-BOILER						
BL-700	COVER SHEET - BOILER WORK		X	X		
BL-701	BOILER LEGEND & ABBREVIATIONS		X	X		
BL-801	BOILER PIPING & DUCTWORK PLANS & VIEWS		X	X		
07A-PLUMB						
P-001	PLUMBING SITE PLAN	X	X	X		
P-100	PLUMBING BASEMENT PLAN	X	X	X		
P-101	PLUMBING 1ST FLOOR PLAN	X	X	X		
P-102	PLUMBING 2ND FLOOR PLAN	X	X	X		
P-103	PLUMBING 3RD FLOOR PLAN	X	X	X		
P-104	PLUMBING ROOF PLAN	X	X	X		
P-200	PLUMBING SANITARY RISER DIAGRAM	X	X	X		
P-201	PLUMBING WATER AND STORM RISER DIAGRAM	X	X	X		
P-300	PLUMBING DETAIL SHEET #1	X	X	X		
P-301	PLUMBING DETAIL SHEET #2	X	X	X		
07B-SPRINK						
SD-001	TEMPORARY STANDPIPE SITE PLAN			X		
SD-100	TEMPORARY STANDPIPE BASEMENT PLAN			X		
SD-101	TEMPORARY STANDPIPE 1ST FLOOR PLAN			X		
SD-102	TEMPORARY STANDPIPE 2ND FLOOR PLAN			X		
SD-103	TEMPORARY STANDPIPE 3RD FLOOR PLAN			X		
SD-104	TEMPORARY STANDPIPE ROOF PLAN			X		
SD-200	TEMPORARY STANDPIPE RISER			X		
07C-STANDPIPE						
SPSD-001	STANDPIPE SITE PLAN		X	X		
SPSD-100	STANDPIPE BASEMENT PLAN		X	X		
SPSD-101	STANDPIPE 1ST FLOOR PLAN		X	X		
SPSD-102	STANDPIPE 2ND FLOOR PLAN		X	X		
SPSD-103	STANDPIPE 3RD FLOOR PLAN		X	X		
SPSD-104	STANDPIPE ROOF PLAN		X	X		
SPSD-200	STANDPIPE RISER		X	X		
SPSD-300	STANDPIPE DETAILS		X	X		
09A-ELEC						
E-010	ELECTRICAL GENERAL NOTES		X	X		
E-011	ELECTRICAL SYMBOL LIST & LIGHTING FIXTURE SCHEDULE		X	X		
E-100L	ELECTRICAL BASEMENT PLAN_LIGHTING		X	X		
E-100P	ELECTRICAL BASEMENT PLAN_POWER		X	X		
E-101L	ELECTRICAL 1ST FLOOR PLAN_LIGHTING		X	X		
E-101P	ELECTRICAL 1ST FLOOR PLAN_POWER		X	X		

DRAWING INDEX						
Sheet Number	Sheet Name	D.O.B. FILING SET	50% CD SET	BID SET	DOB #2 10/26 /2018	
E-102L	ELECTRICAL 2ND FLOOR PLAN_LIGHTING		X	X		
E-102P	ELECTRICAL 2ND FLOOR PLAN_POWER		X	X		
E-103L	ELECTRICAL 3RD FLOOR PLAN_LIGHTING		X	X		
E-103P	ELECTRICAL 3RD FLOOR PLAN_POWER		X	X		

**EXHIBIT B**  
**SUBSTANTIAL COMPLETION NOTICE**

BEDFORD COURTS III LLC  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201

\_\_\_\_\_, 20\_\_

Bedford Courts I LLC  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201

Re: Notice of Substantial Completion

Ladies and Gentlemen:

Reference is made to that certain Agreement of Lease (the "Lease") between Bedford Courts Development Corporation, as to its nominal interest ("BCLDC"), Bedford Courts III LLC, as to its beneficial interest ("BC III LLC" and together with the BCLDC, the "Lessor") and Bedford Courts I LLC., dated as of \_\_\_\_\_, 2019, for the mixed-use project, including the to be constructed Building, substantially in accordance with the Approved Plans, and the Property on which the Building will be located at 1561 Bedford Avenue, Brooklyn, New York ("Lease"). Capitalized terms used but not herein defined shall have the meanings given to them in the Lease.

Pursuant to Section 2.04 of the Lease, (i) the Initial Improvements have achieved Substantial Completion, and (ii) all parties required by the Mortgage Documents to agree and confirm that the Initial Improvements have achieved Substantial Completed have in fact so agreed and confirmed. Therefore, the Substantial Completion Date is \_\_\_\_\_, 20\_\_.

Pursuant to Section 1.71 of the Lease, the Turnover Date shall be \_\_\_\_\_, 20\_\_.

Very Truly Yours,

**BEDFORD COURTS III LLC,**  
a New York limited liability company

By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name:  
Title:

The foregoing is hereby agreed to, accepted and acknowledged by:

**BEDFORD COURTS I LLC,**  
a New York limited liability company

By: Bedford Courts I Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name:  
Title:

QLICI Lenders signing below to indicate that QLICI Lenders agree that Substantial Completion has occurred:

**NYCR SUB-CDE 6, LLC,**  
a New York limited liability company

By: NYCR-CDE, LLC,  
a New York limited liability company,  
its managing member

By: New York City Regional Center, LLC,  
a New York limited liability company,  
its managing member

By: \_\_\_\_\_  
Name:  
Title:

**WELLS FARGO COMMUNITY DEVELOPMENT  
ENTERPRISE ROUND 12 SUBSIDIARY 24, LLC,**  
a Delaware limited liability company

By: Wells Fargo Community Development  
Enterprises, Inc., a Nevada corporation,  
its non-member manager

By: \_\_\_\_\_  
Name:  
Title:

**CITI NMTC SUBSIDIARY CDE XXXV, LLC,**  
a Delaware limited liability company

By: Citibank NMTC Corporation,  
a Delaware corporation,  
its managing member

By: \_\_\_\_\_  
Name:  
Title:

**NCIF NEW MARKETS CAPITAL FUND XXXV CDE,  
LLC, LLC,**  
a Delaware limited liability company

By: NCIF Capital LLC,  
a Delaware limited liability company,  
its managing member

By: National Community Investment Fund,  
a charitable trust established under the laws of the  
State of Illinois, its managing member

By: \_\_\_\_\_  
Name:  
Title:

Direct Lender signing below to indicate that Direct Lender agrees that Substantial Completion  
has occurred:

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Name:  
Title:

cc: Bedford Courts Local Development Corporation, Lee Warshavsky, Esq.  
Citi NMTC Subsidiary CDE XXXV, LLC  
NCIF New Markets Capital Fund XXXV CDE, LLC  
New York City Housing Development Corporation  
NYCR Sub-CDE 6, LLC,  
Wells Fargo Bank, N.A., Page W. Travelstead  
Wells Fargo Community Development Enterprise Round 12 Subsidiary 24, LLC  
Cannon Heyman & Weiss, LLP, Timmon M. Favaro, Esq.  
Dentons US LLP, Scott Lindquist, Esq.  
Hirschen Singer & Epstein LLP, Russell A. Kivler, Esq.  
Manatt, Phelps & Phillips, LLP, Neil Faden, Esq.  
Nixon Peabody, LLP, Greg Doran, Esq.  
Sidley Austin LLP, Aviva Yakren, Esq.

**EXHIBIT C**  
**Intentionally Omitted**

**EXHIBIT D**  
**FORM OF SNDA**

(attached)

**EXHIBIT E  
CONDOMINIUM DECLARATION**

**DECLARATION**

**ESTABLISHING A PLAN OF LEASEHOLD CONDOMINIUM OWNERSHIP OF PREMISES LOCATED AT 1561 BEDFORD AVENUE, BROOKLYN, NEW YORK, IN THE COUNTY OF KINGS, CITY AND STATE OF NEW YORK PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK**

**NAME:**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**DECLARANT:**

**BEDFORD COURTS III LLC  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201**

and

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION  
247 West 37th Street, 4th Floor  
New York, New York 10018**

**Date of Declaration:**

as of \_\_\_\_\_, 201\_

**Record & Return to:**

**Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> Floor  
New York, New York 10010  
Attn: Russell A. Kivler, Esq.**

## TABLE OF CONTENTS

1. Submission of Property. ....	1
2. Location of Land .....	1
3. Building 1	
4. Name of Condominium .....	1
5. By-Laws 1	
6. Units. 1	
7. Description and Dimensions of Units.....	2
8. Use of Units.....	5
9. Common Elements and Limited Common Elements. ....	5
10. Determination of Percentages in Common Elements and Limited Common Elements. ....	5
11. Encroachments .....	6
12. Easements. 6	
13. Units Acquired by the Board and Power of Attorney to the Board of Managers. ....	8
14. Service of Process .....	8
15. Units Subject to Declaration, By-Laws and Rules and Regulations .....	9
16. Amendment of Declaration. ....	9
17. Common Charges.....	9
18. Conveyance of a Unit.....	10
19. Liability of Grantee for Unpaid Common Charges.....	11
20. Termination of Condominium.....	11
21. Changes in Units .....	11
22. Service Contracts .....	12
23. Invalidity 12	
24. Waiver 12	
25. Captions 12	
26. Gender 12	
27. Exculpation .....	13
28. Defined Terms.....	13
29. Jurisdiction13	
30. Cooperation .....	13
31. Successors and Assigns.....	13
32. Prevailing Parties .....	13
33. Covenant of Further Assurances. ....	13
34. Carrying Cost Differential .....	<b>Error! Bookmark not defined.</b>
35. Counterparts .....	14
SCHEDULE A – Property Description .....	17
SCHEDULE B – Description of the Building.....	17
SCHEDULE C – Description of the Building.....	17
SCHEDULE D – By-Laws of the Condominium .....	17



**DECLARATION ESTABLISHING BEDFORD COURTS I CONDOMINIUM FOR PROPERTY LOCATED AT 1561 BEDFORD AVENUE, BROOKLYN, NEW YORK PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK**

BEDFORD COURTS III LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 (“**Company**”) and BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, a New York not-for-profit corporation having an office at 247 West 37th Street, 4th Floor, New York, New York 10018 (the “**Nominal Owner**” and together with the Company, the “**Declarant**”) do hereby declare:

1. Submission of Property.

(a) The Declarant hereby submits the land more particularly described on Schedule A attached hereto (the “**Land**”) and made a part hereof, together with the building and improvements thereon erected or to be erected at 1561 Bedford Avenue, Brooklyn, New York (the “**Building**”), leasehold interest of which is owned by Declarant (the Land and Building being hereinafter collectively called the “**Property**”) to the provisions of Article 9-B of the Real Property Law of the State of New York (the “**Condominium Act**”) and does hereby establish a regime for condominium ownership of the Property, as more particularly set forth herein and in the By-Laws.

2. Location of Land. The Land on which the Building shall be situated is located at 1561 Bedford Avenue, County of the Brooklyn, City and State of New York.

3. Building. Schedule B attached hereto and made a part hereof contains a description of the Building including the number of stories, the number of Units (as hereinafter defined) and the principal materials of which the Building are to be constructed.

4. Name of Condominium. This Condominium is and shall be known as BEDFORD COURTS I CONDOMINIUM (the “**Condominium**”). The Board of Managers shall have the right to change the name of the Condominium or Building.

5. By-Laws. Attached to this Declaration and made a part hereof are the By-Laws of BEDFORD COURTS I CONDOMINIUM (the “**By-Laws**”), which By-Laws set forth detailed provisions governing the operation, use and occupancy of the Condominium. Any reference herein to the By-Laws shall mean the By-Laws annexed hereto as Schedule D, as the same may be amended from time to time as provided therein. Any reference herein to the “Rules and Regulations” shall mean the Rules and Regulations annexed to the By-Laws as the same may be amended from time to time as provided therein.

6. Units.

(a) The Condominium shall consist of two (2) Units which are hereinafter sometimes referred to individually as (i) “**Unit 1**” and (ii) “**Unit 2**” (and collectively, the “**Units**” and each individually, a “**Unit**”).

(i) Unit 1 is referred to as “**Co-Gen Unit**” and the Unit Owner of the Co-Gen Unit is referred to as the “**Co-Gen Unit Owner**”.

(ii) Unit 2 is referred to as “**Recreational Facility Unit**” and the Unit Owner of the Recreational Facility Unit is referred to as the “**Recreational Facility Unit Owner**”.

Pursuant to that certain Agreement of Commercial Lease by and between the City of New York, and New York City Land Development Corp. (“NYCLDC”), as assigned to Bedford Courts Local Development Corporation, (“BCLDC”), BCLDC is the record leasehold interest holder to the Units.

Pursuant to that certain Ground Lease (Commercial) by and between New York City Economic Development Corporation (“EDC”), as landlord, and New York City Land Development Corporation (“NYCLDC”), as tenant, dated [\_\_\_\_\_] (the “**Ground Lease**”), which Ground Lease was assigned by NYCLDC to Declarant pursuant to an Assignment of Ground Lease dated [\_\_\_\_\_] , Declarant is the owner of beneficial and record interest in the Property. Pursuant to that certain Declaration of Interest and Nominee Agreement by and between the Nominal Owner and the Company (the “**Nominee Agreement**”), Nominal Owner is the record leasehold owner of the Property and the Company is the beneficial leasehold owner of the Property. As used herein, “**Unit Owners**” or “**Owners**”, will refer to the Company and each of its permitted sublessees, assignees and/or transferees, as further described in the Nominee Agreement.

(b) The Units.

(i) Unit 1 is located in the [\_\_\_\_] of the Building] and is comprised of approximately [\_\_\_\_] gross square feet of co-generation facility space as identified on the attached Schedule B and more particularly defined in Paragraph 7(a) hereof.

(ii) Unit 2 is located in all floors of the Building and is comprised of approximately [\_\_\_\_] gross square feet of recreational facility space as identified on the attached Schedule B and more particularly defined in Paragraph 7(b) hereof.

(c) The location of each Unit in the Building created by this Declaration is shown on the floor plans of the Building certified by Marvel Architects PLLC and filed in the office of the City Register for County of Kings (the “**Register’s Office**”) simultaneously with the recording of this Declaration (the “**Floor Plans**”). Schedule C annexed hereto and made a part hereof, sets forth with respect to each Unit in the Building, its Unit designation, tax lot number, location, approximate square footage, and the Common Elements or Limited Common Elements, if any, to which such Unit has immediate access, all as more particularly shown on the Floor Plans. Each Unit shall also include an undivided percentage of ownership in the Common Elements and certain Limited Common Elements of the Condominium (the “**Common Interest**”) which shall be deemed appurtenant to such Unit, in the amount set forth on Schedule C. The Common Interest shall always be deemed conveyed or encumbered with any conveyance or encumbrance of a Unit. The Common Interest is not severable from the Unit and may not be conveyed or encumbered other than together with a conveyance or encumbrance of the Unit.

7. Description and Dimensions of Units.

(a) Unit 1. Unit 1 consists of those areas of the Building designated as such on the Floor Plans and not otherwise specifically designated in this Declaration as part of the other Unit or a portion of the Common Elements. [The dimensions of Unit 1 consist of the area measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaft ways, chases, chase ways, and conduits are not deducted from the measurement of each Unit) to the centerline of the partitions separating one Unit from another Unit, or separating one Unit from corridors, stairs, elevators and other mechanical equipment spaces or any other Common Element not within a Unit or the exterior side of the opposite exterior walls. Each Unit will consist of the area measured vertically from the top of the structural floor slab to the underside of the structural floor slab above.] Unit 1 includes:

(i) All of the co-generation community facility space identified in Schedule B as being contained in Unit 1.

(ii) All mechanical rooms located within the area defined as Unit 1 on the Floor Plans, unless such mechanical rooms are specifically designated in the Floor Plans as Common Elements.

(iii) Elevators which exclusively serve Unit 1, including their respective shafts, pits, appurtenances and controls.

(iv) All stairs, landings and corridors which exclusively serve Unit 1.

(v) The interior walls, partitions, doors, floor coverings and underlayments (above the structural floor assembly) and finished ceilings within Unit 1.

(vi) All plumbing, including domestic hot water risers, heating, ventilating, air conditioning, sprinkler systems, mechanical and electrical equipment, including all related wires, conduits, pipes, ducts, valves, switches, controls, meters, and similar components which exclusively serve and are located within or outside Unit 1.

(vii) Any canopies, doors, entrances, skylights, windows, window frames, casements and mullions which exclusively serve Unit 1.

(viii) All other facilities in the Building, which exclusively serve or benefit, or are exclusively necessary for the existence, maintenance, operation or safety of Unit 1.

Unit 1 shall not include any of the other Units, any of the Common Elements or Limited Common Elements located therein or any piping, wiring, ductwork, machinery or other materials and equipment used exclusively by any other Unit or shared jointly by Unit 1 and any other Unit.

(b) Unit 2. Unit 2 consists of those areas of The Building designated as such on the Floor Plans and not otherwise specifically designated in this Declaration as part of the other Unit or a portion of the Common Elements. [The dimensions of Unit 2 consist of the area measured horizontally from the exterior side of the exterior walls (columns, mechanical pipes, shafts, shaft ways, chases, chase ways, and conduits are not deducted from the measurement of each Unit) to the centerline of the partitions separating one Unit from another Unit, or separating one Unit from corridors, stairs, elevators and other mechanical equipment spaces or any other Common

Element not within a Unit or the exterior side of the opposite exterior walls. Each Unit will consist of the area measured vertically from the top of the structural floor slab to the underside of the structural floor slab above.] Unit 2 includes:

(i) All of the recreational facility space identified in Schedule B as being contained in Unit 2.

(ii) All mechanical rooms located within the area defined as Unit 2 on the Floor Plans, unless such mechanical rooms are specifically designated in the Floor Plans as Common Elements.

(iii) Elevators which exclusively serve Unit 2, including their respective shafts, pits, appurtenances and controls.

(iv) All stairs, landings and corridors which exclusively serve Unit 2.

(v) The interior walls, partitions, doors, floor coverings and underlayments (above the structural floor assembly) and finished ceilings within Unit 2.

(vi) All plumbing, including domestic hot water risers, heating, ventilating, air conditioning, sprinkler systems, mechanical and electrical equipment, including all related wires, conduits, pipes, ducts, valves, switches, controls, meters, and similar components which exclusively serve and are located within or outside Unit 2. Such Unit Owner will be responsible for the cost of maintenance, repair and replacement of such mechanical equipment not provided for in a service contract for the Building.

(vii) Any canopies, doors, entrances, skylights, windows, window frames, casements and mullions which exclusively serve Unit 2.

(viii) All other facilities in the Building, which exclusively serve or benefit, or are exclusively necessary for the existence, maintenance, operation or safety of Unit 2.

Unit 2 shall not include any of the other Units, any of the Common Elements or Limited Common Elements located therein or any piping, wiring, ductwork, machinery or other materials and equipment used exclusively by any other Unit or shared jointly by Unit 2 and any other Unit.

(c) [Subject to the provisions for release set forth in the Regulatory Agreement, all Units shall be subject to that certain Regulatory Agreement by and among Declarant, the HDFC, New York City Housing Development Corporation (“**HDC**”) and the City of New York acting by and through its Department of Housing Preservation and Development (“**HPD**”) dated as of [\_\_\_\_], and recorded in the Office of the City Register of the City of New York on [\_\_\_\_], in CRFN [\_\_\_\_\_] as may be amended from time to time (the “**Regulatory Agreement**”).] All Units shall be subject to the terms and conditions of the Ground Lease, during the term of the Ground Lease. The Ground Lease and the Regulatory Agreement (for so long as the Units are subject to the Regulatory Agreement) are referred to herein as the “**Regulatory Documents**”.

8. Use of Units. Subject to the provisions of this Declaration and the By-Laws, the Units may be used for any lawful purpose, provided that such use is then permitted (i) by a validly existing certificate of occupancy, (ii) under applicable zoning laws, codes, rules and regulations and (iii) by the Regulatory Documents.

9. Common Elements.

(a) Common Elements

(i) Definition of Common Elements Generally. The Common Elements of the Condominium (the “**Common Elements**”) shall consist of the entire Property, including the Land and all parts of the Building and improvements thereon, other than the Units, as well as all personal property and fixtures existing in, on, or under the Property or elsewhere, either currently or hereafter existing, for the common use of all the Units or which is necessary for, or convenient to, the existence, maintenance, management, operation or safety of the Property as a whole. Except as noted below, the Common Elements include, without limitation, the Land and all other areas of the Property and all apparatus, systems, equipment and installations now or hereafter existing in the Building or on the Property not part of any Unit that are for the common use of all Units and Unit Owners or necessary or convenient for the existence, maintenance or safety of the Property as a whole, which include, but are not limited to: [the Land and the roof of the Building.]

(ii) Use of Common Elements Generally. Subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations, as any of the same may be amended from time to time in accordance with the respective terms thereof, each Unit Owner, their tenants, licensees, invitees, agents and employees, may use the Common Elements, for the purpose for which such Common Elements are intended, without hindering or encroaching upon the lawful rights of any other Unit Owner.

(iii) Schedule of Common Elements. Except as noted below, the Common Elements include, without limitation, the Land and all other areas of the Property and all apparatus, systems, equipment and installations now or hereafter existing in the Building or on the Property not part of any Unit, for the common use of more than one Unit or by more than one Unit Owner or necessary or convenient for the existence, maintenance or safety of the Property as a whole.

(iv) Maintenance of Common Elements. The cost of maintenance, repair and replacement of the Common Elements will be borne by each Unit Owner in accordance with their percentage interests established in Schedule C, [subject to and as more particularly determined in Section 3 of Article VI of the By-Laws]. Notwithstanding the foregoing, in the event that painting, decorating, maintenance, repair or replacement of any Common Element shall be necessitated by the negligence, misuse, or neglect of a Unit Owner, the expense thereof will be the obligation of such Unit Owner.

(v) Determination of Percentages in Common Elements. The percentage of Common Interest in the Common Elements appurtenant to each Unit is shown on Schedule C and was determined pursuant to Section 339i(1)(ii) of the Condominium Act. It is based upon the approximate proportion that the floor area of the Unit on the date hereof bears to the aggregate floor area of all of the Units, but such proportion reflects the substantially exclusive

advantages enjoyed by one or more, but not all of the Units in a part or parts of the Common Elements. The aggregate Common Interest of all Units is and shall always be 100%.

10. Limited Common Elements. In addition to the Common Elements, certain “Limited Common Elements” which are appurtenant to only one Unit shall be designated on the Floor Plans. Each Unit shall be solely responsible for the maintenance, repair, upkeep, and each Unit shall be solely able to access and use, the Limited Common Elements appurtenant to such Unit.

11. Encroachments. If any portion of the Common Elements or Limited Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon the other Units or upon any portion of the Common Elements or Limited Common Elements, or if any such encroachment shall occur hereafter as a result of (a) the installation, maintenance, repair or replacement of flues, vents, air-conditioning, heating, ventilating and other mechanical fixtures and equipment in the exterior walls, (b) the settling or shifting of the Building, (c) any repair or alteration made to the Common Elements or Limited Common Elements in accordance with the terms of this Declaration and the By-laws by or with the consent of the Board of Managers, or (d) any repair or restoration made in accordance herewith either to the Building (or any portion thereof), any Unit, the Common Elements or Limited Common Elements as a result of damage by fire or other casualty or any taking by eminent domain proceedings, then, in any of the above described events, a valid easement shall exist for such encroachment, and for the maintenance of same, for so long as the Building or the affected Unit, Common Element or Limited Common Elements shall stand.

12. Easements.

(a) The Board of Managers shall have a right, and easement upon reasonable notice at reasonable times, of access to each Unit to inspect the same and to maintain, repair or replace the Common Elements or Limited Common Elements contained therein or elsewhere on the Property.

(b) The Board of Managers and its agents shall have a right, upon reasonable notice at reasonable times, of access to the windows and balconies in the Building to wash the Building’s windows.

(c) The Board of Managers shall have a right and easement of access to each Unit, to cure or remedy any physical condition or any building code violation noted or issued by a governmental agency which condition or violation poses a serious and imminent danger or hazard to the safety of the Building as a whole or occupants thereof or would prevent the legal occupancy of the Building as a whole or any other Unit (but not to cure or remedy a condition or violation which affects only the Unit in which such condition or violation exists).

(d) Each Unit Owner shall have an easement in common with all other Unit Owners, and shall be subject to a like reciprocal easement, for ingress and egress through all Units in the Building in which such Unit Owner’s Unit is located, to the extent such is necessitated to complete the construction of the Building or, after completion, in an emergency.

(e) Each Unit Owner shall have an easement in common with the other Unit Owners, and each Unit shall be subject to a like reciprocal easement upon reasonable notice at reasonable times to operate, maintain, supplement, repair, alter, rebuild, restore and replace any electrical,

mechanical, plumbing, heating, ventilation or air conditioning equipment or systems (including any related, wire, pipes, conduits, ducts, controls, relays and similar appurtenances) that constitute part of such Unit (collectively the “**Unit Equipment**”), provided that the exercise thereof does not result in any additional encroachment upon any Unit, Common Element or Limited Common Element beyond the encroachment for such Unit Equipment existing on the date hereof or as specifically reserved on the Floor Plans and provided that such exercise is not in violation of any lease with a tenant. After the date hereof, each Unit Owner shall have an easement in common with all other Unit Owners and each Unit shall be subject to a like reciprocal easement in, over, under, through or upon any other Unit, any Common Element or any Limited Common Element upon reasonable notice at reasonable times to relocate or install additional Unit Equipment, subject to the prior written consent of the Unit Owner of the servient Unit (if the proposed encroachment is with respect to a Unit) or the Board of Managers (if the proposed encroachment is with respect to the Common Elements or Limited Common Elements). Any consent required hereunder shall not be unreasonably withheld or delayed, provided that all information (including plans and specifications) of the proposed relocation or installation is furnished to the consenting Unit Owner or the Board of Managers, as the case may be.

(f) Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of the other Unit, the Common Elements and Limited Common Elements.

(g) Each Unit Owner shall have an easement, with the consent of the Board of Managers or the other Unit Owners (such consent not to be unreasonably withheld) as hereinafter provided, to erect, maintain, repair and replace, from time to time, subject to the requirements of applicable laws, ordinances, rules and regulations, one or more signs, banners, awnings or canopies (collectively “**Displays**”) on the exterior of the Building in which such Unit is located and sidewalks adjacent thereto (i) for the purpose of identifying an existing or prospective occupant of all or any portion of such Unit, and/or (ii) in connection with the operation of the Unit. Each Unit Owner shall be obligated to maintain any Displays erected by it in good condition or repair at all times, or to remove such Displays and restore the condition of any Common Elements or Limited Common Elements affected by the installation or removal thereof.

(h) The Board of Managers shall have the right to grant to any public utility such additional electric, gas, steam or other utility easements or consent to relocate any existing utility easements upon any portion of the Common Elements which the Board of Managers shall deem necessary or desirable for the proper operation and maintenance of the Building. Any utility company and its employees and agents shall have the right of access to any Unit or the Common Elements in furtherance of such easement, provided such right of access shall be exercised in such a manner as to not unreasonably interfere with the normal conduct of business of the tenants and occupants of any Unit.

(i) The exercise of any easement granted in this Article 12 shall be on condition that (i) the exercise thereof shall be in a manner that will not unreasonably interfere with the normal conduct of business of the Unit Owner of the servient Unit, its tenants or the occupants thereof, (ii) entry shall be permitted on not less than three (3) days prior notice, except that no notice will be necessary in the case of an emergency, provided that all reasonable efforts will be made to

provide advance notice and, if advance notice cannot be given, notice will be given as soon thereafter as practicable, and (iii) the beneficiary of any easement shall have the responsibility of repairing any damage resulting from the exercise of its right to use or maintain the same.

(j) In connection with the exercise of any easement hereinabove expressly granted, each Unit Owner and their agents, contractors and employees, shall have such additional easements for ingress, egress and access generally, including for temporary storage of materials, in, on, over, under and through the Common Elements, Limited Common Elements or any Unit, as are reasonably necessary for the practical exercise of the foregoing rights, but subject to all of the limitations otherwise applicable to the exercise of easements generally.

(k) In addition to the specific easements set forth in this Declaration, the Property and every portion thereof shall be subject to all easements and rights of access prescribed in the Condominium Act.

(l) The user of any of the easements granted herein and described above shall have the obligation and responsibility of repairing, at its sole cost and expense, any and all damage to the easement area resulting from such use. This duty of repair shall run with the Land and inure to the benefit of and bind the Unit Owners, their heirs, executors, administrators and assigns, and shall also inure to the benefit of the agents, servants, licensees and invitees of the Unit Owners.

13. Units Acquired by the Board and Power of Attorney to the Board of Managers.

In the event any Unit Owner shall surrender and convey its Unit, together with its Appurtenant Interest (as hereinafter defined), to the Board of Managers in accordance with Section 339-x of the Condominium Act or in the event the Board of Managers shall purchase any Unit at a foreclosure or judicial sale in accordance with Article IX of the By-Laws, title to such Unit or the rights to the lease of such Unit shall be held by the Board of Managers or its designee on behalf of all of the other Unit Owners and the Board of Managers or its designee, on behalf of all of the other Unit Owners, shall assume any obligations of such Unit Owners under the Regulatory Documents and the mortgages held by the Permitted Mortgagees.

In order to carry out the provisions of this Article, each Unit Owner shall, upon becoming such, grant an irrevocable power of attorney, coupled with an interest to the Board of Managers and their successors to acquire title or lease any such Unit under whatever terms the Board of Managers may in its sole discretion deem proper and to sell, lease, sublease, mortgage, vote or otherwise deal with such Unit under such terms as the Board of Managers in its sole discretion shall deem proper.

14. Service of Process. Service of process on the Unit Owners in any action with relation to the Common Elements shall be made upon the person holding the office of the President (or in his absence, on any member of the Board of Managers), from time to time c/o the Board of Managers of BEDFORD COURTS I CONDOMINIUM, 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, or such other address as the President of the Condominium may determine. In addition, the Secretary of State of the State of New York is hereby designated as agent of the Condominium and the Board of Managers upon whom process against the Condominium and/or the Board of Managers shall be made by personally delivering to and leaving with him

or her or his or her deputy, or with any person authorized by the Secretary of State to receive such service, at the office of the Department of State in the City of Albany, duplicate copies of such process together with the statutory fee. The Secretary of State of the State of New York shall mail a copy of any process against it served upon the Secretary of State to: BEDFORD COURTS I CONDOMINIUM, 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, or such other address as the President of the Condominium may determine. Copies thereof shall, promptly upon receipt, be delivered to the Unit Owners and any Permitted Mortgagee (as defined in the By-Laws).

15. Units Subject to Declaration, By-Laws and Rules and Regulations. All present and future owners of Units (and their tenants, subtenants, occupants, guests and invitees) shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time and any recorded encumbrances to which they are now or hereafter subordinate. The acceptance of a deed, lease or conveyance (including the transfer of a beneficial interest) shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner or its tenants, as the case may be, and all of such provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed of conveyance thereof. Nothing in this Declaration, the By-Laws or the Rules and Regulations is intended to amend, modify or supersede the Regulatory Documents, which remain in full force and effect. In the event of any inconsistency between this Declaration, the By-Laws, or the Rules and Regulations, on the one hand, and the Regulatory Documents, on the other hand, the Regulatory Documents shall control.

16. Amendment of Declaration.

(a) No amendment to this Declaration shall (i) be effective until recorded in the Register's Office, (ii) affect the lien of any mortgage, without the written consent of the Permitted Mortgagee(s) or (iii) change the percentage of Common Interest allocated to any Unit without the consent of the affected Owners.

(b) Notwithstanding any other provision of this Declaration, no action of partition or division of the Common Elements shall be brought nor shall Condominium ownership of the Property be terminated where such partition, division or termination will result in a violation of the then existing local zoning or building laws or codes.

17. Common Charges.

(a) Lien for Unpaid Common Charges. All sums assessed as Common Charges by the Board of Managers, but unpaid, together with interest thereon at the maximum rate permitted by law, shall constitute a lien on the Unit prior to all other liens except for (i) tax or assessment liens on the Unit by the taxing subdivision of a governmental authority and (ii) all sums unpaid on any mortgage of record encumbering the Unit. Such lien may be foreclosed by the Condominium when Common Charges are past due in accordance with the laws of the State of New York in like manner as a mortgage on real property or by any other proceedings permitted by applicable law. In any such foreclosure, the Condominium shall also have a right

to recover all costs and expenses incurred, including reasonable attorneys' fees. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid Common Charges, the unpaid balance shall be charged to each Unit Owner as a Common Charge. Where, however, the holder of a mortgage of record, or other purchaser of a Unit at a foreclosure sale of a mortgage, obtains title to a Unit as a result of foreclosure, or the mortgage holder obtains title in lieu of foreclosure, such acquirer of title and its successor or assigns, shall not be liable, and the Unit shall not be subjected to a lien, for the payment of Common Charges chargeable to such Unit that were assessed and became due prior to the acquisition of title to such Unit by such acquirer. In such event, the unpaid balance of Common Charges shall be charged to the other Unit Owner(s) as a Common Charge.

(b) Payment of Common Charges. Each Unit Owner shall pay the Common Charges assessed against its Unit when due and no Unit Owner may exempt itself or the Unit from liability for the payment of Common Charges assessed against it or the Unit by waiver of the use of any of the Common Elements or by abandonment of the Unit. No Unit Owner, however, shall be liable for the payment of any Common Charges accruing subsequent to a sale, transfer, or other conveyance of such Unit made in accordance with Section 339-x of the Condominium Act (regarding conveyances of a Unit to the Board of Managers) or in accordance with the provisions of this Declaration and the By-Laws.

(c) Assessment of Common Charges. Common Charges shall generally be assessed against each Unit in accordance with the Common Interest of such Unit. Certain Common Charges, however, may be specially allocated and apportioned among Unit Owners based upon special or exclusive use, availability or control of particular Common Elements or services provided by the Condominium.

(d) Reserved.

18. Conveyance of a Unit. Upon the conveyance of any Unit, said Unit shall be conveyed with and such conveyance shall include the undivided Common Interest in the Common Elements that are appurtenant to such Unit, (i) the interests of such Unit Owner in any other Condominium Units theretofore acquired or leased by the Board of Managers (or its designee) on behalf of all Unit Owners (or the proceeds of the sale of lease thereof, if any), and (ii) the interests of such Unit Owner in any other assets of the Condominium (such interests above being referred as Appurtenant Interests.) Any conveyance of a Unit and any attempt to alienate or sever the Appurtenant Interests from the Unit to which they are appurtenant shall be null and void. For so long as HDC is the holder of a mortgage on any of the Units, any and all conveyances of a Unit (as such term is defined in the By-Laws) must receive prior written approval of HDC, which consent will not be unreasonably withheld, provided, however, that HDC's approval with respect to a Unit shall be limited to ensuring that the potential buyer is in good standing with the City of New York, and further provided that HDC's consent shall not be required if the subsequent purchaser of a NMTC Unit is a holder of a CDE Mortgage (as such term is hereinafter defined) or its designee.

If, at some point in the future, Declarant desires to transfer any Unit to which it has retained title to an entity which is not affiliated with Declarant, other than as required by the loan documents entered into in connection with the financing of the Building or as

contemplated in the no-action letter issued for the Condominium, it will do so pursuant to an amended no-action letter issued by the Department of Law.

19. Liability of Grantee for Unpaid Common Charges. Subject to the last two sentences of this Article 19, any grantee or transferee of a Unit (“**Grantee**”) shall be jointly and severally liable with the transferor/Unit Owner for any unpaid Common Charges assessed against the Unit through the time of the grant or conveyance either by voluntary instrument, operation of law or judicial proceedings, without prejudice to the Grantee’s right to recover from the transferor/Unit Owner the amounts paid by the Grantee therefor through the time of the Grantor’s conveyance. The Grantee shall be entitled to a statement from the Board of Managers setting forth the amount of Common Charges assessed and unpaid against its Unit as provided under Article VI, Section 6 of the By-Laws. The Grantee shall not be liable for any unpaid Common Charges assessed prior to the date of the transfer or conveyance in excess of the amount set forth in such statement. Grantee, as used therein, shall not include either a Permitted Mortgagee or other purchaser of a Unit at a foreclosure sale of an institutional mortgage.

20. Termination of Condominium. The Condominium shall continue and shall not be subject to an action for partition until (i) terminated following a casualty loss, condemnation or taking by eminent domain of the Property pursuant to the By-Laws, or (ii) such time as withdrawal of the Property from the provisions of the Condominium Act is authorized by a unanimous vote of all Unit Owners and written approval of each Permitted Mortgagee. In the event said termination is authorized as aforesaid, the Property shall be subject to an action for partition by any Unit Owner as if owned in common, in which event the net proceeds of the sale of the Property shall be divided among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of its share of such net proceeds all liens on the Unit, including without limitation mortgage liens, in the order of priority of such liens. The forgoing termination rights are subject to any applicable provisions of the Regulatory Documents.

21. Changes in Units. Subject to the applicable provisions of this Declaration and By-Laws (including Section 9 of Article VI of the By-Laws) and to the applicable provisions of the Regulatory Documents, and except to the extent prohibited by Law or any mortgage encumbering a Unit or the Regulatory Documents, each Unit Owner, at its sole cost and expense, shall have the right with respect to any Unit owned by such Unit Owner, without prior notice and without the vote or consent of the Board of Managers, or the other Unit Owner, to (i) make alterations, additions, improvements or repairs, ordinary or extraordinary, of any type or nature whatsoever, in, to and upon the Unit, (ii) change the layout or configuration of any areas within the Unit, including any apartments, provided, however, that in each instance the Unit Owner shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction, and any and all structural changes shall not (x) adversely or materially affect the structural integrity of the Building or any of its supporting beams, columns, floor slabs, foundations or elevator systems, or (y) affect the Common Elements, Limited Common Elements or the other Unit or (z) violate the agreements entered into in connection with loans from Permitted Mortgagees, (iii) reapportion among newly created Units resulting from subdivision (or combination), as provided above, the Common Interests appurtenant to such Units, (iv) designate Limited Common Elements with respect to such Unit. At the request of the Unit Owner, the Board of Managers will execute any application or other

document required to be filed with any governmental agency having or asserting jurisdiction in connection with any addition, alteration, improvement or repair of a Unit, at which time the requesting Unit Owner shall indemnify and hold the Board of Managers and other Unit Owners harmless from any expense or liability by virtue of the execution of the application or such other documents. Notwithstanding the foregoing, for so long as HDC is a Permitted Mortgagee, HDC's prior written consent shall be required for any work that (i) is structural, (ii) materially alters the appearance of the Property, (iii) requires a change to the Property's certificate of occupancy, (iv) costs in the aggregate more than \$250,000, or (v) sub-divides a Unit. Further notwithstanding the foregoing, for so long as any Unit is encumbered by one or more mortgages securing loans made by Wells Fargo Bank, National Association ("Wells") Wells Fargo Community Development Enterprise Round 12 Subsidiary 24, LLC ("Wells CDE") Citi NMTC Subsidiary CDE XXXV, LLC ("Citi CDE"), NCIF New Markets Capital Fund XXXV CDE, LLC ("NCIF CDE") and NYCR SUB-CDE 6, LLC ("NYCR" CDE" and together with Wells, Wells CDE, Citi CDE and NCIF CDE, the "NMTC Lenders") to Bedford Courts I LLC or its designee, successor and/or assign ("QALICB") (such mortgages, together with any amendment, modification, supplement, extension, consolidation or refinancing being the "NMTC Mortgages"), the prior written consent of the holders of the NMTC Mortgages shall be required for any such work that is structural or materially alters the appearance of the Property.

In addition to the foregoing, the Declarant shall not subdivide the Units into separate condominium units to be offered for sale to third parties as such or conveyed to a cooperative housing corporation for sale to third parties until and unless either (1) an offering plan for such Unit has been accepted for filing by the Department of Law ("DOL") in compliance with Section 352-e of the General Business Law and applicable regulations or (2) an amended no-action letter has been issued by the DOL.

22. Service Contracts. Each Unit Owner agrees to take title subject to all service contracts entered into by the Declarant or the Board of Managers which exist at the time the Unit Owner takes title.

23. Invalidity. The invalidity of any provision of this Declaration or the By-Laws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and By-Laws and, in such event, all of the other provisions of this Declaration and By-Laws shall continue in full force and effect as if such invalid provision had never been included herein.

24. Waiver. No restriction, condition, obligation or provision contained in this Declaration (or the By-Laws) shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

25. Captions. The captions herein (including the By-Laws) are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

26. Gender. The use of the neuter gender in this Declaration shall be deemed to refer to the feminine or masculine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

27. Exculpation. Neither Declarant nor any partner, director, officer, employee, agent, consultant, or affiliate of Declarant shall have any personal liability of any nature whatsoever to any Unit Owner or any other party by reason of this Declaration, the By-Laws, or any Rules and Regulations (as defined in the By-laws) in connection with the establishment of this Condominium.

28. Defined Terms. Capitalized terms used in this Declaration or the By-Laws and not otherwise defined herein shall have the meaning ascribed to them in the By-Laws or in Section 339-e of the Condominium Act.

29. Jurisdiction. Each Unit Owner does hereby submit to the jurisdiction and venue of the courts of the County of Kings, State of New York for the resolution of any dispute which may arise under or in connection with the Condominium Declaration, By-Laws and Rules and Regulations.

30. Cooperation. Unit Owners agree to cooperate with each other with respect to the occupancy of the Units in the Building pursuant to this Declaration; for this purpose, each Unit Owner agrees to execute and deliver such documents and information as may reasonably be required of them by the Board of Managers.

31. Successors and Assigns. Except as set forth herein or in the By-Laws to the contrary, the rights and/or obligations of Declarant or Declarant's designee(s) as forth herein shall inure to the benefit of and be binding upon any successor or assign of Declarant or its designee, or with the consent of Declarant or its designee, any transferee of the Units then owned by Declarant or its designee, as the case may be. Subject to the foregoing, Declarant and/or its designee, as the case may be, shall have the right, any time, in their sole discretion, to assign or otherwise transfer their respective interests herein, whether by sale, merger consolidation, lease, assignment or otherwise.

32. Prevailing Parties. In any proceedings arising out of this Declaration or the By-Laws or to enforce this Declaration or the By-Laws against a Unit Owner or the Board of Managers, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be determined by a court.

33. Covenant of Further Assurances.

(a) Any Person (as hereinafter defined in the By-Laws) who or which is subject to the terms of this Declaration (including the By-Laws), whether such Person is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of any Board or otherwise, shall, upon prior reasonable written request at the expense of any such other Person requesting the same, execute, acknowledge and deliver to such other Person such instruments, in addition to those specifically provided for herein, and take such other action as such other Person may reasonably request to effectuate the provisions of this Declaration of the By-Laws or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

(b) If any Unit Owner, the Board of Managers or any other Person which is subject to the terms of this Declaration fails or refuses, within ten (10) days after request therefor, to execute, acknowledge or deliver any instrument, or to take any action which the Board, Unit

Owner or Person is required to execute, acknowledge and deliver or to take pursuant to this Declaration, then the Board or other Person is hereby authorized as attorney-in-fact for such Unit Owner, Board or other Person, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action in the name of such Unit Owner, Board or other Person and such document or action shall be binding on such Unit Owner, Board or other Person.

34. Reserved.

35. Counterparts. This Declaration may be executed in counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

[Continued on Following Page]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of this  
\_\_ day of \_\_\_\_\_.

**BEDFORD COURTS III LLC**, a New York limited liability company

By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION**, a New York not for profit corporation

By: \_\_\_\_\_  
Name: Lee Warshavsky  
Title: Secretary/Treasurer

ACKNOWLEDGMENT

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

On this \_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared DONALD CAPOCCIA, 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 upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT

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

On this \_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared LEE WARSHAVSKY, 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 upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**County of Kings, State of New York**

**Parcel I:[to be inserted]**

**SCHEDULE B**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**County of Kings, State of New York**

**Description of the Building**

**The Building**

The Building is located at 1561 Bedford Avenue, Brooklyn, New York. The Building is a combination of a lawful [retail use, recreational use and co-generation] facility consisting of a [\_\_]-story building containing [a sub-cellar and cellar]. There will be two (2) Condominium Units in the Building:

Unit 1 contains approximately [\_\_\_\_] square feet of co-generation facility space, located on the [\_\_\_\_] through [\_\_\_\_] floors.

Unit 2 contains approximately [\_\_\_\_\_] square feet of recreational facility space, located on the [\_\_\_\_\_] through [\_\_\_\_\_] floors. The total height of the Building, from average base plane to the highest point on the main roof is [\_\_\_\_] feet and [\_\_\_\_] inches.

[ARCHITECT TO CONFIRM - The Building's superstructures consists of [concrete masonry unit block walls and concrete plank from 2<sup>nd</sup> Floor through the Roof, steel columns and beams with CMU walls and concrete plank from Cellar to 2<sup>nd</sup> Floor. Foundations consist of reinforced concrete walls running along the cellar perimeter with interior steel columns and beams supporting the first floor .]

**SCHEDULE C**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**County of Kings, State of New York**

**Description of the Units – Square Footages**

[SQUARE FOOTAGES AND COMMON INTEREST TO BE INSERTED FROM PROJECT  
ARCHITECT]



**SCHEDULE C**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**County of Kings, State of New York**

**Description of the Units – Continued**

Unit	Tax Lot	Approx. Unit Area in square feet	Percentage of Common Interest
			Common Elements
Unit 1 Bldg 1 Co-Generation Facility	Block 1274 Lot [1101]	[]	[%]
Unit 2 Bldg 1 Recreational Facility	Block 1274 Lot [1102]	[]	[%]
Total:		[]	100.00%

**SCHEDULE D**

**PREMISES KNOWN AS BEDFORD COURTS I CONDOMINIUM  
1561 BEDFORD AVENUE, BROOKLYN, NEW YORK**

**Block 1274, FKA Lot 1, NKA Lots [1101]-[1102]**

**County of Kings, State of New York**

**By-Laws of the Condominium**

**SCHEDULE D TO DECLARATION**

**BY-LAWS  
OF  
BEDFORD COURTS I CONDOMINIUM**

**TABLE OF CONTENTS**

<b><u>Article and Section Number</u></b>	<b><u>Title</u></b>	<b><u>Page</u></b>
I.	PLAN OF UNIT OWNERSHIP .....	1
1.	Condominium Unit Ownership.....	1
2.	Applicability of By-Laws .....	1
3.	Application.....	1
4.	Office .....	1
II.	UNIT OWNERS .....	1
1.	Condominium. ....	1
2.	Voting .....	1
3.	Majority of Unit Owners.....	2

4.	Quorum and Adjournment .....	2
5.	Vote Required to Transact Business .....	2
6.	Right to Vote.....	2
7.	Proxies.....	2
8.	Title to Units .....	3
9.	Unilateral Actions of the Unit Owners .....	3
10.	Unilateral Actions Affecting Life and Safety .....	3
III.	ADMINISTRATION .....	3
1.	Place of Meetings.....	3
2.	Annual Meetings; Election .....	3
3.	Special Meetings .....	4
4.	Notice of Meetings.....	4
5.	Waiver and Consent; Action without Meeting .....	4
6.	Order of Business.....	4
7.	Conduct of Meetings.....	5

<b>Article and Section Number</b>	<b><u>Title</u></b>	<b><u>Page</u></b>
IV.	BOARD OF MANAGERS .....	5
1.	Number and Qualifications .....	5
2.	Powers and Duties .....	5
3.	Other Duties .....	5
4.	[Intentionally Omitted] .....	9
5.	Managing Agent.....	9
6.	Term of Office .....	10
7.	Vacancy and Replacement.....	10
8.	Resignation and Removal of Managers .....	10
9.	First Board of Managers .....	10
10.	Organization Meeting .....	10
11.	Regular Meetings .....	11
12.	Special Meetings .....	11
13.	Waiver of Notice.....	11
14.	Board of Managers Quorum .....	11
15.	Fidelity Bonds .....	12
16.	Compensation .....	12
17.	Annual Statement.....	12
18.	Liability of the Board of Managers and Unit Owners .....	12
19.	Legal Status of the Board of Managers.....	13
20.	Incorporation of the Board of Managers.....	13
V.	OFFICERS .....	13
1.	Designation .....	13
2.	Election of Officers .....	13
3.	Resignation and Removal of Officers.....	13
4.	The President .....	14
5.	The Vice-President.....	14
6.	The Secretary .....	14
7.	The Treasurer .....	14
8.	Execution of Documents.....	15
9.	Checks.....	15
10.	Compensation .....	15
11.	Liability of Officers .....	15

<b><u>Article and Section Number</u></b>	<b><u>Title</u></b>	<b><u>Page</u></b>
VI.	OPERATION OF THE PROPERTY .....	15
1.	Fiscal Year .....	15
2.	Preparation and Approval of Budget .....	15
3.	Determination of Common Charges and Fixing of Common Charges .....	16
4.	Taxes, Other Municipal Charges and Utilities.....	18
5.	Reserves .....	19
6.	Maintenance and Repairs .....	19
7.	Use of Units and Property.....	21
8.	Use of Common Elements .....	22
9.	Additions, Alterations or Improvements.....	23
10.	Right of Entry .....	24
11.	Rules and Regulations.....	24
VII.	NOTICES.....	24
1.	Definition .....	24
2.	Waiver of Service of Notice .....	25
VIII.	INSURANCE AND INSURANCE TRUSTEE.....	25
1.	Insurance to be Carried by the Board .....	25
2.	The Insurance Trustee.....	27
3.	Restoration or Reconstruction after Casualty or Condemnation .....	28
IX.	DEFAULT AND RIGHTS OF ACTION .....	29
1.	Rights of Action.....	29
2.	Defaults by Unit Owners .....	30
X.	AMENDMENTS .....	30
1.	In General.....	30
2.	Consent of Declarant and Mortgagee .....	30
XI.	SELLING, MORTGAGING AND LEASING UNITS .....	31
1.	Mortgage of Units and Notice to Condominium .....	31

<b>Article and Section Number</b>	<b><u>Title</u></b>	<b><u>Page</u></b>
XI.	2. Notices of Action .....	32
	3. Selling and Leasing Units .....	32
	4. No Severance of Ownership .....	32
	5. Waiver of Partition Rights .....	32
	6. Payment of Common Charges & Assessments.....	33
	7. Charges Imposed on Sale or Lease of Units .....	33
	8. Notices Concerning Unit Occupancy.....	33
XII.	CONDEMNATION .....	34
XIII.	SEWER SYSTEM .....	34
XIV.	BOOKS AND RECORDS .....	35
	1. Records .....	35
	2. Audits .....	35
	3. Availability of Documents .....	35
XV.	ARBITRATION .....	36
	1. General Procedure.....	36
	2. Variation by Agreement.....	36
	3. Binding Effect.....	36
	4. Costs and Expenses.....	36
XVI.	MISCELLANEOUS .....	36
	1. Insurance .....	36
	2. Invalidity .....	36
	3. Certain References .....	36
	4. Conflicts.....	37
	5. Mortgagee Provisions .....	37
EXHIBIT 1:	RULES AND REGULATIONS FOR THE UNITS .....	38

**BY-LAWS  
OF  
BEDFORD COURTS I CONDOMINIUM**

**ARTICLE I. PLAN OF UNIT OWNERSHIP**

Section 1. Condominium Unit Ownership. The Property, located at 1561 Bedford Avenue, Brooklyn, New York, as specifically set forth in the Declaration (“Declaration”), executed by the “**Declarant**” and more commonly known as **BEDFORD COURTS I CONDOMINIUM** (the “**Condominium**”), has been submitted to the provisions of the “**Condominium Act**” by recordation of the Declaration simultaneously herewith in the “**Register’s Office**”. The purpose of these By-Laws is to set forth the rules and procedures governing the operation and conduct of the Condominium.

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Condominium and the use and occupancy thereof. The term “**Condominium**” as used herein shall include the Land, the Building and improvements thereon, or to be erected thereon, including the Condominium Units (hereinafter referred to as “**Units**”), the Common Elements and Limited Common Elements and the use and occupancy thereof. Capitalized terms used herein without definition shall have the same meanings as those set forth in the Declaration to which these By-Laws are attached or, if not defined therein, the meanings specified in Section 339-e of the Condominium Act.

Section 3. Application. All present and future Unit Owners, mortgagees (after taking title to a Unit), permitted lessees, sublessees, employees, licensees, invitees, servants, agents, guests or any other persons that might use the facilities of the Condominium in any manner are and shall be subject to these By-Laws, the Declaration and any Rules and Regulations established by the Board of Managers and to all lawful actions taken pursuant thereto. The mere acquisition of title to, occupancy or rental of any of the Units will constitute an agreement that the provisions of these By-Laws, the Declaration and the Rules and Regulations, as the same may be amended from time to time, are accepted, ratified and will be complied with.

Section 4. Office. The principal office of the Condominium and of the Board of Managers shall be located at the Property or at such other place, as may be designated from time to time by the Board of Managers.

**ARTICLE II. UNIT OWNERS**

Section 1. Condominium. The Condominium shall be limited to Unit Owners. “**Unit Owner**”, as referred to herein, shall mean all of the beneficial owners of each Unit, in each case, acting as one unit. Title to a Unit may be acquired and held in the name of one or more Persons or in any manner permitted by Law. The Condominium contains a total of two (2) Units, which are known as (i) Unit 1 and (ii) Unit 2. Title to each Unit may be bifurcated into a legal leasehold owner and a beneficial owner and/or leasehold owner.

Section 2. Voting. Members of the Board of Managers shall be designated by Unit Owners, as provided in Section 1 of Article IV. Voting shall be on a percentage basis and the percentage of the vote to which the Unit Owner (including the Declarant or its designee) is entitled is the percentage of Common Interest (as such term is defined in the Declaration) assigned to its Unit in the Declaration. As clarification, the Common Interest is based solely on the percentage of interests each Unit Owner has in the Common Elements and not on the percentage of interests a Unit Owner may have in the Limited Common Elements. Thus, a Unit Owner (or proxy) shall be entitled to cast one vote for each percentage of Common Interest attributable to its Unit. The voting attributable to a Unit may not be divided. Cumulative voting shall not be permitted.]

Section 3. Majority of Unit Owners. As used in these By-Laws, the term “**Majority of Unit Owners**” shall mean those Unit Owners, having more than 50% of the aggregate Common Interests of all Unit Owners, who are present or represented by written proxy and voting at a duly constituted meeting of Unit Owners, at which a quorum is present.

Section 4. Quorum and Adjournment. The presence in person or by written proxy of the duly appointed representative of each Unit Owner shall constitute a quorum at all meetings of the Unit Owners for the transaction of business, except as otherwise provided by Law, the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Unit Owners, the Unit Owner(s) entitled to vote thereat, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called. In the event a Unit Owner misses two consecutive meetings, the Unit Owners present at the third meeting called to transact business shall constitute a quorum.

Section 5. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a Majority of Unit Owners shall decide any question brought before such meeting and such vote shall be binding upon all Unit Owners, unless the question is one upon which, by express provisions of Law, the Declaration or of these By-Laws, a different vote or the consent of a Permitted Mortgagee (as hereinafter defined) is required, in which case such express provisions shall govern and control the decision of such question.

Section 6. Right to Vote. At any meeting of Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person or, if applicable, by proxy. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Neither the Board of Managers nor any designee shall be entitled to vote, and the Common Interests of a Unit owned by the Board of Managers shall be excluded from the total Common Interests when computing the Interests of the Unit Owners for voting purposes.

Section 7. Proxies. Although it is not anticipated that a proxy will be initially required, a Person acting as a proxy need not be a Unit Owner. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof. All proxies shall be in writing, duly

acknowledged and filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting. Such proxy shall be revoked only upon actual receipt by the officer presiding over the meeting of notice of revocation from the Unit Owner, by executing and filing of a later dated proxy or revocation or by appearance and voting in person.

Section 8. Title to Units. Subject to any requirements of the New York City Housing Development Corporation (“**HDC**”), and the New York City Department of Housing Preservation and Development (“**HPD**”) (for so long as HDC or HPD is a Permitted Mortgagee or is a party to a Regulatory Document (as such term is defined in the Declaration) then in force with respect to the Property), title to Units may be taken by any Person, as defined herein, or any two or more Persons as joint tenants, tenants in common or tenants by the entirety, as may be appropriate, but not as owners in severalty. The Board of Managers may require evidence, satisfactory to the Board of Manager’s counsel, of the authority of the party signing any agreement and confirming the binding nature thereof. A “**Person**” shall be any individual, corporation, partnership, trust, estate, unincorporated association, syndicate, joint venture, limited liability company, organization, government or any department or agency thereof, or any other entity permitted to own real property in the State of New York.

Section 9. Unilateral Actions of the Unit Owners. Notwithstanding anything contained in these By-Laws or the Declaration to the contrary, any action of a Unit Owner which exclusively affects its Unit shall be taken at the direction and sole expense of such Unit Owner (“Unilateral Actions”). A Unit Owner may not, without written consent of the other Unit Owner, take any action which affects any other Unit Owner or the Common Elements (a “**Multilateral Action**”) unless the Declaration or these By-Laws specifically permit the taking of such action or such Unit Owner(s) consent to such action. Prior to taking a Multilateral Action, the Unit Owner proposing to take such action shall provide the Unit Owners that would be affected by such action with written notice and a detailed description of the proposed action (the “**Multilateral Action Notice**”). The noticed Unit Owners shall have fifteen (15) days from the date of receipt of the Multilateral Action Notice to deny the proposing Unit Owner’s request to take the proposed Multilateral Action if any such Unit Owner objects, in its reasonable discretion, to such Multilateral Action. In the event the proposing Unit Owner believes with the noticed Unit Owner’s objection is unreasonable, the disputing Unit Owners shall submit the dispute to arbitration in accordance with Article XV of these By-Laws.

Section 10. Actions Affecting Life and Safety. Notwithstanding anything contained in these By-Laws or Declaration to the contrary, including the preceding paragraph, the Unit Owners are authorized to take action required to make any repairs, restorations or replacements, the failure of which to make would create or allow to exist a life/safety and/or health/habitability issue with respect to the tenants, occupants or visitors of such Units, including but not limited to, a threat of personal injury to any occupants or visitors or continuing physical injury to the residential apartments (“Life/Safety Repairs”).

### **ARTICLE III. ADMINISTRATION**

Section 1. Place of Meetings. Meetings of the Unit Owners shall be held at the principal office of the Condominium or at such suitable place convenient to the Unit Owners as may be designated by the Board of Managers. Whenever feasible, the meetings of the Unit Owners and the Board of Managers may take place concurrently. Meetings may be held by means of a telephone conference or similar communication equipment or by electronic video screen communication.

Section 2. Annual Meetings; Election. The first annual Unit Owners' meeting will be called by any of the Unit Owners or such Unit Owner's designees on the Board of Managers within ninety (90) days of the recordation of the Declaration. At such meeting a new Board of Managers shall be elected by the Unit Owners and the former members of the Board of Managers shall thereupon resign. Thereafter, the annual meetings of the Unit Owners shall be held within eight weeks of the anniversary of such date each succeeding year. At such meeting there shall be designated by the Unit Owners a Board of Managers in accordance with the requirements of Article IV of these By-Laws. There should be no need for a proxy. The Unit Owners may also transact such other business of the Condominium as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners, as directed by resolution of the Board of Managers or upon a petition signed by a majority of Unit Owners having been presented to the Secretary. The notice of any special meeting shall state the time and place of the meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or e-mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least ten (10) but not more than forty (40) days prior to such meeting. The mailing and/or e-mailing of a notice in the manner provided by these By-Laws shall be considered notice served.

Section 5. Waiver and Consent; Action without Meeting. (a) Whenever the vote of Unit Owners at a meeting is required or permitted by any provision of Law, the Declaration or of these By-Laws to be taken in connection with any action of the Condominium, the notice of meeting, and the meeting and vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

(b) Before or at any meeting of Unit Owners, any Unit Owner may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Unit Owner at any meeting of Unit Owners shall be a waiver of notice by him, her, or it of the time and place thereof. If all the Unit Owners are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 6. Order of Business. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Call to order and roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting, unless waived.
- (d) Reports of Officers.
- (e) Report of the Board of Managers.
- (f) Report of committees, if any.
- (g) Election of inspectors of election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business and adjournment.

Section 7. Conduct of Meetings. The President shall preside over all meetings of the Unit Owners. The Secretary shall keep the minutes of each meeting and record in a minute book all resolutions adopted as well as all transactions occurring at each meeting.

#### **ARTICLE IV. BOARD OF MANAGERS**

Section 1. Number and Qualifications. The affairs of the Condominium shall be governed by a Board of Managers. In exercising its powers and performing its duties under the Declaration and these By-Laws, the Board of Managers shall act as, and shall be, the agent of the Unit Owners, subject to, and in accordance with, the terms of the Declaration and these By-Laws. From and after the first meeting of the Unit Owners held pursuant to Section 2 of Article III of these By-Laws, the number of the members which shall constitute the Board of Managers shall be no less than two (2) persons. Each Unit Owner shall designate one member of the Board of Managers. The members of the Board of Managers need not be Unit Owners. To the extent any two or more Units are owned by the same Unit Owner or affiliates thereof, such Unit Owner(s) may designate one person to represent all such Units owned by such Unit Owner on the Board of Managers, and such person shall be entitled to vote the entire aggregate interest of the Units owned by such Unit Owner.

Section 2. Voting, Powers and Duties. Voting of the Board of Managers shall be on a percentage basis and the percentage of the vote to which each member of the Board of Managers is entitled is the percentage of Common Interest assigned to the Unit in the Declaration of the Unit Owner that appointed the member. Thus, a member of the Board of Managers (or proxy) shall be entitled to cast one vote for each percentage of Common Interest attributable to the Unit owned by the Unit Owner who appointed the member.

Section 3. Other Duties. In addition to duties approved by these By-Laws or by resolutions of the Condominium, the Board of Managers' other duties shall specifically include, but not be limited to, the following items:

(a) To collect, use and expend the monthly assessments (“**Common Charges**”, which term also includes special assessments) for the operation, care, upkeep, maintenance, repair, replacement and preservation of the Condominium, including the Common Elements and Limited Common Elements; and except as otherwise provided, and to impose charges and transfer fees in connection with the transfer or lease of a Unit, provided that no such fees or charges or other conditions may be imposed upon the Declarant.

(b) To prepare and adopt an annual budget in which there shall be established the amount of the Common Charges to cover the cost of Common Charges, payable in advance. The Board may increase the monthly assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses.

(c) To make repairs, additions and improvements to, or alterations of, the Property and to make repairs, restore or alter any Units, the Common Elements and Limited Common Elements or parts thereof after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings within the limitations of Article VIII, Section 3 and Article XII of these By-Laws;

(d) To enter into and upon the Units when necessary, with notice to the Unit Owner whenever possible and practical and at as little inconvenience to the Unit Owner as possible, in connection with the maintenance, care and preservation of the Building, Units, Common Elements and Limited Common Elements;

(e) To open and maintain bank accounts on behalf of the Condominium (with respect to matters within its jurisdiction as provided in these By-Laws) and to designate the signatories to such bank accounts;

(f) To obtain and review insurance policies and, subject to the rights of the Permitted Mortgagees, to insure the Common Elements, Limited Common Elements and Units in accordance with Article VIII of these By-Laws, paying the premiums for such insurance and adjusting and settling any claims thereunder and executing and delivering releases in connection therewith;

(g) To collect delinquent assessments by suit or otherwise to abate nuisances and to enjoin or seek damages from the Unit Owners (by levying fines which shall constitute Common Charges) for violations of these By-Laws or the Rules and Regulations herein referred to;

(h) To purchase any Unit at a foreclosure sale or other judicial sale in the name of the Board of Managers, on behalf of all the Unit Owners, or to accept the conveyance of a Unit by a Unit Owner pursuant to Section 339-X of the Condominium Act;

(i) To make such reasonable rules and regulations, as permitted by applicable Law, Declaration or By-Laws, and to amend the same from time to time, and such rules and regulations and amendments shall, subject to the rights and privileges afforded to the Declarant or its designee, be binding upon the Unit Owners when the Board has approved them in writing. A copy of such rules and all amendments shall be delivered to each Unit Owner;

(j) To employ and terminate the employment of employees and independent contractors necessary for the maintenance and operation of the Condominium and to purchase supplies and equipment, to enter into contracts and generally to have the powers of manager in connection with the matters hereinabove set forth;

(k) To negotiate and settle claims and actions relating to the Condominium, to bring and defend actions by or against one or more Unit Owners and pertinent to the operation of the Condominium; and to levy special assessments to pay for the cost of such litigation;

(l) With the prior consent of the Permitted Mortgagees, to purchase, lease or otherwise acquire Units, in the name of the Board of Managers or its designee on behalf of all Unit Owners, rights and interests in real and personal property, including those Units offered for sale, lease or surrendered by their Owners and to take any and all steps necessary to repair or renovate any Unit so purchased, leased or acquired and to borrow money by mortgage or otherwise (as provided in subparagraph (n)) on behalf of the Condominium to finance such purchase, lease or acquisition and repair or renovation, and to offer such Unit for sale or lease or take any other steps regarding such Unit as shall be deemed proper by the Board of Managers;

(m) To grant utility, cable television or other easements as may, at any time, be required for the benefit of the Condominium and Unit Owners without the necessity of the consent thereto, or joinder therein, by the Unit Owners or any mortgagee, unless such consent is required in any mortgage encumbering a Unit;

(n) With the prior consent of the Permitted Mortgagees, to borrow money on behalf of the Condominium, in accordance with Section 339 (jj) of the Condominium Act, when required in connection with the operation, care, upkeep and maintenance of, or the making of repairs, replacements, restorations or additions to or alterations of the Common Elements or Limited Common Elements, provided, however, that (i) the consent of all Unit Owners shall be required for any borrowings, and (ii) no liens to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements or Limited Common Elements without the consent of the Owner of such Unit and; if applicable, its Permitted Mortgagee. If any sum borrowed by the Board of Managers pursuant to the authority contained in this subparagraph is not repaid by the Board of Managers, a Unit Owner who pays to the creditor such proportion thereof as its Interest in the Common Elements and Limited Common Elements bears to the interest of all the Unit Owners in the Common Elements and Limited Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Unit Owner's Unit. The foregoing sentence shall be deemed incorporated into each and every loan agreement or promissory note entered into or made by the Board of Managers pursuant to the authority granted to in the Declaration, these By-Laws or the Condominium Act.

(o) In connection with a debt incurred by it pursuant to the foregoing paragraph, the Board of Managers, on behalf of the Unit Owners may, with the prior written consent of the Permitted Mortgagees, and to the extent not already pledged to a Permitted Mortgagee (i) assign to the lender the Board's rights in and to future Common Charges, (ii) create a security interest in, assign, pledge, mortgage or otherwise encumber funds or other real or personal property that the Board holds, (iii) agree that, to the extent of any amounts due under any provisions of the agreements pursuant to which the debt was incurred, and subject to the provisions of Section 339-1 of the Condominium Act, all Common Charges received and to be received by the Board of Managers, and the right to receive such funds, shall constitute trust funds for the purpose of paying such debt and such funds shall be expended for such purpose before expending any part of the same for any other purpose, and (iv) agree that at the lender's direction, the Board will increase the Common Charges to the extent necessary to pay any amount when due under any of the provisions of the agreements pursuant to which the debt was incurred, but subject to the provisions of the Regulatory Documents. The foregoing sentence shall not be construed to authorize the Board of Managers to create a lien on any Common Elements or Limited Common Elements. Any assignment pursuant to clause (i) of this subparagraph (o) may provide, subject to the provisions of (n) above, that in the event of a default, the lender shall have the same right as the Board of Managers to file liens on unpaid Common Charges, in the lender's name, in accordance with these By-Laws and Sections 339-z and 339-aa of the Condominium Act and to foreclose such liens pursuant to Section 339-aa of the Condominium Act and pursuant to these By-Laws;

(p) To organize corporations, limited liability companies or other legal entities to act as designees of the Board of Managers with respect to such matters as the Board of Managers may determine;

(q) To execute, acknowledge and deliver (i) any declaration (including a declaration of zoning lot) or other instrument affecting the Property which the Board of Managers deems necessary or appropriate to comply with any Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Building and improvements and (ii) any consent, covenant, restriction, easement or declaration affecting the Property which the Board deems necessary or appropriate;

(r) To prepare, execute, acknowledge and record on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these By-Laws whenever, in the Board of Manager's determination, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and to these By-Laws, including any amendments required to reflect the construction of the proposed improvements.

(s) To purchase or lease in the name of the Board of Managers space for the storage of personal property of Unit Owners and, in connection therewith, the promulgation of conditions, rules and regulations for the operation and supervision thereof;

(t) To make additions, alterations, or improvements to the Common Elements or Limited Common Elements, provided that the cost of any single addition, alteration, or improvement does not exceed \$250,000, except that the foregoing restrictions shall not apply in the case of an emergency. Any single addition, alteration or improvement to the Common Elements or Limited Common Elements costing in excess of \$250,000 may be made by the Board of Managers only with the approval of all Unit Owners and each Permitted Mortgagee, to the extent required in the mortgage documents with such Permitted Mortgagee.

(u) To prepare, execute, acknowledge and deliver any documents or other instruments necessary to commence, pursue, compromise or settle certiorari proceedings to obtain reduced real estate tax assessments with respect to the Units for the benefit and on behalf of each Unit Owner and as its attorney-in-fact, coupled with any interest, provided such Unit Owner has given appropriate written authorization (and to retain counsel therefor). This shall not be deemed to prohibit a Unit Owner from commencing, pursuing, compromising or settling tax certiorari proceedings for its own Unit, and each Unit Owner may initiate, pursue and settle such proceedings for its own Unit independent from and without the consent of the other Unit Owner or the Board of Managers. In either case, each such Unit Owner indemnifies the Board of Managers from and against all claims, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from such proceedings.

(v) To designate, in its discretion, by resolution or resolutions, passed by a majority of the whole Board of Managers, an executive committee and such other committee or committees, each of such committees to consist of at least as many members as such Board may deem appropriate. At least one of the members of the executive committee shall be a Manager. Such committees shall, to the extent provided in said resolution or resolutions, have and may exercise the powers of the Board of Managers in the management of the business and affairs of the Condominium. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Managers, and they shall serve at the pleasure of the Board of Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board, as required;

(w) To do such other things and acts not inconsistent with the Condominium Act, the Declaration or these By-Laws which the Board of Managers may be authorized to do by a resolution of the Unit Owners, including the adoption and amendment of Rules and Regulations covering the details of the operation and use of the Property;

(x) To maintain complete and accurate books and records with respect to finances and the operation of the Board of Managers, including without limitation: (i) detailed accounts, in chronological order, of receipts and expenditures affecting the Property; (ii) detailed books of account of the Condominium Board; (iii) other financial records, as well as other books or account of the Condominium, as may be required to be kept pursuant to the terms of these By-Laws or the Regulatory Documents; and (iv) minutes and other records of all meetings held pursuant to the terms of these By-Laws or the Regulatory Documents.

(y) Notwithstanding anything contained in these By-Laws to the contrary, any action of the Board of Manager's which exclusively benefits one or more Unit Owners shall be taken at the sole expense of said affected Unit Owners. The Board of Managers may not, without written consent of such a Unit Owner, take any action which materially or adversely affects any Unit Owner unless the Declaration or these By-Laws specifically permit the taking of such action or such Unit Owner consents to such action. The determination of whether such action materially affects any Unit Owner shall be determined by the vote of the Board of Managers.

Section 4. [Intentionally Omitted]

Section 5. Managing Agent. The duties set forth in Sections 3(b), (h), (i), (k)-(s), (v) and (w) are not deemed to be delegable. The Board of Managers may employ for the Condominium a Managing Agent under a term contract or otherwise at compensation established by the Board to perform such duties and services as the Board of Managers shall authorize, including, but not limited to, all of the delegable duties of the Board listed in this Article. Such Managing Agent may be an affiliate of the Declarant.

Section 6. Term of Office. The term of office for each member of the Board of Managers shall be for one year, and shall commence on the date the board member is elected or designated by the Declarant, and expire on the date of the next election of a new Board of Managers. There shall be no limit on the number of terms a member of the Board of Managers may serve.

Section 7. Vacancy and Replacement. If any vacancy occurs with respect to any member of the Board of Managers who has been designated or elected by a Unit Owner, such Unit Owner shall have the sole right to choose such member's successor to fill the unexpired portion of its term.

Section 8. Resignation and Removal of Managers. Any member of the Board of Managers may resign at any time by written notice delivered or sent by certified mail, return receipt requested, to the Board. Such resignation shall take effect at the time specified therein, and unless specifically requested, acceptance of such resignation shall not be necessary to make it effective. At any regular or special meeting duly called, any one or more members of the Board of Managers may be removed for cause by an affirmative vote of a Majority of Unit Owners, in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created for the remainder of the term. Any member of the Board of Managers whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting. Notwithstanding anything contained hereinabove, any member of the Board, who is designated as such by a Unit Owner and who is removed for cause may only be removed by such party and only such Unit Owner shall have the right to designate a replacement. Subject to the provisions of Section 9 to this Article, no member of the Board of Managers, other than a member of the first Board of Managers, shall continue to serve on the Board of Managers if, during his or her term of office, he or she shall cease to be a designee of a Unit Owner. Otherwise, he or she shall be deemed to have resigned as of the date such interest ceased. In the event that a Permitted Mortgagee shall foreclose upon any of the Units or otherwise succeed to

the interest of any of the Unit Owners, the Permitted Mortgagee shall have the right to replace the member(s) appointed by such Unit Owner.

Section 9. First Board of Managers. The first Board of Managers shall consist of no less than two (2) individuals to be designated by the Declarant. These individuals need not be a Unit Owner. Said individuals shall hold office and exercise all powers of the Board of Managers until the first annual meeting of Unit Owners. Any or all of the above named Board of Managers shall be subject to replacement in the event of resignation or death in the manner set forth in Section 7 of this Article.

Section 10. Organization Meeting. The first meeting of a newly elected Board of Managers shall be held within ten (10) days of election at such place as shall be fixed by the members of the Board of Managers at the meeting at which such members of the Board of Managers were elected, (preferably at the same place as the Unit Owners' meetings), and no notice shall be necessary to the newly elected members of the Board of Managers in order legally to constitute such meeting, providing a majority of the whole Board of Managers shall be present.

Section 11. Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined, from time to time, by a majority of the members of the Board of Managers, but at least two such meetings shall be held during each fiscal year. Regularly scheduled meetings of the members of the Board of Managers may be held without notice. Otherwise, notice shall be given to each Manager, personally or by mail, facsimile, email, or telephone at least three (3) days prior to the day named for such meeting. Managers or members of any committee of the Board of Managers may participate in a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

Section 12. Special Meetings. Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each Manager, given personally or by mail, facsimile, email, or telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings shall be called by the President, Vice President or Secretary in a like manner and on like notice on the written request of at least two (2) members of the Board of Managers.

Section 13. Waiver of Notice. Before or at any meeting of the Board of Managers, any member of the Board of Managers may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board of Managers shall be a waiver of notice by him or her of the time and place thereof. Any one or more member of the Board of Managers or any committee thereof may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. If all the Managers are present at any meeting of the Board of Managers, no notice shall be required and any business may be transacted at such meeting.

Section 14. Board of Managers Quorum. A majority of the members of the Board of Managers shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of the majority of the voting interests being voted by the members of the Board of Managers present at any meeting at which there is a quorum or available by means of a conference telephone or similar communications equipment shall be the act of the Board of Managers, except as may be otherwise specifically provided by Law, the Declaration or these By-Laws. If, at any meeting of the Board of Managers, there be less than a quorum present, the majority of those present may fix a time and place for the adjourned meeting and shall provide the other members of the Board of Managers with at least two (2) days' notice of the rescheduled meeting. At any such adjourned meeting, if a quorum is present any business which might have been transacted at the meeting as originally called may be transacted. Notwithstanding anything to the contrary contained herein, any action permitted or required to be taken at a meeting of the Board of Managers may be taken without a meeting if all the members of such Board of Managers consent in writing to the adoption of a resolution authorizing such action and the writing or writings are filed with the minutes of the Board of Managers.

Section 15. Fidelity Bonds. The Board of Managers may require that all officers and employees of the Condominium be covered by a fidelity bond and that any Managing Agent handling or responsible for Condominium funds furnish (or the Board of Managers may provide) a fidelity bond in an amount to be determined by the Board of Managers. The Board of Managers may obtain such other fidelity bonds as it deems proper. The premium on any bond obtained by the Board of Managers covering the officers and employees of the Condominium and the Managing Agent shall be a Common Charge.

Section 16. Compensation. No member of the Board of Managers shall receive compensation from the Condominium for acting as such.

Section 17. Annual Statement. The Board of Managers shall (a) furnish annually, no later than 150 days (or such earlier time that may be required by a Permitted Mortgagee) after the close of the Condominium's fiscal year, to all Unit Owners, their mortgagees and, if required by applicable Law, statute or regulation, the Department of Law of the State of New York, and (b) present annually (at the annual meeting, but in no event later than four and one-half months after the close of the fiscal year), when called for by a vote of the Unit Owners at any special meeting of the Unit Owners, or otherwise required by applicable Law, statute or regulation, a full and clear statement of the business conditions and affairs of the Condominium, including a balance sheet and profit and loss statement certified by an independent public accountant and a statement regarding any taxable income attributable to the Unit Owner and a notice of the holding of the annual Unit Owners meeting.

Section 18. Liability of the Board of Managers and Unit Owners. To the extent permitted by Law, no member of the Board of Managers shall have any liability with respect to any act or omission of the Board of Managers or of any Managing Agent or member of the Board of Managers with respect to the affairs of the Condominium, except for their own individual willful misconduct or bad faith. Any contract, agreement or commitment made by the Board of Managers or any Managing Agent, acting within the scope of authority, shall state that it is made by such Board or Managing Agent, as agent for the Unit Owners as a group only, and

that no member of the Board of Managers, nor an officer nor the Managing Agent nor individual Unit Owner (except as provided herein) shall be liable for such contract, agreement or commitment. The Unit Owners shall be liable as a group under such contract, agreement or commitment, but the liability of each Unit Owner shall be limited to such proportion of the total liability thereunder as his or her Common Interest bears to the Common Interest of all Unit Owners, members of the Board of Managers (or officers) shall have no liability to Unit Owners except that such person shall be liable for his or her own willful misconduct or bad faith. The Unit Owners shall severally indemnify and hold harmless all members of the Board of Managers from and against any liabilities or claims arising from acts taken by a member of the Board of Managers or officer in accordance with his duties as such members, except acts of willful misconduct or acts made in bad faith. Such several liability of the Unit Owners shall, however, be limited as to each Unit Owner to such proportion of the total liability thereunder as such Unit Owner's Common Interest bears to the Common Interest of all Unit Owners. Nothing in this Section shall limit a Unit Owner's liability for the payment of Common Charges. No member of the Board of Managers shall be liable for either (a) any failure or interruption of any utility or other service to be obtained by or on behalf of the Board of Managers or to be paid for as a Common Charge, except where any such failure or interruption is caused by the acts of gross negligence or willful misconduct of the Board of Managers or any member thereof or (b) any injury, loss or damage to any individual or property occurring in or about either a Unit or any General or Limited Common Element.

Section 19. Legal Status of the Board of Managers. In addition to the status conferred upon the Board of Managers under or pursuant to the provisions of the Condominium Act, the Board of Managers shall, to the extent permitted by applicable Law, be deemed to constitute a separate unincorporated association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation of the Board of Managers pursuant to the provisions of Section 20 hereof, the provisions of this Section 19 shall no longer be applicable.

Section 20. Incorporation of the Board of Managers. To the extent and in the manner provided in the Condominium Act, the Board of Managers may by action of such Board of Managers as provided in this Article, be incorporated under the applicable statutes of the State of New York. In the event that the Board of Managers so incorporates, it shall have, to the extent permitted by applicable Law, the status conferred upon it under such statutes in addition to the status conferred upon such Board of Managers under or pursuant to the provisions of the Condominium Act. The certificate of incorporation and By-Laws of any such resulting corporation shall conform as closely as practicable to the provisions of the Declaration and these By-Laws and the provisions of the Declaration and these By-Laws shall control in the event of any inconsistency or conflict between the provisions thereof and the provisions of such certificate of incorporation and By-Laws.

## **ARTICLE V. OFFICERS**

Section 1. Designation. The principal officers of the Condominium shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint one or more assistant secretaries and assistant

treasurers and such other officers as in their judgment may be necessary. More than one office may be filled by the same person. The President must be a member of the Board of Managers, but no other officers need be members of the Board.

Section 2. Election of Officers. The officers of the Condominium shall be elected annually by the Board of Managers at its first meeting after each annual Unit Owners meeting and shall hold office at the pleasure of the Board and until their successors are elected.

Section 3. Resignation and Removal of Officers. The officers shall hold office until their successors are chosen and qualify in their stead. Any officer may resign at any time by written notice delivered or sent by certified mail, return receipt requested, to the Board. Such resignation shall take effect at the time specified therein and, unless specifically requested, acceptance of such resignation shall not be necessary to make it effective. Any officer elected or appointed by the Board of Managers may be removed with or without cause, at any time, by the affirmative vote of a majority of the whole Board of Managers, at any regular meeting of the Board or at any special meeting of the Board of Managers called for such purpose. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Managers. If such officer is also a member of the Board of Managers and ceases to be or shall be suspended as a member of the Board of Managers during his or her term of office, such officer shall be deemed to have resigned his or her office, effective upon the date upon which such Member shall cease to be an officer.

Section 4. The President. The President shall be the chief executive officer of the Condominium. He or she shall preside at all meetings of the Unit Owners and members of the Board of Managers, shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Condominium, shall see that all orders and resolutions of the Board of Managers are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a stock corporation organized under the Business Corporation Law of the State of New York or as are delegated by resolution of the Board of Managers.

Section 5. The Vice-President. The Vice-President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice-President of a stock corporation organized under the Business Corporation Law of the State of New York or as are delegated to the Vice-President by the President or by resolution of the Board of Managers. If neither the President nor the Vice-President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to do so on an interim basis. The Vice-President may also perform the duties of Secretary and/or Treasurer, as described below.

Section 6. The Secretary. The Secretary or an Assistant Secretary shall attend all sessions of the Board of Managers and all Unit Owners meetings and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He or she shall give, or cause to be given, notice of all Unit Owners meetings and special meetings of the Board of Managers, and shall perform such other duties as may be prescribed by the Board of Managers or by the President, under whose supervision he shall be.

Section 7. The Treasurer. The Treasurer shall have the custody of the Condominium funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Condominium, including the vouchers for such disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the Condominium in such depositories as may be designated by the Board of Managers.

He or she shall disburse the funds of the Condominium as he may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Managers, at the regular meeting of the Board of Managers or whenever they require it, an account of all his transactions as Treasurer and of the financial condition of the Condominium.

He or she shall keep or be responsible for keeping detailed financial records and books of account of the Condominium, including a separate account for each Unit which, among other things shall contain the amount of each assessment of Common Charges against such Unit, the date when due, the amounts paid thereon and the balance remaining unpaid.

He or she shall have such other duties and obligations as are delegated by the President by resolution of the Board of Managers and as are incident to the office of Treasurer of a stock corporation organized under the Business Corporation Law of New York.

Section 8. Execution of Documents. Except as provided below in Section 9, all agreements, contracts, deeds, leases and other instruments shall be executed by the President or such other person as may be designated by the Board of Managers.

Section 9. Checks. All checks or demands for money and notes of the Condominium shall be signed by both the President and Treasurer or by such other officer or officers or such other person or persons as the Board of Managers may from time to time designate.

Section 10. Compensation. No officer shall receive any compensation from the Condominium for acting as such.

Section 11. Liability of Officers. The Officers of the Condominium shall have the same rights and liabilities as the member of the Board under Section 18 of Article IV of these By-Laws.

## **ARTICLE VI. OPERATION OF THE PROPERTY**

Section 1. Fiscal Year. The fiscal year of the Condominium shall be the calendar year, unless otherwise determined by the Board of Managers.

Section 2. Preparation and Approval of Budget. (a) The Board of Managers shall from time to time, but at least annually, fix and determine the budget representing the sum(s) necessary and adequate for the continued operation of the Condominium (the “**Common Charges**”, which term includes any special assessments) and shall endeavor to send a copy of the budget and any supplement to the budget to every Unit Owner at least ten (10) days before the date set for adoption thereof by the Board of Managers.

(b) The failure or delay of the Board of Managers to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner’s obligation to pay such Owner’s share of the Common Charges as herein provided whenever the same shall be determined. In the event of such a failure or delay, each Unit Owner shall continue to pay the

monthly Common Charge at the rate established for the previous fiscal year until notice of the new payment shall become due in accordance with the new budget.

(c) The Board of Managers shall determine the total amount required, including the operational items, such as insurance (including a liability insurance policy premium and an insurance premium for a policy to cover repair and construction work in case of hurricane, fire, earthquake or other hazard), repairs, reserves, betterments, maintenance of the Common Elements and Limited Common Elements and other operating expenses, as well as charges to cover any deficits from prior years, that may be declared to be Common Charges by the Condominium Act, the Declaration or these By-Laws.

Section 3. Determination of Common Charges and Fixing of Common Charges. (a) Except as otherwise provided herein, the Board of Managers shall determine the amount of the Common Charges payable by the Unit Owners to meet the common expenses of the Common Elements and Limited Common Elements, if applicable, and it shall allocate and assess such Common Charges and Expenses between the Unit Owners in proportion to the respective Common Interests.

The common expenses paid by Common Charges shall include all costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to the Common Elements and Limited Common Elements. Such common expenses shall include (i) such amounts as the Board of Managers may deem proper for a working capital or contingency reserve fund, (ii) the cost of insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provision of this Article and Article VIII and the fees and disbursements of the Insurance Trustee, if any, and (iii) such amounts as may be required for the rental or purchase by the Board of Managers or its designee of a Unit. Common expenses shall include any real estate taxes on the Property until the Units are separately assessed.

(b) In addition to basing Common Charges on Common Interests, the Board of Managers may also make allocations and assessments of the Common Charges in accordance with higher insurance rates on some Units, sub-metering, contract allocation and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of Law. Further, Common Charges associated with the Limited Common Elements shall be paid by the Unit Owners in accordance with their respective interests in such class of common elements as set forth in Schedule C of the Declaration.

(c) All Unit Owners shall be obligated to pay the Common Charges (including special assessments assessed by the Board of Managers (“Special Assessments”)) assessed by the Board of Managers, pursuant to the provisions of this Article. Unless otherwise determined by the Board, Common Charges shall be payable monthly in advance on the first day of each month. Special Assessments, if required, shall be levied and paid in the same manner as hereinabove provided for a regular assessment. In the event of a default in payment of a monthly Common Charge assessment by any Unit Owner, the Board of Managers, at its sole option, may declare the Common Charge assessment on said Unit Owner’s Unit for the balance of the fiscal year immediately due and payable. Prior to making any such declaration following a default, the

Board of Managers shall send notice to the delinquent Unit Owner and the mortgagee, if any, of such Unit giving the Unit Owner a five-day grace period in which to make his payment. The Board of Managers may charge the delinquent Unit Owner a fee or late charge of \$.04 for each dollar of such amount which remains unpaid for more than ten (10) days from their due date (although this shall not be deemed an extension of time to pay such charges) to cover the additional burden to the Board of Managers occasioned by the lack of timely payment. Interest at the rate of eight (8%) percent per annum, but no greater than the highest rate permitted by Law, may also be collected by the Board of Managers on the Common Charge assessment from its due date to the date payment is actually received from the Unit Owner. Any "late charge" actually collected shall be credited against the interest expense. In addition, any attorney's fees paid or incurred by the Board of Managers or any Managing Agent in any proceeding brought to collect such unpaid Common Charges or in any action to foreclose the lien on such Unit arising from said unpaid Common Charges shall be a lien, as provided in Section 339-z of the Condominium Act. All such "late charges", interest and other expenses shall be added to and shall constitute Common Charges.

(d) The Board of Managers shall take action to collect any Common Charges due from any Unit Owner which remain unpaid 30 days from their due date by way of foreclosure of the lien on such Unit in accordance with the Condominium Act or otherwise and as provided in Article IX of these By-Laws. In accordance with Section 339-aa of the Condominium Act, in any such foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to judgment of foreclosure and sale, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same.

(e) All liens provided for in this Section, to the extent permitted by applicable Law, shall be subordinate to liens for real estate taxes and mortgages of record on the Unit.

(f) No Unit Owner shall be exempt from liability for assessment of Common Charges by waiver of the use or enjoyment of any of the Common Elements or the Limited Common Elements or by abandonment of such Owner's Unit (except as provided herein). Any Unit Owner, however, may, subject to the terms and conditions of these By-Laws, convey such Unit, together with its appurtenant Common Interest and percentage interests in the Limited Common Elements ("**Appurtenant Interest**"), without consideration, to the Board of Managers or its designee, on behalf of the Unit Owners, and in such event (except as hereinafter set forth) be exempt from Common Charges thereafter accruing. In no event may such transfer occur, unless (i) such Unit is free and clear of liens and encumbrances, other than the statutory lien for unpaid Common Charges (provided that no amounts are owing under such lien) and (ii) no violation of any provision of the Declaration, these By-Laws or the Rules and Regulations then exists with respect to such Unit.

(h) No former Unit Owner shall be liable for any part of the Common Charges or Special Assessments assessed against its Unit subsequent to a sale, transfer or other conveyance by it of its Unit, together with its Appurtenant Interest, in accordance with these By-Laws and the Declaration. A purchaser of a Unit (other than a mortgagee, its designee, or purchaser at a foreclosure sale) shall be liable for the payment of all Common Charges assessed against the Unit and unpaid at the time of the purchase. Such lien for Common Charges shall not be

affected by any sale or transfer of a Unit, except that a purchaser of a Unit at a foreclosure sale or pursuant to remedies provided in a mortgage permitted by these By-Laws, or by deed in lieu of foreclosure shall, to the extent not prohibited by Law, extinguish a subordinate lien for such Common Charges. In such event the Owner of the Unit prior to such foreclosure sale shall remain liable for the payment of all unpaid Common Charges which accrued prior to such sale, but the unpaid Common Charges shall not be a lien on title to the Unit.

(i) The Board of Managers, or its designee, on behalf of all Unit Owners, shall have the power to purchase or lease any Unit at a foreclosure sale resulting from any action brought by the Board to foreclose a lien on the Unit because of unpaid Common Charges. In the event of such purchase or lease, the Board of Managers shall have the power to hold, lease, mortgage, vote, sell or otherwise deal with the Unit. A suit to recover a money judgment for unpaid Common Charges shall also be obtainable separately without waiving the lien on the Unit. The cost of such purchase or lease may be included in the Common Expenses. In the event the net proceeds received on such foreclosure (after deduction of the legal fees, advertising costs, brokerage commissions and other costs and expenses incurred in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, such Unit Owner (except where the Unit Owner is the Board of Managers or its designee) shall remain liable for the default.

(j) Upon the written request of any Unit Owner, contract vendee or a mortgagee, the Board of Managers shall promptly furnish such party with a written statement of the unpaid Common Charges due from such Unit Owner, which statement may be relied on by any of the foregoing parties and any title insurance company licensed to do business in the State of New York which is insuring the title or mortgage for such Unit.

Section 4. Taxes, Other Municipal Charges and Utilities. (a) Water and sewer services shall be supplied to and for all of the Units, the Common Elements and Limited Common Elements by the City of New York. Except to the extent Unit Owners or a tenant of a Unit Owner are or may be billed directly by the City Collector, the Board of Managers shall pay, as a Common Charge, all water charges and sewer rents promptly after the bills for the same shall have been rendered. Sewer charges are derived directly from water usage.

(b) Unit Owners will be assessed and taxed on their Units and their share of the Common Elements and Limited Common Elements. Each Unit Owner will therefore be responsible for initiating any review by the City of its Unit's real estate tax assessment.

(c) Until the Units are separately assessed for real estate tax purposes, the Unit Owners shall pay to the Board of Managers or to Declarant (if Declarant has paid such real estate taxes) their respective pro rata share of all real estate taxes, if any, with respect to the Property (in proportion that the Common Interest of each Unit Owner bears to the sum of the Common Interests of all Unit Owners). If a Unit Owner is exempt from payment of such taxes, it shall, upon request, provide the Board of Managers with current evidence of such exemption, and such Unit Owner shall have no obligation to pay any share of the real estate taxes for the Property.

(d) In the event of a permitted proposed sale of a Unit by the Owner thereof, the Board of Managers, upon request of the selling Unit Owner, shall execute and deliver to the Purchaser

of such Unit or to the Purchaser's title insurance company, a letter agreeing to pay all charges for water, sewer rents and real estate taxes (so long as such Board of Managers is still collecting and paying such charges) affecting such Owner's Unit to the date of closing of title to such Unit, promptly after such charges shall have been billed by the City Collector of other proper authorities.

(e) In general, heating gas shall be supplied through a gas meter or meters and will be part of the Common Charges, unless separately metered.

(f) Except as provided herein to the contrary, electricity is supplied to the Units through a separate meter or meters, and each Unit Owner and/or its tenants shall be required to pay all charges for electricity used or consumed directly to the utility company. The cost of electricity of the Common Elements and Limited Common Elements, if any, shall be paid by the Board and will be borne as a Common Charge payable by Unit Owners in accordance with each Unit Owner's Common Interest. The Board of Managers shall have the right, at its sole discretion, to require that electricity be supplied to all or some of the Units, through one or more electrical meters and the cost thereof be borne by each Unit Owner, based on sub-metering or any other reasonable basis, as determined by the Board.

Section 5. Reserves. The Board of Managers shall accumulate and maintain reasonable reserves for working capital, operations, contingencies and replacements and reasonable amounts with respect to the insurance "deductible" described in Section 1 of Article VIII. Such reserves shall be Common Charges and included in the annual budget prepared by the Board of Managers. If such reserves are inadequate for any reason, the Board may impose a special assessment as described in Section 3(d) of this Article. The Condominium will establish such insurance escrow as may be required by HDC, HPD or any Permitted Mortgagee.

Section 6. Maintenance and Repairs. (a) By the Board of Managers. Except as provided in these By-Laws or the Declaration, all maintenance, painting, decorating, repairs and/or replacement to the Common Elements and Limited Common Elements, including but not limited to structural work, exterior walls, roof and roof membranes of the Building, as well as painting or refinishing, repair and/or maintenance of the exterior surfaces, roof, windows and doors which open from the Building, as well as all maintenance, repairs and replacements of the electric meter, trash compactor, elevator machine, boiler rooms, Building foyers and public stairways and of any pipes, wires, conduits and utility lines, or any portion of which is located in one Unit and services another Unit or so much of any pipes, wires, conduits and utility lines as are located in the Common Elements or Limited Common Elements but serve one or more Units shall be contracted for by the Board of Managers. The cost thereof shall be a Common Charge, except if such maintenance, painting, repair or replacement is necessitated because of the negligence, misuse or neglect of the Unit Owner or the prior alteration of the Unit by the Unit Owner, in which event, the cost thereof shall be assessed to and paid by the Unit Owner. Unit Owners shall be responsible for and shall pay for clearing snow accumulations in front of their Units.

The Board of Managers shall repair and replace any pipes, wires, conduits and utility lines located underground or overhead of any Common Elements or Limited Common Elements

and the cost thereof shall be a Common Charge, except that the Unit Owner shall pay for the cost of any maintenance or repairs necessitated because of the negligence, misuse or neglect of the Unit Owner or prior alteration of a Unit. The Board of Managers shall repair all plumbing stoppages and repair electrical problems occurring in the Common Elements and Limited Common Elements.

(b) By the Unit Owner. Every Unit Owner must perform promptly all maintenance and repair work to its own Unit and the Limited Common Element appurtenant to such Unit, which if omitted would affect the Condominium in its entirety or in a part belonging to other Unit Owners, it being expressly responsible for the damages and liabilities that its failure to do so may engender.

All repairs and maintenance of internal installations of the Unit or Limited Common Element, as applicable, such as water, light, gas, power, sewage, telephone, air conditioners, sanitary installations, lamps and all other accessories belonging to the Unit (including electrical repairs and plumbing stoppages in the Units, painting and decorating of the interior of the Units), repairs and replacements to the Units including windows (including all glass breakage) and doors which open from a Unit on which painting is performed by the Board of Managers, and repairs to the pipes, wiring and servicing the same Unit, other than as set forth above in subparagraph (a) shall be made by the respective Unit Owners at their own expense.

(c) All repairs or replacements shall be substantially similar to the original construction and installation and shall be of first class quality. In the event that a Unit Owner fails to make any maintenance or repair which maintenance or repair is necessary to protect any of the Common Elements, Limited Common Elements or any other Unit, the Board of Managers shall have the right to make such maintenance or repair (after the failure of the Unit Owner to do so after ten (10) days written notice, or written or oral notice of a shorter duration in the event of an emergency situation) and to charge the Unit Owner for the cost of all such repairs and/or maintenance. In the event that the Board of Managers charges a Unit Owner for repairs or maintenance to its Unit and the Unit Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon and, in such event, the Unit Owner shall be liable for the reasonable attorneys' fees and costs of such or proceeding together with interest, at the prime rate set forth in the Wall Street Journal plus [8%] per annum, on all sums due.

(d) All repairs, painting or maintenance, whether made by the Unit Owner or by the Board of Managers to the doors, windows, or the exterior surface of the Building, the roof, or to any generally visible portion of the Common Elements or Limited Common Elements shall be carried out in such a manner so as to conform to the materials, style and colors selected or as determined by the Board of Managers. The exterior glass surfaces of all windows located in any Unit shall not be colored or painted. (See also, Section 9 hereof).

Section 7. Use of Units and Property. The Units shall be used for uses that are permitted under the Zoning Regulations of the City of New York and as provided in the applicable provisions of the Regulatory Documents and the Condominium Declaration. Except as specified in Article XI, a Unit may be owned by an individual, corporation, partnership, fiduciary or any other entity (including, but not limited to, a limited liability company or the United States

government and any instrumentality thereof and foreign governments and any embassy, consulate or other instrumentality thereof). Subject to the foregoing, a Unit may be occupied by any person as permitted by Law, the Declaration and these By-Laws and/or any mortgage, Regulatory Document or other document affecting said Unit.

(b) No immoral, improper, offensive or unlawful use or other use that may create a nuisance or hazard to the occupants of the other Units (including, but not limited to, a massage parlor, stores selling pornographic material or drug paraphernalia, nightclubs and entertainment facilities, and pawn shops) shall be made of the Property or any part thereof, including any Unit, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof, shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion or use of the Property, shall be complied with, by and at the sole expense of the Unit Owner or the Board of Managers, whichever shall have the obligation to maintain such portion of the Property, and if the latter, then the cost of such compliance shall be a Common Charge. Notwithstanding anything to the contrary herein or in the Declaration, the Units may not be used or occupied: (1) in violation of any Federal, state or municipal law, ordinance, order, rule, regulation or other governmental requirement, including, without limitation, health, safety and environmental laws, rule and regulations; (2) as a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, tattoo parlor, gun shop, pawn shop, racetrack or other facility used for gambling; (3) for any pornographic or adult entertainment purpose.

(c) Notwithstanding anything to the contrary, from the date hereof through the date which is seven (7) years from the date hereof, in no event shall the Units be used for any Prohibited New Markets Tax Credit Use. "Prohibited New Markets Tax Credit Use" shall mean any of the following: (a) any trade or business consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises (in each case as construed under Treasury Regulation Section 1.45D1(d)(5)); (b) any trade or business consisting of the operation of residential rental property, as defined in Section 168(e)(2)(A) of the Internal Revenue Code; (c) any business the principal activity of which is Farming as defined in Section 2032(A)(e)(5)(A) or (B) of the Internal Revenue Code; or (d) any trade or business the predominant part of which consists of the development or holding of intangibles for sale or license. Any lease, sublease or assignment of the Units shall expressly prohibit all such uses.

(d) No Unit Owner shall use, store, generate, treat, transport, handle or dispose of within its Unit or elsewhere in the Building any Hazardous Substances, other than ordinary cleaning fluids which are used, stored, generated, treated, transported, handled and disposed of by and occupant in strict compliance with applicable Law. No occupant shall use, store, generate, treat, transport, handle or dispose of within its Unit or elsewhere in any Building any Hazardous Substances, except in strict compliance with applicable Law. "**Hazardous Substances**" means any pollutants, contaminants, toxic or hazardous substances, materials, wastes, constituents, compounds or chemicals (including, without limitation, petroleum or any by-products or fractions thereof, any form of mold, natural gas, lead, asbestos and asbestos-containing materials, building construction materials and debris, polychlorinated biphenyls

("PCBs") and PCB-containing equipment, radon and other radioactive elements, ionizing radiation, electromagnetic field radiation and other non-ionizing radiation, infectious, carcinogenic, mutagenic or etiologic agents, pesticides, defoliants, explosives, flammable, corrosives and urea formaldehyde foam insulation) that are regulated by, or may now or in the future form the basis of liability, under the Law.

Section 8. Use of Common Elements. (a) The Common Elements and Limited Common Elements shall not be obstructed, littered, defaced or misused in any manner. Such areas shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the Units (with respect to the Common Elements).

The use of the Common Elements and Limited Common Elements use may be limited as provided in Section 11 hereof or in the Rules and Regulations. No Unit Owner shall make any addition, alteration or improvement or change in and to the Common Elements or Limited Common Elements without the prior written consent of the Board of Managers and, if applicable, its mortgagee.

(c) Every Unit Owner shall be liable for any and all damages to the Common Elements, Limited Common Elements and the Property of the Condominium, which shall be caused by said Unit Owner or such other person for whose conduct it is legally responsible, provided, however, that nothing contained herein shall be construed as modifying any waiver by an insurance company of its rights of subrogation.

(d) Neither the Common Elements nor Limited Common Elements shall be used in such a manner so as to unreasonably interfere with the other Units for their permitted purposes.

Section 9. Additions, Alterations or Improvements. (a) By the Board of Managers. Except as may be otherwise provided in the Declaration or these By-Laws, all additions, alterations, repairs or improvements in or to any Common Element shall be made by the Board of Managers and the cost and expense thereof shall be charged to the Board of Managers as a Common Charge or to the Unit Owner responsible therefor, as the case may be. Subject to Sections 3(t) of Article IV hereof, whenever in the judgment of the Board of Managers, the Common Elements, and Limited Common Elements shall require additions, alterations, repairs or improvements costing in excess of an aggregate of \$1,000,000 during any one year period, and the making of such additions, alterations, repairs or improvements shall have been approved by the Unit Owners and Permitted Mortgagees (if their approval is required), the Board of Managers shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Charge. Except as provided in Section 3(t) of Article IV, any such additions, alterations or improvements costing \$1,000,000 or less may be made by the Board of Managers without approval of the Unit Owners (and, if required, the Permitted Mortgagee(s)) and the cost thereof shall be a Common Charge. Notwithstanding anything to the contrary contained herein, any structural alterations must be approved by the Permitted Mortgagee(s).

(b) By Unit Owners. Except as may be otherwise provided in the Declaration or these By-Laws, no Unit Owner shall make any structural additions, alterations or improvements in or to its Unit without previously obtaining the consent of the Board of Managers and (x) if required by such Unit Owner's Permitted Mortgagee, such Permitted Mortgagee in writing and (y) HDC, for so long as HDC is a Permitted Mortgagee of any Unit. The Board of Managers shall have the obligation to answer within thirty (30) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration. However, in no event shall failure to respond by a Permitted Mortgagee be considered deemed consent. Any such consent may contain such reasonable conditions as may be required for the protection of other Unit Owners, the Board of Managers or the Property. Such conditions may include the execution of an agreement in form and substance satisfactory to the Board of Managers setting forth the terms under which such additions, alterations, repairs or improvements may be made, including, without limitation, the days and hours during which any work may be done. Any contractor employed by a Unit Owner may not employ any Person who may cause labor stoppages in the work of Condominium employees or other contractors or subcontractors employed in the Condominium. If the Declarant or Board of Managers incurs any costs or fees in reviewing a Purchaser's proposed alteration plans or monitoring such work, such costs or fees shall be reimbursed by the Purchaser. The provisions of this Paragraph shall not apply to Declarant or an affiliate.

(c) All structural additions, alterations, repairs or improvements by Unit Owners shall be made in compliance with all Laws, rules, ordinances and regulations of all governmental authorities having jurisdiction thereof. A Unit Owner making or causing to be made any structural addition, alteration, repair or improvement shall agree and shall be deemed to have agreed, to hold the Board of Managers and all other Unit Owners harmless from any liability arising therefrom.

(d) Any application to any department of the City of New York or to any other governmental authority having jurisdiction thereof for a permit to make a structural alteration, addition, improvement or repair in or to any Unit so approved by the Board shall, if required by Law or such department or authority, be executed by the Board or, if required by the Board, provided that the Board shall not incur any liability, cost or expense in connection with such application or to any contractor, subcontractor, materialman, architect or engineer on account of such alteration, addition, improvement or repair or to any person having any claim for injury to person or damage to property arising therefrom.

(e) In the event that any alterations, additions, improvements or repairs made by any Unit Owner materially delay, prevent or adversely affect or create a significant risk of materially delaying, preventing or adversely affecting, whether directly or indirectly, the issuance or reissuance of a temporary or permanent certificate of occupancy for other Units in the Building, then, upon the written request of the Declarant or the Board of Managers, the Unit Owner shall restore the Unit, at such Unit Owner's sole cost and expense, to its original condition. If such Unit Owner fails to commence diligently to and completely restore the Unit within fifteen (15) days of receipt of written request, then the Declarant or the Board of Managers, as the case may be, shall be entitled to enter and restore the Unit at the expense of the Unit Owner and to exercise any other remedies provided for in these By-Laws.

Section 10. Right of Entry. In general, the Board of Managers and any Managing Agent, other employees, contractors and/or any other Person authorized by the foregoing shall have a reasonable right of access to any Unit, subject to the rights of tenants such Units, if any, pursuant to existing leases, and to all portions of the Common Elements and Limited Common Elements for the purpose of carrying out any of their obligations under these By-Laws or the Declaration of the Condominium. Whenever possible and practical, notice of such access or intent to gain access shall be given to the Unit Owner by the Board of Managers.

Section 11. Rules and Regulations. In addition to the other provisions of these By-Laws, including, but not limited to, Sections 7 and 8 hereof, the Rules and Regulations annexed hereto as Exhibit 1 and made a part hereof, shall govern the use of the Units, the Common Elements and the Limited Common Elements. Except as otherwise set forth in these By-Laws and the Declaration, the Board of Managers may from time to time, modify, amend or add to the Rules and Regulations. Copies of any newly adopted modified, amended or additional Rules and Regulations shall be furnished by the Board of Managers not less than thirty (30) days prior to the effective date thereof. Notwithstanding anything to the contrary contained herein, the Rules and Regulations may not be amended so as to adversely affect either Unit Owner without the prior written consent of such Unit Owner.

## **ARTICLE VII. NOTICES**

Section 1. Definition. Whenever under the provisions of the Declaration or of these By-Laws, any notice, demand, statement or other communication is required to be given to the Board of Managers, any Managing Agent or Unit Owner, or lender, it shall not be construed to mean personal notice; but such notice may be given in writing, by personal delivery or by registered or certified mail, addressed to the Board of Managers at its principal office, such Manager, Managing Agent or Unit Owner at such address as appears on the books of the Condominium or at such other address given to the Board of Managers by notice in accordance with the provisions of this Section. Notwithstanding the foregoing, billing statements for monthly charges or other regularly recurring items may be delivered by hand or regular mail, unless otherwise determined by the Board of Managers. All notices shall be deemed to have been given when personally delivered or five days after mailing in a postage-prepaid sealed envelope, except notices of change of address which shall be deemed to have been given when received.

Section 2. Waiver of Service of Notice. Whenever any notice is required to be given under the provisions of the Declaration or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## **ARTICLE VIII. INSURANCE AND INSURANCE TRUSTEE**

Section 1. Insurance to be Carried by the Board of Managers. Unless otherwise waived or required to be carried by the Unit Owners, or unless otherwise unobtainable, or otherwise required by the Permitted Mortgagees, the Board of Managers shall be required to obtain and

maintain, the following “master” or “blanket” type insurance: “all risk” insurance which includes fire, extended coverage, vandalism and malicious mischief, water damage, lightning and natural disaster insurance, insuring the Building, including Common Elements, Limited Common Elements, the Units, together with all heating, and any air conditioning or other service machinery to be contained therein (but not including the Land, foundation, excavation and other items normally excluded from coverage, such as wall, ceiling or floor decorations or covering or furniture, furnishings, fixtures, equipment or other personal property supplied or installed by Unit Owners or their tenants), covering the interests of the Condominium, the Board of Managers and all Unit Owners and their mortgagees, as their interests may appear, in an amount at least equal to one hundred (100%) percent of the full replacement value of the Condominium (exclusive of depreciation, the cost of land excavations, footings and foundations and other items normally excluded from such coverage). All references herein to a “master” or “blanket” type policy of property insurance are intended to denote single entity condominium insurance coverage. Any insurance maintained by the Board may provide for such deductible amounts as the Board determines.

The name of the insured under such policies must be set forth therein substantially as follows: “Board of Managers of Bedford Courts I Condominium and the Insurance Trustee for use and benefit of the Unit Owners”. Each of such policies shall contain a New York standard mortgagee clause (without contribution) in favor of each mortgagee of a Unit, which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee hereinafter set forth; and such other insurance as the Board of Managers may determine.

All such policies shall provide that adjustment of loss shall be made by the Board of Managers with the approval of the Insurance Trustee, and that the net proceeds thereof, if \$100,000 (or some other agreed upon amount) or less, shall be payable to the Board of Managers, and if more than such amount, shall be payable to the Insurance Trustee, to be applied for the purpose of repairing, restoring or rebuilding the Building, unless otherwise determined by the Unit Owners or by a Permitted Mortgagee. The Board of Managers is hereby irrevocably appointed agent for each Unit Owner for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose, in each case subject to the rights of Permitted Mortgagees.

The Insurance Trustee shall be the sole loss payee under such insurance policy.

All policies of physical damage insurance shall contain, to the extent obtainable, a waiver by the insurer of any right to claim by way of subrogation against the Board of Managers, the Managing Agent, any Unit Owner or any tenant of a Unit and a waiver of any reduction of pro rata liability of the insurer as a result of any insurance carried by Unit Owners or of the invalidity arising from any acts of the insureds or any Unit Owners, and the Unit Owners, individually, as well as the Condominium shall be the primary insureds to the extent as their interests may appear. Such policies shall also provide that they may not be cancelled or modified without at

least thirty (30) days prior written notice to all of the insureds, including all named mortgagees of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Unit Owners and mortgagees of Units so requesting at least thirty (30) days prior to expiration of the then current policies. Certificates of insurance shall be issued to each Unit Owner and mortgagee upon request. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Managers shall obtain an estimate from a fire insurance company or otherwise of the full replacement value of the Condominium, including all of the Common Elements and Limited Common Elements appurtenant thereto but exclusive of Land for the purpose of determining the amount of fire insurance to be effected pursuant to this Section. Appraisals of the replacement value as required herein shall be obtained and all appropriate insurance coverage shall be adjusted accordingly.

The Board of Managers shall also obtain and maintain, to the extent obtainable and desired, workers' compensation insurance, employer liability, New York State disability insurance and blanket fidelity insurance covering all employees of the Condominium and all other persons who handle funds of or administered by the Condominium in sufficient amounts to protect fully the interest of the Condominium and they be carried on each member of the Board of Managers, officers of the Condominium and the Managing Agent.

Where any Managing Agent has the responsibility for handling or administering funds of the Board of Managers, the Managing Agent may be required to maintain or the Board may provide fidelity coverage for the Managing Agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of the Condominium. Such fidelity bonds shall name the Board of Managers as an obligee and shall not be less than three (3) months collections. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of person serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein shall be paid by the Board of Managers as a Common Charge. Any bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to the Board of Managers and Insurance Trustee.

The Condominium shall also have comprehensive general liability insurance in such limits as the Board of Managers may from time to time determine, covering each member of the Board of Managers, the Managing Agent and each Permitted Mortgagee, except arising out of occurrences within its own Unit, each Unit Owner. Such public liability coverage shall also cover cross liability claims of one insured against the other. Until the first meeting of the Board of Managers following the first annual Unit Owners meeting, such public liability insurance shall be in a single limit of \$1,000,000 primary coverage covering all claims for bodily injury and for property damage arising out of one occurrence. Such public liability insurance shall commence upon effectiveness of the Condominium. The Board shall also secure boiler and machinery insurance, plate glass insurance, to the extent deemed necessary, and directors' and officers' errors and omissions insurance with a limit of not less than \$1,000,000. All such policies must also have a thirty (30) day notice of cancellation clause.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit provided that such policies contain waivers of subrogation and further provided that the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

[INSURANCE TRUSTEE LANGUAGE TO BE CONFIRMED –

The Board of Managers shall pay to the holder of the first mortgage on Unit 2 (the “**Insurance Trustee**”) an insurance escrow reserve as required by the loan documents, for any insurance policies required under these By-Laws. Such amounts shall be expended by the Insurance Trustee to reimburse the Condominium for, or to pay directly when due, the premiums of any insurance policies required by these By-Laws. The Unit Owners and the Board of Managers agree that any amount by which the insurance escrow reserve shall, at any time in the sole discretion of the Insurance Trustee, be deficient for the purpose of paying the insurance premiums, shall be paid by the Unit Owners as apportioned by the Insurance Trustee within twenty (20) days after written notice and demand. All amounts in the insurance escrow reserve may be commingled with the general funds of the Insurance Trustee. Upon satisfaction of the loan held by the holder of the first mortgage, any amounts remaining in the insurance escrow reserve shall be returned to the Unit Owners. Absent gross negligence, willful misconduct or bad faith, the Insurance Trustee shall be protected and shall incur no liability for or in respect of any action taken or omitted with respect to this escrow reserve. This provision may not be amended or modified without the written consent of the Insurance Trustee.

Section 2. The Insurance Trustee. The Insurance Trustee, if other than a Permitted Mortgagee, shall be a bank, trust company or savings and loan association having an office in the State of New York, designated by the Board of Managers, and having an adequate capital surplus and undivided profits, as determined by the Board of Managers. All fees and disbursements of the Insurance Trustee shall be paid by the Board of Managers and shall constitute a Common Charge of the Condominium. In the event the Insurance Trustee resigns or fails to qualify, the Board of Managers shall designate a new Insurance Trustee which shall also be a bank, trust company or saving and loan association, located in the State of New York. The Insurance Trustee shall hold all proceeds held by it in accordance with Section 254(4) of the New York Real Property Law or, if the Insurance Trustee is a Permitted Mortgagee, in accordance with its first priority mortgage.

Section 3. Restoration or Reconstruction after Casualty or Condemnation. Any casualty or condemnation proceeds will be paid to the Insurance Trustee and will be disbursed to pay for the repair and restoration of the Property subject to the conditions for disbursement set forth in the Permitted Mortgages. In the event of damage to or destruction of the Condominium as a result of fire or other casualty or in the event the Common Elements or Limited Common Elements or any part thereof are taken by condemnation or by eminent domain, the Board of Managers shall arrange for the prompt repair and restoration of the Building, and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all property insurance policies or condemnation awards, as the case may be, to the contractors engaged in such repairs and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute an expense that each

party pays in accordance with its common interest, and the Board of Managers may assess all the Unit Owners for such deficit as part of the Common Charges.

Subject to the rights of the Permitted Mortgagees and notwithstanding the foregoing paragraph, if 75% or more of the Property, Common Elements and Limited Common Elements are destroyed or are taken in condemnation and the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, pursuant to Section 339-cc of the Condominium Act, in which event the Property will not be repaired and the net proceeds of sale, together with the net proceeds of property insurance policies or condemnation awards (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of property insurance proceeds or condemnation awards shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds or condemnation awards) shall be considered as one fund and shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Unit Owners in proportion to their respective Common Interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on its Unit, including mortgage liens, in the order of the priority of such liens.

Whenever in this Section the words “promptly repair” are used it shall mean repairs are to begin no more than sixty days from the date the Insurance Trustee notified the Board of Managers and the Unit Owner or Unit Owners that it holds proceeds of insurance sufficient to pay the estimated costs of such work; or not more than ninety days after Insurance Trustee notified said Board of Managers and Unit Owner or Owners that such funds are insufficient to pay said estimated costs and advising them of the amount of the required completion bond, if necessary. If there is no Insurance Trustee, then the aforementioned 60 and 90 day periods shall begin from the date of notification by an insurance adjuster retained by the Board of Managers.

If the Units, Common Elements or Limited Common Elements are destroyed or damaged by fire or other casualty or taken by condemnation and the proceeds or awards are insufficient to cover or exceed the cost of repairs or restoration, the deficit or surplus will be borne or shared entirely by all Unit Owners in proportion to their respective Common Interests. In any other casualty or condemnation, any deficit or surplus of insurance proceeds or condemnation awards shall be borne or shared by all Unit Owners in the proportion that the cost of repairing the damage, destruction or condemnation to their respective Units bears to the total cost of repairing all damage or destruction.

Subject to the rights of the Permitted Mortgagees, if a portion of any Unit shall be taken in condemnation or by eminent domain and the Condominium shall not be terminated by reason of a simultaneous taking pursuant to the terms of this Section, the Common Interest appurtenant to such Unit shall be adjusted in the proportion that the total floor area of such Unit after such taking bears to the total floor area of such Unit prior to such taking. The Board of Managers shall promptly prepare and record an amendment to the Declaration reflecting the new Common Interest appurtenant to such Unit, which amendment shall be executed by the Owner of such Unit together with the holders of record of any liens thereon (or in lieu of execution by such Unit Owner and lienors, the same may execute a consent to such amendment in recordable form).

Following the condemnation and the recording of the aforementioned amendment to the Declaration, the votes appurtenant to such Unit shall be based upon the new Common Interest of such Unit, and, in the event of taking of an entire Unit, the right to vote appurtenant to such Unit shall wholly terminate. In either event, the Common Interests of the other or remaining Units shall be adjusted accordingly and reflected in an amendment to the Declaration duly executed and acknowledged by the Board of Managers and the Owners of, together with the holders of record of, and in accordance with Article XII(c) hereof, all liens upon, all of the other or remaining Units.

Nothing in these By-Laws or the Declaration shall be construed to grant a Unit Owner or any other Person priority over the rights of a Permitted Mortgagee in the case of a distribution to a Unit Owner of insurance proceeds or condemnation awards for loss of or damage to a Unit, the Common Elements or Limited Common Elements.

The Condominium and each Unit Owner shall cooperate in assuring that all insurance policies maintained by the Condominium are not duplicative of the policies maintained by each Unit Owner and that such policies provide coverage that is required to be maintained under any organizational documents of a Unit Owner or the requirements of any Permitted Mortgagee.

## **ARTICLE IX. DEFAULT AND RIGHTS OF ACTION**

Section 1. Rights of Action. Each Unit Owner shall be governed by and shall conform to all of the terms of the Declaration and these By-Laws, the Condominium Act and the Rules and Regulations, as any of the same may be amended from time to time, and with all resolutions and decisions adopted thereto. In addition to the remedies provided in Section 339-j of the Condominium Act, the Board of Managers shall have the right, in addition to such other rights set forth in these By-Laws, to (a) if the Unit Owner fails to commence to abate or remove a violation or breach within thirty (30) days following notice from the Board of Managers to such Unit Owner, enter any Unit or Common Element, in which or as to which, a violation or breach exists and to summarily abate and remove at the expense of the defaulting Unit Owner any structure, thing or condition resulting in such violation or breach and the Board of Managers shall not be deemed guilty or liable in any matter of trespass or (b) bring an action to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach. Unit Owners shall have similar rights of action against the Board of Managers. The aforesaid relief shall not be exclusive of other remedies provided by Law.

Section 2. Defaults by Unit Owners. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by such Unit Owner's act, neglect or carelessness or the act, neglect or carelessness of any employee, agent, licensee or invitee, but only to the extent that such expense is not covered by the proceeds of insurance. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or other appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be

entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be determined by a court.

## **ARTICLE X. AMENDMENTS**

Section 1. In General. (a) Except as specifically provided herein or in the Declaration to the contrary, the Declaration and these By-Laws may be amended at any duly called Unit Owners' meeting, provided that (i) the notice of the meeting shall contain a full statement of the proposed amendment; (ii) the amendment shall be approved by all of the Unit Owners in number and Common Interest, (iii) said amendment shall be set forth in a duly recorded amendment to the Declaration and (iv) such amendment is not inconsistent with the Regulatory Documents (as such term is defined in the Declaration). Such amendment shall be executed by the Board of Managers, as attorney-in-fact for the Unit Owners, coupled with an interest, for the purpose of approving and executing any instrument effecting such amendment. No amendment, however, will affect or impair the validity or priority of the Unit Owners' interest or their Common Interests or the interests of holders of a mortgage encumbering a Unit or Units, without the express written consent of all the parties affected thereby. Notwithstanding anything to the contrary, in no event shall these By-Laws be amended without the prior consent of the Permitted Mortgagees, which consent shall not be unreasonably withheld.

In no event shall this Article X Section 1 be amended without the unanimous written consent of the Unit Owners and Permitted Mortgagees.

Section 2. Consent of Declarant and Mortgagee. Notwithstanding anything contained in this Article to the contrary, no amendment of or to the Declaration or these By-Laws shall be effective in any respect (a) without the prior written consent of the affected Unit Owner(s) with respect to any amendment of or to the Declaration or these By-Laws modifying the permitted uses of the Units or the Rules and Regulations modifying the permitted uses of any such Unit or affecting the rights, privileges, easements, licenses or exemptions granted to any Unit Owner, (b) without the prior written consent of the Declarant or its designee with respect to any amendment of or to the Declaration or these By-Laws modifying the permitted uses of the Building or any portion thereof or affecting the rights, privileges, easements, licenses or exemptions granted to Declarant or its designee or otherwise adversely affecting Declarant or its designee, or (c) without the prior written consent of the Permitted Mortgagees and Unit Owners if such amendment would affect the rights, privileges, easements, licenses or exemptions granted to the Unit Owners. Notwithstanding anything contained herein to the contrary, no amendment of those Articles or provisions in the Declaration or these By-Laws affecting the rights and privileges of any Permitted Mortgagee shall be effective as against such Permitted Mortgagee unless such Permitted Mortgagee has given its prior written consent thereto, which consent shall not be unreasonably withheld.

## **ARTICLE XI. SELLING, MORTGAGING AND LEASING UNITS**

Section 1. Mortgage of Units and Notice to Condominium.

(a) Each Unit Owner shall have the right to mortgage its Unit without restriction, except in accordance with the Regulatory Documents (as such term is defined in the Declaration) and subject to prior written consent of any Permitted Mortgagee of such Unit. A Unit Owner which so mortgages its Unit shall notify the Condominium through the Managing Agent, if any, or the President of the Board of Managers in the event there is no Managing Agent, of the name and address of its mortgagee and, if so requested, shall file a conformed copy of such note and mortgage with the Board. A Unit Owner which satisfies a mortgage covering its Unit shall so notify the Board (or Managing Agent) and if requested, shall file a conformed copy of the satisfaction of mortgage with such Board. Such Unit Owner shall, prior to making such mortgage, satisfy all unpaid liens against its Unit, other than Permitted Mortgages. A Unit Owner who satisfies a mortgage covering its Unit shall so notify the Board and, if so requested, file a conformed copy of the satisfaction or discharge of such mortgage with the Board. The Board of Managers shall maintain such information in a book entitled "Mortgages of Units" or some similar record.

Section 2. Notices of Action. A holder, insurer or guarantor of a mortgage on a Unit (including the LC Provider, for so long as the Credit Enhancement is outstanding) (collectively referred to herein as "**Permitted Mortgagee**") will each be entitled to timely written notice of:

(a) any proposed amendment of the Condominium Documents, including but not limited to an amendment effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Charges pertaining thereto, (iii) the number of votes in the Board of Managers appertaining to any Unit or (iv) the purposes to which any Unit, the Common Elements or Limited Common Elements are restricted;

(b) any proposed amendment to or termination of the Condominium;

(c) any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a mortgage held, insured or guaranteed by such Permitted Mortgagee;

(d) any delinquency in the payment of assessments or Common Charges owed by a Unit Owner, subject to the mortgage of such Permitted Mortgagee, where such delinquency has continued for a period of 60 days;

(e) any change in the Managing Agent; and

(f) any lapse, cancellation or material modification of any insurance policy maintained by the Board of Managers pursuant to Article VIII hereof.

Section 3. Selling and Leasing Units. (a) Each Unit Owner may, upon at least 10 days written notice to its Permitted Mortgagee, transfer or lease all or a portion of its Unit in the Condominium, provided that it meets any requirements of its Permitted Mortgagee, and any applicable provision of the Regulatory Documents, the provisions of the Condominium Act and applicable provisions of Law.

(b) Any purported sale or lease of a Unit in violation of this Section shall be voidable at the election of the Board of Managers, and, if the Board of Managers shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Board of Managers to commence legal proceedings to eject the purported purchaser (in the case of an unauthorized sale) and to evict the purported tenant (in the case of an unauthorized leasing) in the name of the said Unit Owner as the purported owner or landlord. Said Unit Owner shall reimburse the Board of Managers for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

(c) Whenever the term "Unit" is referred to in this Section, it shall include the Unit, the Unit Owner's "Appurtenant Interest," which is the Unit Owner's undivided interest in the Common Elements and Limited Common Elements appurtenant thereto, the proportionate interest in any Units acquired by the Board of Managers and any other assets held by the Board.

(d) The provisions of this Article shall also not apply to the acquisition or sale of a Unit by a Permitted Mortgagee, which shall acquire title to such Unit by foreclosure, power of sale, other judicial sale or by deed in lieu of foreclosure. Such provisions shall, however, apply to any purchaser from such mortgagee.

Section 4. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to its Unit without including therein its Appurtenant Interest, it being the intention to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted even though the latter shall not be expressly mentioned or described therein. No part of the Common Interest appurtenant to any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such Interest is appurtenant or as part of a sale, conveyance or other disposition of such part of the appurtenant Common Interests of all Units. Nothing in this Section 4 shall prohibit the lease of any Unit without the simultaneous lease of its appurtenant Common Interest.

Section 5. Waiver of Partition Rights. The Unit Owners waive all of their voting rights concerning partition respecting any Unit acquired by the Board of Managers, on behalf of all Unit Owners, as tenants-in-common, in accordance with this Article. Further, the Board of Managers shall not be entitled to vote any interest acquired pursuant to this Article XI.

Section 6. Payment of Common Charges and Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease its Unit unless all unpaid Common Charges and amounts theretofore assessed by the Board of Managers against such Unit shall have been paid in full and until such Unit Owner shall have satisfied all unpaid liens against its Unit, other than mortgages as permitted by these by-laws, if permitted by the holder of any such mortgage. Such unpaid Common Charges, however, can be paid out of the proceeds from the sale of a Unit, or by the grantee. Further, a Unit Owner may convey its Unit and its Common Interest appurtenant thereto to the Board of Managers on behalf of all Unit Owners free of any cost to the Board or the Unit Owners and upon such conveyance such Unit Owner shall not be

liable for any Common Charges thereafter accruing against such Unit. Any sale or lease of any Unit in violation of this Section shall be voidable at the election of the Board of Managers.

Section 7. Charges Imposed on Sale or Lease of Units. If permitted by Law, the Board shall be entitled to fix by resolution and collect, before any sale or lease of a Unit is consummated, a reasonable charge to cover its expenses, and any fees due the Managing Agent or any attorney retained by the Board, in connection with the sale or lease. If such charge is adopted, it shall be added to and constitute a portion of the Common Charges payable by the selling or leasing Unit Owner. The aforesaid Common Charge shall not apply to the lease of or transfer of any Unit by a Permitted Mortgagee or the Declarant.

Section 8. Notices Concerning Unit Occupancy. Within five (5) days following the acquisition of a Unit or the commencement of a lease for a Unit relating thereto, the new Unit Owner or lessor, as the case may be, shall notify the Managing Agent as to the name of the purchaser or lessee.

Section 9. Signage. Any signage to be displayed by a Unit Owner or tenant thereof on the exterior of such owner's Unit shall adhere to design standards to be developed by the Board of Managers or be approved by the Board of Managers.

## **ARTICLE XII. CONDEMNATION**

(a) The Board of Managers shall represent the Unit Owners (and each Unit Owner approves the Board of Managers as attorney-in-fact for such purpose) in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements or Limited Common Elements, or part thereof, by the condemning authority. In the event all or part of the Common Elements or Limited Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Insurance Trustee, if the award is more than \$100,000, and to the Board of Managers if the award is \$100,000 or less. If the award is not applied to the repair or restoration of the Common Elements or Limited Common Elements, as the case may be, in accordance with Section 3 of Article VIII, the award shall be distributed as follows:

- (i) So much of the award as is applicable to Common Elements, to the Unit Owners pro rata according to the respective Common Interests appurtenant to the Units owned by such Unit Owners.

(b) In such eminent domain or condemnation proceeding, the Board shall request that the award shall set forth the amount allocated to Common Elements and/or Limited Common Elements. In the event the award does not set forth such allocation then the question of such allocation shall be submitted to arbitration in accordance with Article XV of these By-Laws.

(c) No reallocation of Common Interests resulting from a partial condemnation or partial destruction (as described in Section 3 of Article VIII hereof) of the Condominium may be effected without the approval of the Permitted Mortgagees of first mortgages on the Units affected by any such reallocation.

### **ARTICLE XIII. SEWER SYSTEM**

(a) The Board of Managers and each and every Unit Owner shall keep the internal sewer lines and/or drains and drywells wholly within the boundary limits of the Property, and their point of exit from the Condominium shall not be altered.

(b) The Board of Managers and each Unit Owner (including the Declarant, if applicable) shall maintain the sanitary and storm drainage system, including the internal drains and drywells at all times during the life of the Condominium. They shall be responsible for the abatement of any nuisance due to the use of the system, including the internal drains and drywells that would have an adverse effect on the health, safety, and welfare of the City and State of New York.

(c) The Board of Managers and each and every Unit Owner (including the Declarant, if applicable) shall insure that (i) the internal sewer lines or drains are utilized in such a manner so that the actual conveyance of sanitary flow does not exceed the design capacity of the internal sewer lines or drains as to size, shape, slope and velocity and (ii) that the internal sewer lines or drains have sufficient capacity to take the estimated peak sanitary flow from the Building.

(d) Finally, the Board of Managers and each and every Unit Owner (including the Declarant, if applicable) shall utilize the internal sewer lines or drains and drywells in such a manner that it will not in any way have an adverse effect on the City of New York's completed or pending sanitary and storm water drainage plans for the tributary drainage area or the separate sewer outlets.

### **ARTICLE XIV. BOOKS AND RECORDS**

Section 1. Records. The Board of Managers or the Managing Agent, if any, shall keep detailed records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Unit Owners and financial records and books of account with respect to the activities of the Board, including a chronological listing of all receipts and expenditures. In addition, the Board shall keep a separate account for each Unit, which, among other things, shall contain the amount of each assessment of Common Charges against each such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

Section 2. Audits. Within 150 days after the end of each fiscal year (or such earlier time as may be required by a Permitted Mortgagee), an annual report of receipts and expenditures prepared and certified by an independent certified public accountant or a public accountant, shall be submitted by the Board of Managers to all Unit Owners, and, if so requested, to any Permitted Mortgagee (or its insurer or guarantor), as the case may be. The cost of such report shall be paid by the Unit Owners as a Common Charge.

Section 3. Availability of Documents.

(a) Every Unit Owner or its representative and Permitted Mortgagee, if any, on any Unit shall be entitled to examine the books, records and financial statements of the Condominium upon request and on reasonable notice to the Board during normal business hours or under other reasonable circumstances but not more than once a month. To insure the privacy of all Unit Owners, names of all Unit Owners shall, unless otherwise required by Law or court decision, shall remain strictly confidential.

(b) The Board of Managers shall also be required to make available for inspection to such parties copies of the Declaration or these By-Laws, including, but not limited, to the Declaration, By-Laws, Floor Plans and Rules and Regulations governing the Condominium. Copies of any books and records will be furnished only at the expense of the Unit Owner requesting same.

## **ARTICLE XV. ARBITRATION**

Section 1. General Procedure. Any matter required or permitted to be determined by arbitration pursuant to the terms of the Declaration or these By-Laws shall be submitted for resolution before a single arbitrator in a proceeding held in New York, New York in accordance with the then existing rules of the American Arbitration Association or any successor organization thereto. In the event that the American Arbitration Association shall not then be in existence and has no successor organization, any such arbitration shall be held in New York City, New York before one arbitrator appointed, upon the application of any party, by the Real Estate Board of New York, Inc. The decision of the arbitrator so chosen shall be given within ten (10) days after its selection or appointment. Any arbitrator appointed or selected in connection with any arbitration to be conducted hereunder shall be a member of a law firm whose principal office is located in New York, New York.

Section 2. Variation by Agreement. The parties to any dispute required or permitted to be resolved by arbitration pursuant to the terms of the Declaration or these By-Laws may, by written agreement, vary any of the terms of Section 1 hereof with respect to the arbitration of such dispute or may agree to resolve their dispute in any other manner, including, without limitation, the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as "New York Simplified Procedure for Court Determination of Disputes".

Section 3. Binding Effect. The decision in any arbitration conducted pursuant to the terms of Sections 1 and 2 hereof shall be binding upon all of the parties thereto and may be entered in any court of appropriate jurisdiction.

Section 4. Costs and Expenses. The fees, costs and expenses of the arbitrator shall be borne by the losing party in the arbitration or, if the position of neither party to the dispute shall be substantially upheld by the arbitrator, such fees, costs and expenses shall be borne equally by the disputants. Each disputant shall also bear the fees and expenses of its counsel and expert witnesses. All costs and expenses paid or incurred by the Board of Managers in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses shall constitute Common Charges.

## **ARTICLE XVI. MISCELLANEOUS**

Section 1. Insurance. Except as may otherwise be provided in these By-Laws, under no circumstances shall a Unit Owner permit or suffer anything to be done or left in its Unit which will increase the insurance rates on its Unit or any other Unit, on the Common Elements or on the Limited Common Elements.

Section 2. Invalidity. Should any of the covenants, terms or provisions herein imposed be void or be or become invalid or unenforceable at law or in equity as against any Person or party, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect. In the event any provision of these By-Laws or the Rules and Regulations conflict with the provisions of the Declaration, the provisions of the Declaration shall control.

Section 3. Certain References. Wherever the neuter singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, whatever the context so requires. The terms, "herein", "hereof" or "hereunder" or similar terms used in these By-Laws refer to these entire By-Laws and not to the particular provision in which the terms are used, unless the context otherwise requires. Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of these By-Laws.

Section 4. Conflicts. These By-Laws are set forth to comply with the requirements of the Condominium Act. In case any of these By-Laws conflict with the provisions of the Regulatory Documents, the provisions of the Regulatory Documents shall control. If the conflict is between these By-Laws and Condominium Act or Declaration, the Condominium Act or the Declaration, whichever the case may be, shall control.

Section 5. Mortgagee Provisions. All provisions hereof which provide the LC Provider or a Permitted Mortgagee with any rights, powers, or authority hereunder shall automatically and without need for any amendment hereto become null and void upon (i) the termination of the Credit Enhancement (in the case of the LC Provider), and (ii) the satisfaction of the applicable mortgage, in the case of any Permitted Mortgagee.

## EXHIBIT 1

### **RULES AND REGULATIONS FOR THE UNITS IN BEDFORD COURTS I CONDOMINIUM (as authorized in Section 11 of Article VI of the By-Laws)**

[Rules and Regs to be updated as applicable based on the anticipated uses of the Units, and to remove rules that are more geared toward residential properties]

1. The sidewalks, entrances, passages, public halls, elevator, vestibules, stairways and any areas adjacent to or in the Building shall not be obstructed or used for any purpose, other than ingress to and egress from the Building.

2. Each Unit Owner shall keep its Unit in a good state of preservation and cleanliness. Any determination as to what constitutes a good state of preservation and cleanliness shall be within the sole but reasonable discretion of the Board of Managers. There shall be no exterior changes made to lights or landscaping without Board approval.

3. Nothing shall be hung or shaken from any doors, windows or roofs or placed upon the window sills in the apartments, retail or parking areas. It is prohibited to hang garments, rugs, etc. from the windows of the Building or to string clothes lines on or over the Common Elements, Limited Common Elements or to use any of the Common Elements or Limited Common Elements for storage purposes for Unit Owners, except as permitted by the Board. It is prohibited to dust rugs, etc. from the windows or to clean rugs, etc. by beating on the exterior part of the Building. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed in any of the passages, public halls, vestibules, corridors or stairways of the Common Elements or Limited Common Elements (except for rooms designated for such purposes), nor shall any fire exit thereof be obstructed in any manner.

4. The Board of Managers may, from time to time, curtail or relocate any portion of a Common Element devoted to storage, recreation, utility and metering or service purposes in the Building. In no event may any sort of storage or other use of meter rooms, boiler rooms, and any other room however designated which opens onto a public hall be permitted without the prior written consent of the Board.

5. Nothing shall be done or kept in any Unit, in the Common Elements or in the Limited Common Elements that will increase the rate of insurance of the Building, or the contents thereof, without the prior written consent of the Board. As provided in Section 3(b) of Article VI of the By-Laws, some Unit Owners may pay higher Common Charges if the permitted use of their Units results in higher insurance rates for the Condominium. No Unit Owner shall permit anything to be done or kept in its Unit, in the Common Elements or in the Limited Common Elements, which will result in the cancellation of insurance on the Property, or the contents thereof, or that would be in violation of any Law. No waste shall be committed in the Common Elements or Limited Common Elements.

6. No Unit Owner or any of its tenants, agents, employees, licensees or guests, shall, at any time, bring into or keep in its Unit any inflammable, combustible or explosive fluid, material, chemical or substance, except as may be necessary or appropriate for the permitted uses of such Unit, appurtenant Common Elements or appurtenant Limited Common Elements.

7. No occupant of the Condominium shall make, cause or permit any unusual, disturbing, or objectionable noises or odors to be produced upon or to emanate from his or her Unit, its appurtenant Common Elements or its appurtenant Limited Common Elements or do or permit anything to be done therein that will interfere with the rights, comforts or conveniences of the other Unit Owners or occupants thereof. No occupant of a Unit or Building shall play upon or suffer to be played upon any musical instrument, or operate or permit to be operated a phonograph or other device, radio, television set, or other loudspeaker between midnight and the following 7:00 A.M., if the same shall disturb or annoy other occupants of the Building, unless the same shall have the prior written consent of the Board of Managers, and in no event shall any Unit Owner practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M., unless otherwise consented to by the Board of Managers. No construction, repair work, or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.

8. No plantings will be permitted on any portion of the roof, terrace, or elsewhere in the Common Elements or Limited Common Elements without the prior written approval of the Board. Plantings shall be contained in boxes of wood lined with metal or other materials impervious to dampness and standing on supports at least two inches from the balcony or roof surface, and if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the boxes to draw off water.

9. No group tour or exhibition of any part of the Condominium or any Unit or its contents shall be conducted, nor shall any auction sale be held in such Unit, or in any part of the Condominium, without the consent of the Board or the Managing Agent in each instance.

10. No window guards or other window decorations shall be used in or about any apartment, other than child guards or unless otherwise required by Law, except such as shall have been approved in writing by the Board or the Managing Agent. In no event, however, shall any exterior glass surface of any windows at the Property be colored or painted.

11. No radio or television aerial or satellite devices shall be attached to or hung from the exterior of the Building, and no sign, notice, advertisement, or illumination (including, without limitation, "For Sale", "For Lease" or "For Rent" signs) shall be inscribed or exposed on or at any window or other part of the Building, except their exterior walls or windows or where such as are permitted pursuant to the terms of the Declaration and/or these By-Laws or shall have been approved in writing by the Board of Managers or the Managing Agent. Nothing shall be projected from any window or door of a Unit without similar approval. Notwithstanding the foregoing, the Board of Managers may elect to permit cell phone towers to be attached to the Building pursuant to a commercial lease.

12. All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Unit Owner's Unit.

13. Water-closets and other water apparatus in the Building shall not be used for any purpose other than those for which they were designed, and no sweeping, rubbish, rags, baby wipes, "flushable" type wipes, cleaning wipes or any other article shall be thrown into the same. Any damage resulting from misuse of any water-closets or other apparatus in a Unit shall be repaired and paid for by the Owner of such Unit.

14. Each Unit Owner shall keep its Unit in a good state of preservation, condition, repair and cleanliness in accordance with the terms of these By-Laws.

15. The agents of the Board or the Managing Agent, and any contractor or workman authorized by the Board of Managers or the Managing Agent, may enter any room or apartment in a Unit at any reasonable hour of the day, on at least one day's prior notice, for the purpose of inspecting such Unit for the presence of any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests; however, such entry, inspection and extermination shall be done in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

16. No garbage shall be left in front of Building, front doors or in hallways. All Unit Owners shall be responsible for complying with all recycling regulations from time to time in effect, Department of Sanitation regulations and such other rules as the Board may adopt.

17. Recycling of bottles, cans and paper shall be observed at all times in accordance with the law. All bottles and cans must be washed prior to placement in the recycling bin. Paper products may be paper only. For example, cereal cartons must be emptied of any plastic liner or food residue. No food residue is permitted in the recycling area. This will minimize insect and bacterial issues.

18. Tenants of the Unit Owners shall be responsible for locating and supervising the activities of all persons they admit.

19. Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Board of Managers. Further, any such consent or approval may, in the discretion of the Board of Managers or the Managing Agent, be conditional in nature.

20. The Board of Managers reserves the right to rescind, alter, waive or add, as to one or more occupants, any rules or regulation at any time prescribed for the Unit Owners, when, in the reasonable judgment of the Board of Managers, the Board of Managers deems it necessary or desirable for the reputation, safety, character, security, care appearance or interests of the Unit Owners, or the preservation or good order therein, or the operation or maintenance of the

Building, or the equipment thereof, or the comfort of the Unit Owners, occupants or others therein. No rescission, alteration, waiver or addition of any rule or regulation in respect of one Unit Owner or other occupant shall operate as a rescission, alteration or waiver in respect of any other Unit Owner or other occupant.

**EXHIBIT F**  
**ASSIGNMENT AND ASSUMPTION OF GROUND LEASE AGREEMENT**

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF GROUND LEASE AGREEMENT (this “Assignment”) is made effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and among BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, a New York not-for-profit corporation organized pursuant to Section 402 of the Not-for-Profit Corporation Law of the State of New York (“N-PCL”) and Section 1411 of the N-PCL as a local development corporation, having an address at c/o Settlement Housing Fund, Inc., 247 West 37th Street, 4th Floor, New York, New York 10018 (“Nominal Owner”), as nominee for BEDFORD COURTS III LLC, a New York limited liability company having an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 (“Assignor”), and Nominal Owner, as nominee for BEDFORD COURTS I LLC, a New York limited liability company having an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 (“Assignee”), and NEW YORK CITY LAND DEVELOPMENT CORPORATION, a local development corporation organized pursuant to Section 1411 of the New York State Not-For-Profit Corporation Law, having an address at 110 William Street, New York, New York 10038 (“NYCLDC”).

WHEREAS, the City is the owner of all of that certain property designated as Block 1274, Lot1 on the Tax Map of the Borough of Brooklyn, City and State of New York (the “Property”) as more particularly described on Exhibit A attached hereto and incorporated herein;

WHEREAS, NYCLDC entered into that certain Agreement of Commercial Lease, dated on or about the date hereof, between the City, as landlord, and NYCLDC, as tenant, with respect to the Premises (the “Lease”), with the expectation that, simultaneous with the execution of the Lease, NYCLDC would assign to Assignor, and Assignor would assume from NYCLDC, all of NYCLDC’s right, title, interest and obligations as tenant under the Lease;

WHEREAS, NYCLDC assigned to Assignor, and Assignor assumed from NYCLDC, all of NYCLDC’s right, title and interest, as tenant, in and to the Lease in accordance with the terms of that certain Assignment and Assumption of Lease, and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor’s right, title and interest, as tenant, in and to the Lease in accordance with the terms herein, and

WHEREAS, NYCLDC consents to the assignment by Assignor of all of its right, title, interest and obligations, as tenant, in and to the Lease to Assignee and Assignee’s assumption of all of Assignor’s right, title, interest and obligations, as tenant, in and to the Lease from Assignor.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meaning set forth in the Lease.

2. Assignment and Assumption of Lease. Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title, interest as tenant in and to the Lease and all of Assignor's obligations as tenant in and to the Lease. Assignee, for itself and its successors and assigns, hereby accepts the foregoing assignment and, subject to Paragraph 3 below, assumes all liabilities and obligations of Assignor as tenant under the Lease arising on or after the date hereof and agrees to observe and perform each and every obligation of Assignor as tenant under the Lease.

3. Consent and Release. NYCLDC hereby consents to this Assignment and releases Assignor from all liabilities and obligations of Tenant under the Lease (it being acknowledged and agreed that NYCLDC will look solely to Assignee for the observance and performance of the liabilities and obligations of Tenant under the Lease arising on or after the date hereof). Assignee releases Assignor and any successor thereto, and its officers, directors and employees from any and all liability from claims or causes of action arising under the Lease and the assignment thereof, and the Premises.

4. Lease Administrator. New York City Economic Development Corporation ("NYCEDC") shall administer the Lease as Lease Administrator under the Lease until such time as another party shall replace NYCEDC as Lease Administrator, subject to and in accordance with the terms of the Lease.

5. Notices. All notices, demands, consents, requests or other communications provided for or permitted to be given hereunder by a party hereto must be in writing and shall be deemed to have been properly given or served, as follows:

If to Assignor:

Bedford Courts Local Development Corporation  
c/o Settlement Housing Fund, Inc.  
247 West 37th Street, 4th Floor  
New York, New York 10018  
Attn: Lee Warshavsky

With copies to:

Bedford Courts III LLC  
c/o BFC Partners  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attn.: Donald Capoccia

and

Hirschen Singer & Epstein LLP

902 Broadway, 13<sup>th</sup> floor  
New York, New York 10010  
Attn.: Russell A. Kivler, Esq.

If to NYCLDC or NYCEDC:

Executive Vice President for Property Management  
New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: Executive Vice President for Property Management

with copies to:

New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: General Counsel

If to Assignee:

Bedford Courts Local Development Corporation  
c/o Settlement Housing Fund, Inc.  
247 West 37th Street, 4th Floor  
New York, New York 10018  
Attn: Lee Warshavsky

With copies to:

Bedford Courts I LLC  
c/o BFC Partners  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attn.: Donald Capoccia

and

Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> floor  
New York, New York 10010  
Attn: Russell A. Kivler, Esq.

6. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

7. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

8. Recording. This Assignment is intended to be recorded in the City Register immediately following the recordation of the Memorandum of Lease.

*[Signatures Follow on Next Page]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Name: Lee Warshavsky  
Title: Secretary/Treasurer

BEDFORD COURTS III LLC

By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory

**Acknowledged and consented to:**

NEW YORK CITY LAND DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

**ASSIGNEE:**

BEDFORD COURTS LOCAL DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_

Name: Lee Warshavsky

Title: Secretary/Treasurer

BEDFORD COURTS I LLC

By: Bedford Courts I Developer LLC,  
its sole member

By: \_\_\_\_\_

Name: Donald Capoccia

Title: Authorized Signatory



Exhibit A

**LEGAL DESCRIPTION PARCEL**

**BOROUGH OF BROOKLY, BLOCK 1274, LOT 1:**

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.

**ASSIGNMENT AND ASSUMPTION OF GROUND LEASE AGREEMENT**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION  
and  
BEDFORD COURTS III LLC,  
as Assignor,**

**and**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION  
and  
BEDFORD COURTS I LLC,  
as Assignee,**

**Dated: as of \_\_\_\_\_, 20\_\_\_\_**

**Premises: 1561 Bedford Avenue  
Block 1274  
Lot 1  
City of New York  
Borough of Brooklyn  
State of New York**

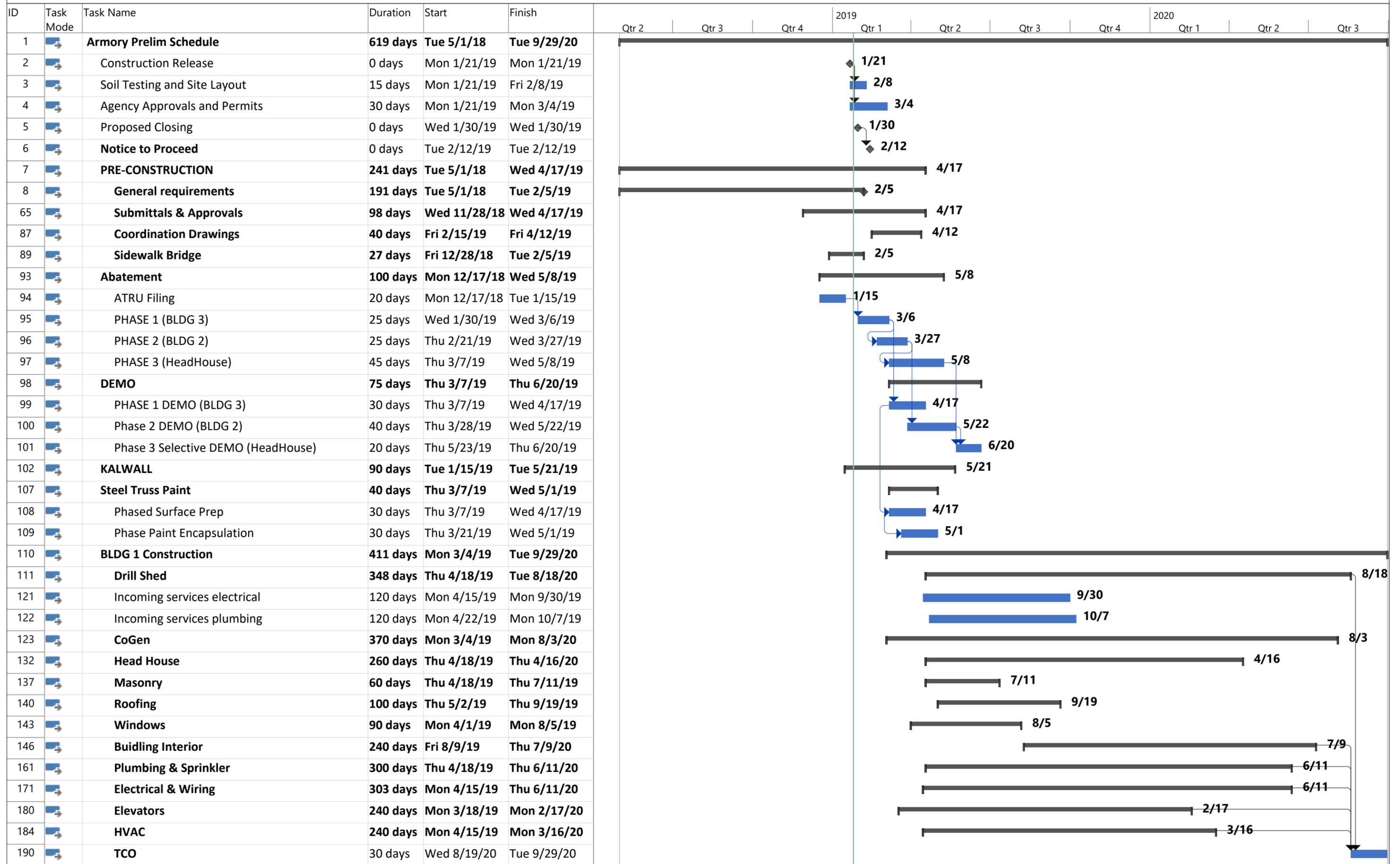
**EXHIBIT G  
CONSTRUCTION SCHEDULE**

(attached)

BEDFORD COURTS III LLC  
ARMORY BUILDERS III LLC  
GENERAL CONTRACTOR CONTRACT

---

EXHIBIT G  
CONSTRUCTION SCHEDULE



**EXHIBIT H**  
**CONDOMINIUM PLANS**

(attached)

DRAFT

# CONDOMINIUM NO. TBD

## BEDFORD COURTS I CONDOMINIUM

1555 BEDFORD  
BROOKLYN, NY 11225

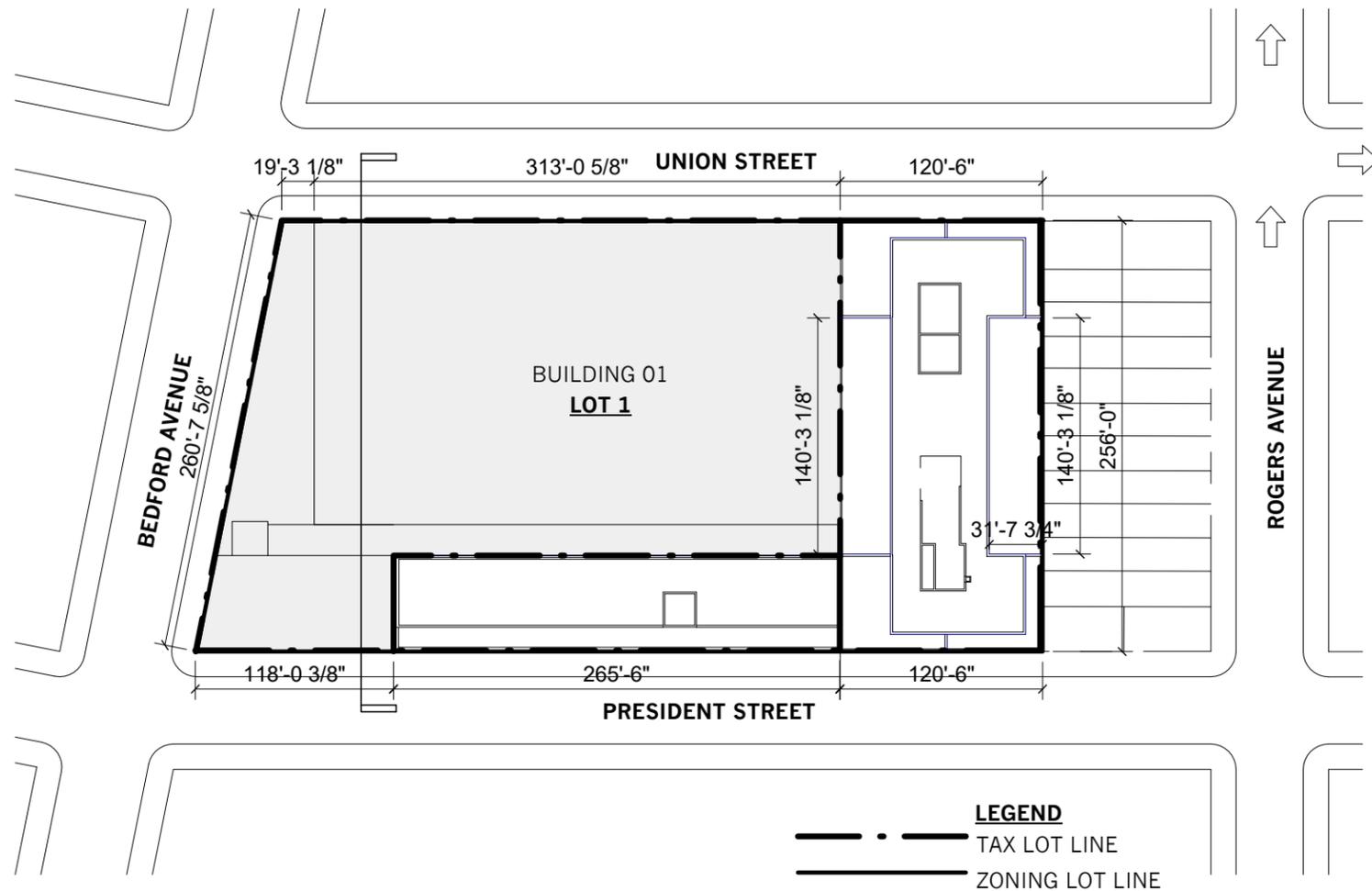
TAX BLOCK 1274

F.K.A. LOT = 1

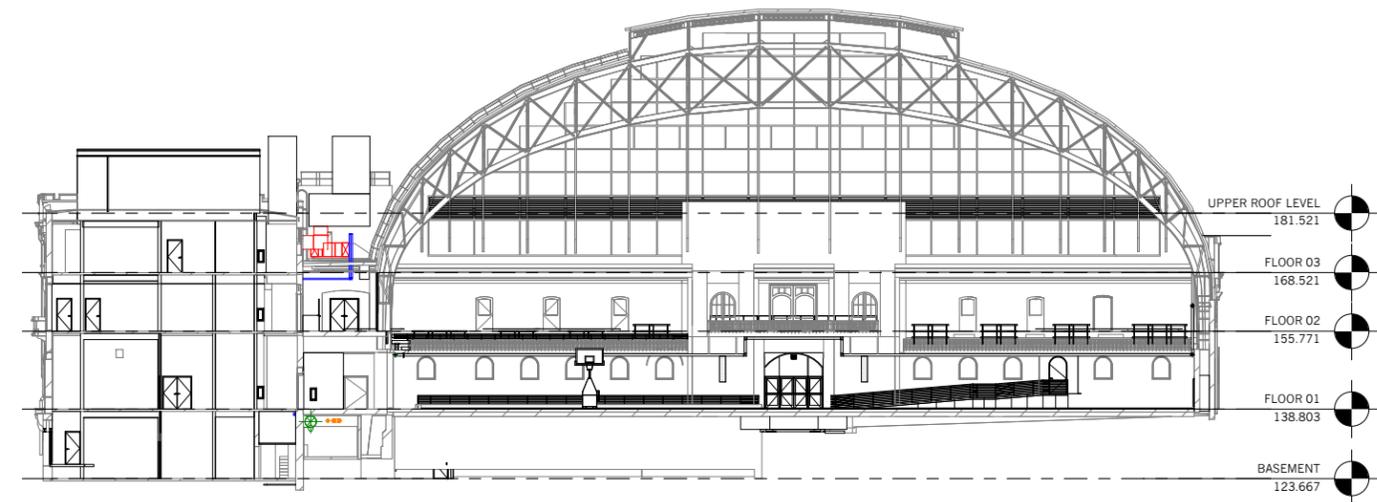
N.K.A. LOT =

THE LAND AFFECTED BY THE WITHIN INSTRUMENT LIES IN  
THE TAX BLOCK 1274 ON THE BLOCK MAP OF TAXES AND  
ASSESSMENTS IN THE BOROUGH OF BROOKLYN

12/17/2018 - DRAFT



**2** SITE PLAN  
1" = 100'-0"

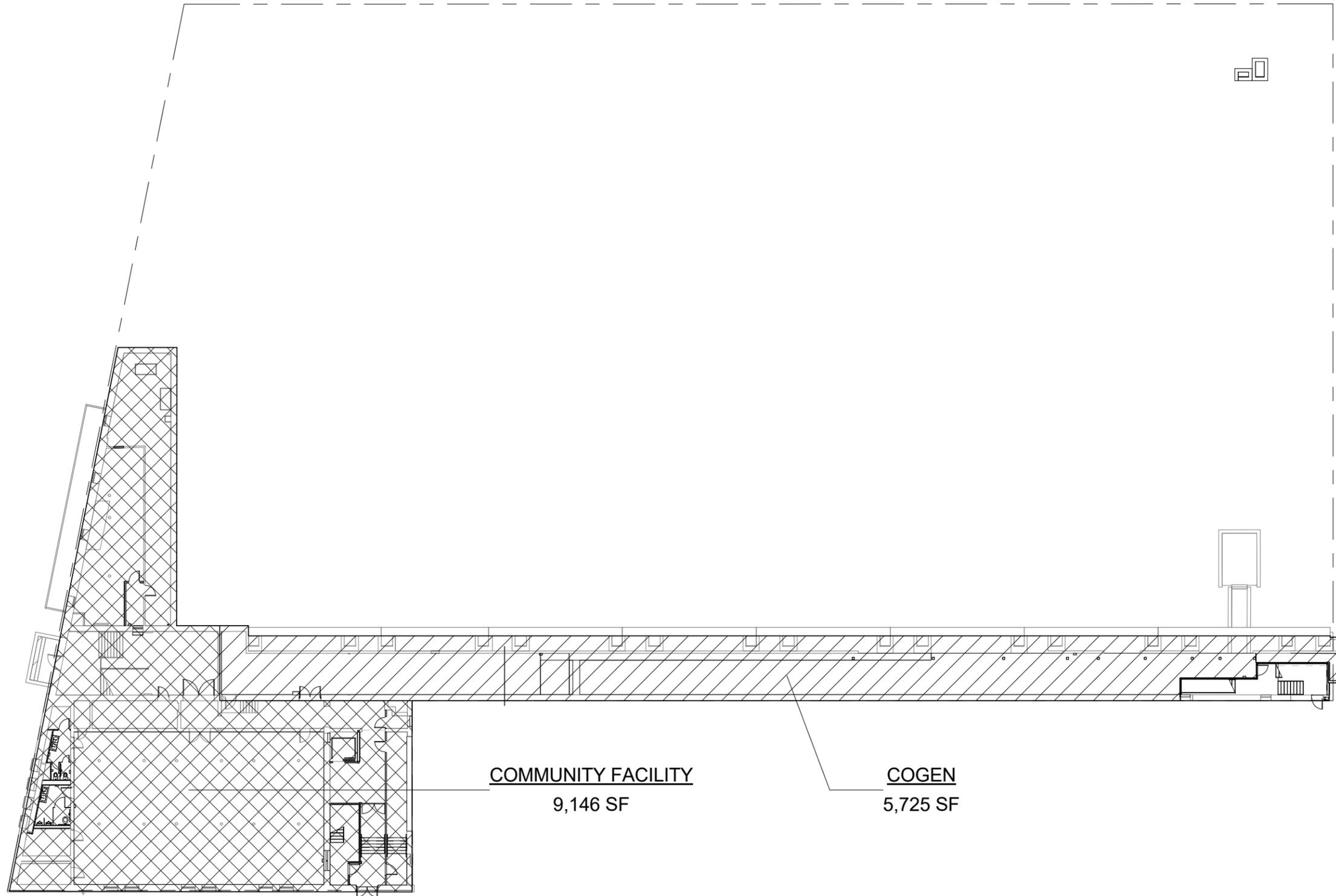


**1** EAST-WEST SECTION  
1" = 40'-0"

## CONDOMINIUM PLAN CERTIFICATION

(A) THE ANNEXED FLOOR PLANS CONSISTING OF xx PAGES COVERING 4 FLOORS IN PREMISES KNOW AS: BEDFORD UNION ARMORY  
1555 BEDFORD AVE., BROOKLYN, NY 11225

(B) THE LOT DESIGNATIONS FOR THE SEPARATE UNIT SHOWN THEREON CONFORM TO THE OFFICIAL TAX MAP LOT NUMBER DESIGNATIONS FOR SUCH UNIT AS SHOWN ON THE BLOCK MAP OF TAXES AND ASSESSMENTS OF THE CITY OF NEW YORK BOROUGH OF BROOKLYN.



**LEGEND**

 COGEN

 COMMUNITY FACILITY

**DIMENSION OF UNITS**

ONCE BUILT, EACH UNIT WILL CONSIST OF THE AREA MEASURED HORIZONTALLY FROM THE EXTERIOR SIDE OF THE EXTERIOR WALLS (COLUMNS, MECHANICAL PIPES, SHAFTS, SHAFT WAYS, CHASES, CHASE WAYS AND CONDUITS ARE NOT DEDUCTED FROM THE MEASUREMENT OF EACH UNIT) TO THE CENTERLINE OF THE PARTITIONS SEPARATING ONE UNIT FROM ANOTHER UNIT, OR SEPARATING ONE UNIT FROM CORRIDORS, STAIRS, ELEVATORS AND OTHER MECHANICAL EQUIPMENT SPACES OR ANY OTHER COMMON ELEMENT NOT WITHIN A UNIT OR TO THE EXTERIOR SIDE OF THE OPPOSITE EXTERIOR WALLS. EACH UNIT WILL CONSIST OF THE AREA MEASURED VERTICALLY FROM THE TOP OF THE STRUCTURAL FLOOR SLAB TO THE UNDERSIDE OF THE STRUCTURAL FLOOR SLAB ABOVE.

**DECLARANT**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,  
C/O SETTLEMENT HOUSING FUND, INC.**  
247 WEST 37TH STREET, 4TH FLOOR  
NEW YORK, NEW YORK 10018

**BEDFORD COURTS I LLC,**  
150 MYRTLE AVENUE, SUITE 2  
BROOKLYN NY 11201

**ARCHITECTS OF CERTIFICATION**

STATE OF NEW YORK  
COUNTY OF NEW YORK

THIS IS TO CERTIFY THAT THIS PLAN IS AN ACCURATE COPY OF A PORTION OF THE PLANS OF THE BUILDING AS FILED WITH ADN APPROVED BY THE DEPARTMENT OF BUILDINGS, CITY OF NEW YORK AND FULLY AND FAIRLY DEPICTS THE LAYOUT, LOCATION, UNIT DESIGNATIONS AND APPROXIMATE DIMENSIONS OF THE UNITS AS BUILT.

NOTARIZATION  
SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY \_\_\_\_\_ OF 2018

**TAX LOT CERTIFICATION**

THE UNIT DESIGNATIONS AND THE TAX LOT NUMBER SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAP OF THE CITY OF NEW YORK, BOROUGH OF BROOKLYN

**1 BASEMENT**  
1/32" = 1'-0"

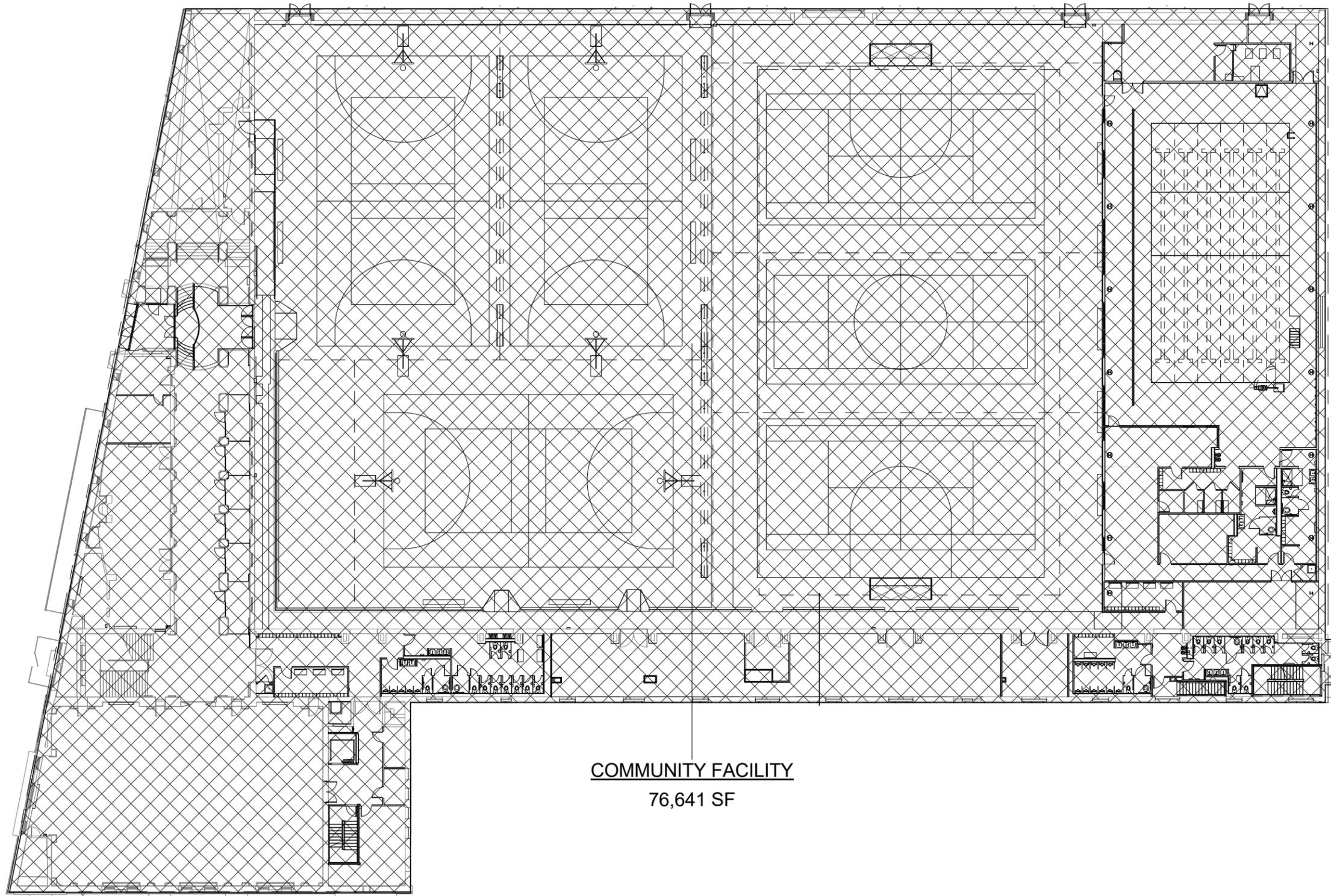
CONDO DOC AREA	LOT #	Area
COGEN	1	5,725 SF
COMMUNITY FACILITY	1	9,146 SF
		14,871 SF



DATE \_\_\_\_\_

TAX MAP SPECIALIST, PROPERTY DIV.

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**LEGEND**

 **COMMUNITY FACILITY**

**DIMENSION OF UNITS**

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\_\_\_\_\_ DAY \_\_\_\_\_ OF 2018

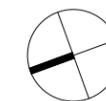
**TAX LOT CERTIFICATION**

THE UNIT DESIGNATIONS AND THE TAX LOT NUMBER SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAP OF THE CITY OF NEW YORK, BOROUGH OF BROOKLYN

**1 FIRST FLOOR**  
1/32" = 1'-0"

**COMMUNITY FACILITY**  
76,641 SF

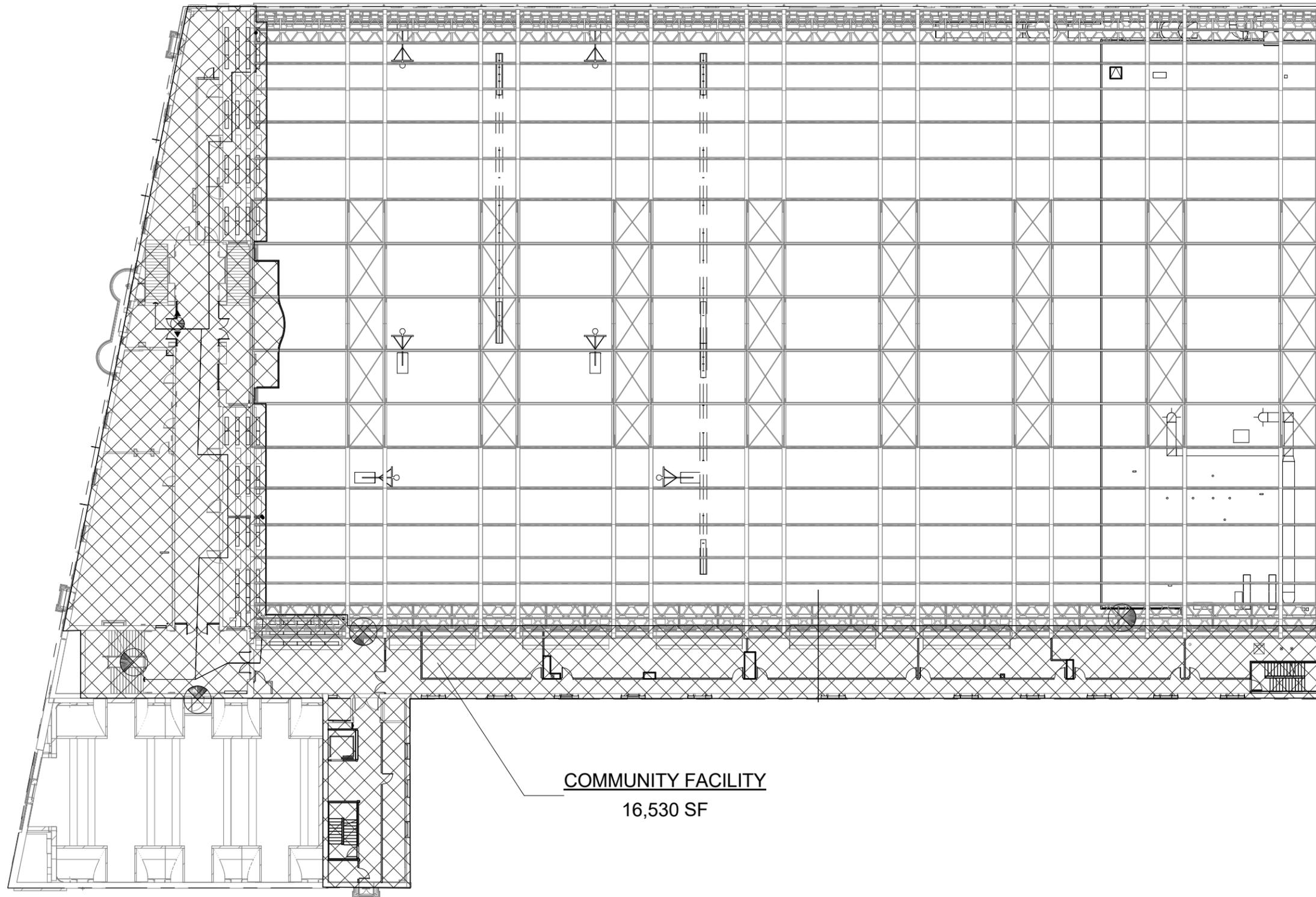
CONDO DOC AREA	LOT #	Area
COMMUNITY FACILITY	1	76,641 SF
		76,641 SF



DATE \_\_\_\_\_

TAX MAP SPECIALIST, PROPERTY DIV.

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**COMMUNITY FACILITY**  
16,530 SF

**1 SECOND FLOOR**  
1/32" = 1'-0"

CONDO DOC AREA	LOT #	Area
COMMUNITY FACILITY	1	16,530 SF
		16,530 SF

**LEGEND**

 **COMMUNITY FACILITY**

**DIMENSION OF UNITS**

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**DECLARANT**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,  
C/O SETTLEMENT HOUSING FUND, INC.**  
247 WEST 37TH STREET, 4TH FLOOR  
NEW YORK, NEW YORK 10018

**BEDFORD COURTS I LLC,**  
150 MYRTLE AVENUE, SUITE 2  
BROOKLYN NY 11201

**ARCHITECTS OF CERTIFICATION**

STATE OF NEW YORK  
COUNTY OF NEW YORK

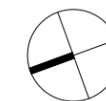
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NOTARIZATION  
SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY \_\_\_\_\_ OF 2018

**TAX LOT CERTIFICATION**

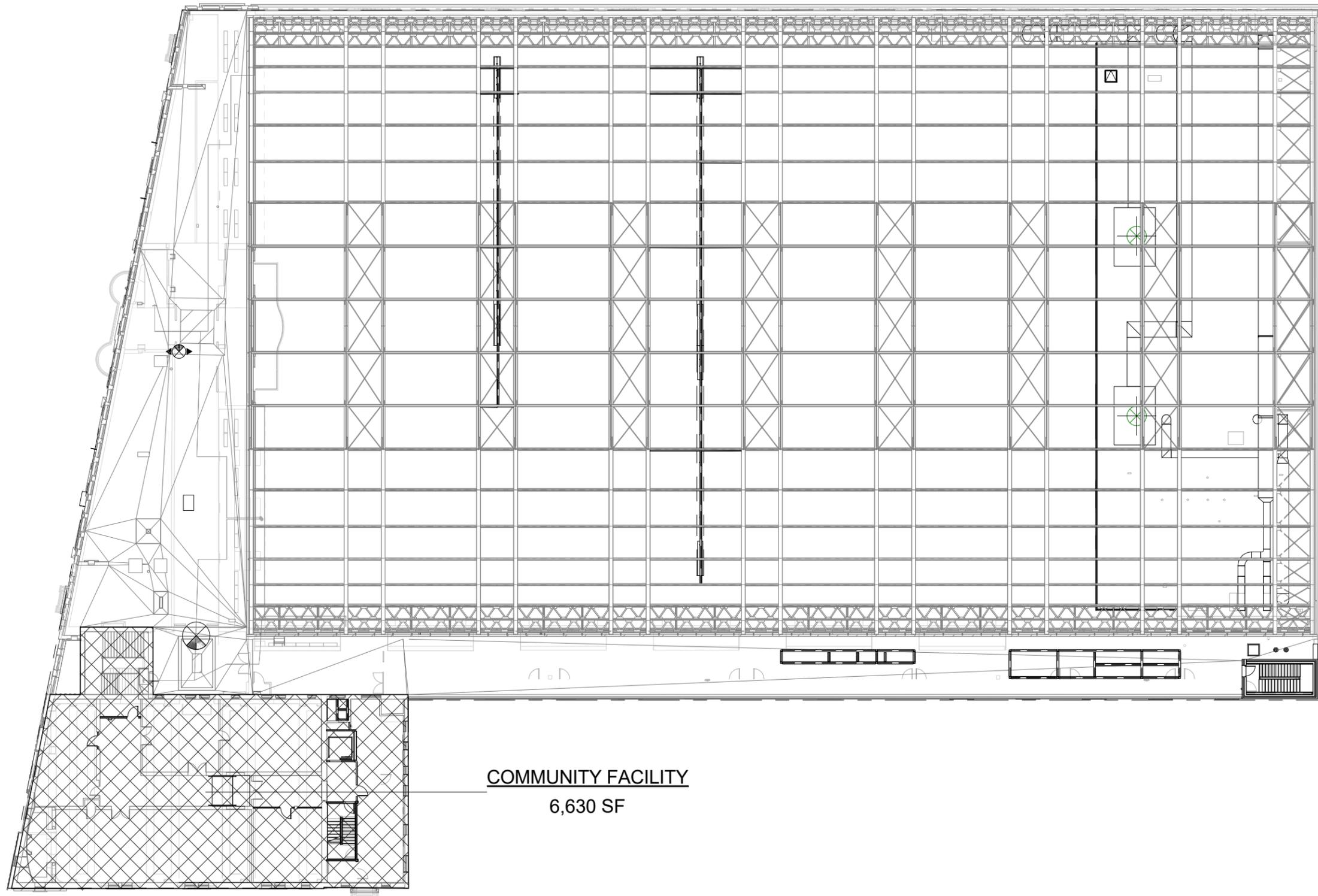
THE UNIT DESIGNATIONS AND THE TAX LOT NUMBER SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAP OF THE CITY OF NEW YORK, BOROUGH OF BROOKLYN



DATE \_\_\_\_\_

TAX MAP SPECIALIST, PROPERTY DIV.

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**LEGEND**

 **COMMUNITY FACILITY**

**DIMENSION OF UNITS**

ONCE BUILT, EACH UNIT WILL CONSIST OF THE AREA MEASURED HORIZONTALLY FROM THE EXTERIOR SIDE OF THE EXTERIOR WALLS (COLUMNS, MECHANICAL PIPES, SHAFTS, SHAFT WAYS, CHASES, CHASE WAYS AND CONDUITS ARE NOT DEDUCTED FROM THE MEASUREMENT OF EACH UNIT) TO THE CENTERLINE OF THE PARTITIONS SEPARATING ONE UNIT FROM ANOTHER UNIT, OR SEPARATING ONE UNIT FROM CORRIDORS, STAIRS, ELEVATORS AND OTHER MECHANICAL EQUIPMENT SPACES OR ANY OTHER COMMON ELEMENT NOT WITHIN A UNIT OR TO THE EXTERIOR SIDE OF THE OPPOSITE EXTERIOR WALLS. EACH UNIT WILL CONSIST OF THE AREA MEASURED VERTICALLY FROM THE TOP OF THE STRUCTURAL FLOOR SLAB TO THE UNDERSIDE OF THE STRUCTURAL FLOOR SLAB ABOVE.

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NEW YORK, NEW YORK 10018

**BEDFORD COURTS I LLC,**  
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SWORN TO BEFORE ME THIS

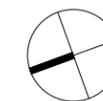
\_\_\_\_\_ DAY \_\_\_\_\_ OF 2018

**TAX LOT CERTIFICATION**

THE UNIT DESIGNATIONS AND THE TAX LOT NUMBER SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAP OF THE CITY OF NEW YORK, BOROUGH OF BROOKLYN

**1 THIRD FLOOR**  
1/32" = 1'-0"

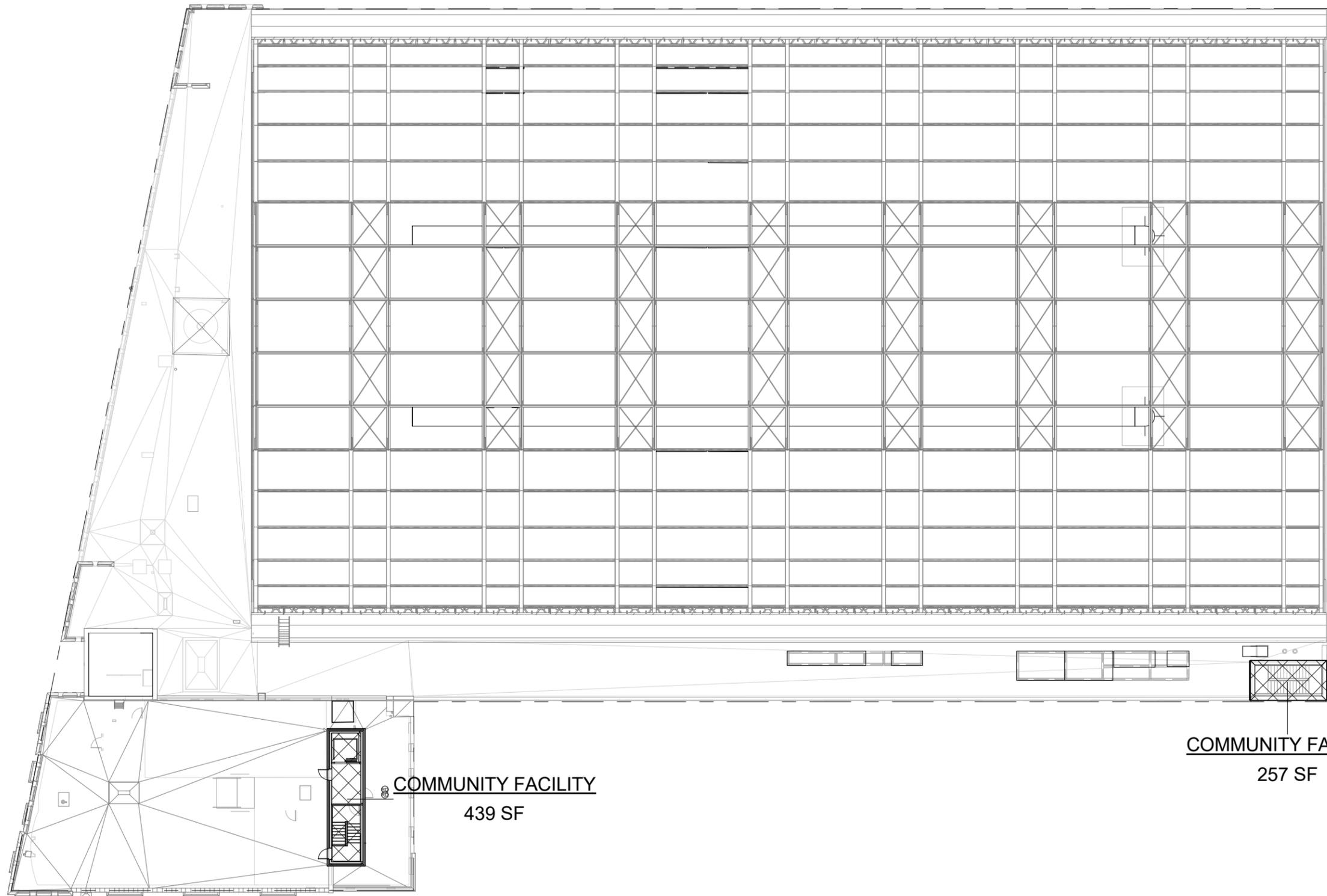
CONDO DOC AREA	LOT #	Area
COMMUNITY FACILITY	1	6,630 SF
		6,630 SF



DATE \_\_\_\_\_

TAX MAP SPECIALIST, PROPERTY DIV.

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**COMMUNITY FACILITY**  
439 SF

**COMMUNITY FACILITY**  
257 SF

# 1 UPPER ROOF

1/32" = 1'-0"

CONDO DOC AREA	LOT #	Area
COMMUNITY FACILITY	1	695 SF
		695 SF

## LEGEND

 COMMUNITY FACILITY

## DIMENSION OF UNITS

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## DECLARANT

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,  
C/O SETTLEMENT HOUSING FUND, INC.**  
247 WEST 37TH STREET, 4TH FLOOR  
NEW YORK, NEW YORK 10018

**BEDFORD COURTS I LLC,**  
150 MYRTLE AVENUE, SUITE 2  
BROOKLYN NY 11201

## ARCHITECTS OF CERTIFICATION

STATE OF NEW YORK  
COUNTY OF NEW YORK

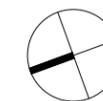
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NOTARIZATION  
SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY \_\_\_\_\_ OF 2018

## TAX LOT CERTIFICATION

THE UNIT DESIGNATIONS AND THE TAX LOT NUMBER SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAP OF THE CITY OF NEW YORK, BOROUGH OF BROOKLYN



DATE \_\_\_\_\_

TAX MAP SPECIALIST, PROPERTY DIV.

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**EXHIBIT I**  
**MEMORANDUM OF LEASE**  
**MEMORANDUM OF SUBLEASE (NMTC)**

This MEMORANDUM OF SUBLEASE (NMTC) (this “Memorandum”) made as of January \_\_, 2019 (the “Effective Date”) by and among BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION, a New York not-for-profit corporation having an address of c/o Settlement Housing Fund, Inc., 247 West 37th Street, 4th Floor, New York, New York 10018 (“BCLDC”), as record sublessor and nominee for BEDFORD COURTS III LLC, a New York limited liability company, having an address of 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, (“Owner” and together with BCLDC, the “Lessor”) and BCLDC as record sublessee and nominee for BEDFORD COURTS I LLC, a New York limited liability company, having an address of 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 (“QALICB” and together with BCLDC, the “Lessee”).

**WITNESSETH**

By executing and recording this Memorandum, Lessor and Lessee give notice of the following facts. Any person taking any interest in the Premises (as defined below) shall do so subject to all documents (including all terms of such documents) and other matters that this Memorandum refers to or discloses.

1. **Lease and Premises.** Lessor, as lessor, and Lessee, as lessee, entered into that certain Agreement of Lease, dated as of the date hereof (and as further amended or modified from time to time, the “Lease”) covering that certain parcel of land commonly known as 1561 Bedford Avenue, Brooklyn, New York and designated as Block 1274, Lot 1 on the Tax Map of the City of New York, Kings County more particularly described in Exhibit A, attached hereto and made a part hereof (the “Premises”).
2. **Term.** The initial term (“Initial Term”) of the Lease commences as of the date hereof and ends of the earlier of (a) the Turnover Date (as such term is defined in the Lease), and (b) at 11:59 p.m. on the day preceding the forty-ninth (49th) anniversary of the Commencement Date (as such term is defined in the Lease) *provided that* such date may be extended if Lessee exercises its rights in accordance with the terms of the Lease, or until such earlier date as the Initial Term shall cease and terminate as provided in the Lease. Subject to the terms of the Lease, Lessee is granted the option to extend the Initial Term for up to five (5) consecutive renewal terms of ten (10) years each.

3. **No Effect on Lease**. This Memorandum is prepared, signed and acknowledged solely for recording purposes under New York Law. The purpose of this Memorandum is to give notice of the existence of the tenancy created by the Lease; and shall not be construed to vary or otherwise affect the rights or obligations of the parties under the Lease as it may be amended. Lessor and Lessee has rights, duties, and obligations (and conditions to its rights) under the Lease but not stated in this Memorandum. If the Lease and this Memorandum conflict, the Lease governs. Nothing in this Memorandum constitutes any representation or warranty by either party. To the extent, if any, that the Lease limits the liability of either Lessor or Lessee, such limitation shall apply with the same force and effect to any liability of Lessor or Lessee under this Memorandum.
  
4. **Successors and Assigns**. The Lease and this Memorandum shall bind and benefit the parties and their successors and assigns. This shall not limit any restriction on assignment or other transfer permitted under the terms of the Lease.

[signatures appear on following page]

IN WITNESS WHEREOF, the undersigned has duly executed this Memorandum of Sublease as of the date first written above.

**LESSOR:**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,**  
a New York not-for-profit corporation

By: \_\_\_\_\_  
Name: Lee Warshavsky  
Title: Secretary/Treasurer

**BEDFORD COURTS III LLC,**  
a New York limited liability company

By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory

**LESSEE:**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,**  
a New York not-for-profit corporation

By: \_\_\_\_\_  
Name: Lee Warshavsky  
Title: Secretary/Treasurer

**BEDFORD COURTS I LLC,**  
a New York limited liability company

By: Bedford Courts I Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory





EXHIBIT A

LEGAL DESCRIPTION

**BOROUGH OF BROOKLY, BLOCK 1274, LOT 1:**

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.

**MEMORANDUM OF SUBLEASE (NMTC)**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,**

**as record sublessor and nominee for**

**BEDFORD COURTS III LLC,**

**collectively, the “Lessor”**

**and**

**BEDFORD COURTS LOCAL DEVELOPMENT CORPORATION,**

**as record sublessee and nominee for**

**BEDFORD COURTS I LLC,**

**collectively, the “Lessee”**

---

Kings County Block 1274 Lot 1

1561 Bedford Avenue, Brooklyn, New York

---

Record and Return to:

Hirschen Singer & Epstein LLP  
902 Broadway, 13th Floor  
New York, New York 10010  
Attn: Russell A. Kivler, Esq.

## ASSIGNMENT AND ASSUMPTION OF LEASE

This ASSIGNMENT OF LEASE (this "Assignment") is made as of the 31st day of January, 2019 by and among NEW YORK CITY LAND DEVELOPMENT CORPORATION, a local development corporation organized pursuant to Section 1411 of the New York State Not-For-Profit Corporation Law ("Assignor"), having an address at 110 William Street, New York, New York 10038, BEDFORD COURTS III LLC, a New York limited liability company ("Assignee"), having an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, and THE CITY OF NEW YORK, a municipal corporation of the State of New York, having an office in City Hall, New York, New York 10007 (the "City").

WHEREAS, the City is the owner of all of that certain property designated as Block 1274, Lot 2 on the Tax Map of the Borough of Brooklyn, City and State of New York (the "Property") as more particularly described on Exhibit A attached hereto and incorporated herein;

WHEREAS, Assignor entered into that certain Agreement of Affordable Residential Lease, dated on or about the date hereof, between the City, as landlord, and Assignor, as tenant, with respect to the Premises (the "Lease"), with the expectation that, simultaneous with the execution of the Lease, Assignor would assign to Assignee, and Assignee would assume from Assignor, all of Assignor's right, title, interest and obligations as tenant under the Lease;

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest, as tenant, in and to the Lease in accordance with the terms herein, and

WHEREAS, the City consents to the assignment by Assignor of all of its right, title, interest and obligations, as tenant, in and to the Lease to Assignee and Assignee's assumption of all of Assignor's right, title, interest and obligations, as tenant, in and to the Lease from Assignor.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meaning set forth in the Lease.

2. Assignment and Assumption of Lease. Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title, interest as tenant in and to the Lease and all of Assignor's obligations as tenant in and to the Lease. Assignee, for itself and its successors and assigns, hereby accepts the foregoing assignment and, subject to Paragraph 3 below, assumes all liabilities and obligations of Assignor as tenant under the Lease arising on or after the date hereof and agrees to observe and perform each and every obligation of Assignor as tenant under the Lease.

3. Consent and Release. The City hereby consents to this Assignment and releases Assignor from all liabilities and obligations of Tenant under the Lease (it being acknowledged and agreed that the City will look solely to Assignee for the observance and performance of the

liabilities and obligations of Tenant under the Lease arising on or after the date hereof). Assignee releases Assignor and any successor thereto, and its officers, directors and employees from any and all liability from claims or causes of action arising under the Lease and the assignment thereof, and the Premises.

4. Lease Administrator. New York City Economic Development Corporation (“NYCEDC”) shall administer the Lease as Lease Administrator under the Lease until such time as another party shall replace NYCEDC as Lease Administrator, subject to and in accordance with the terms of the Lease.

5. Notices. All notices, demands, consents, requests or other communications provided for or permitted to be given hereunder by a party hereto must be in writing and shall be deemed to have been properly given or served, as follows:

If to Assignor:

Executive Vice President for Property Management  
New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: Executive Vice President for Property Management

with copies to:

New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: General Counsel

If to the City

Chief, Economic Development Division  
New York City Law Department  
100 Church Street  
New York, New York 10007  
Attn: Chief, Economic Development Division

If to Assignee:

Bedford Courts III LLC  
c/o BFC Partners  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attn.: Donald Capoccia

With a copy to:

Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> floor  
New York, New York 10010  
Attn.: Russell A. Kivler, Esq.

6. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

7. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

8. Recording. This Assignment is intended to be recorded in the City Register immediately following the recordation of the Memorandum of Lease.

*[Signatures Follow on Next Page]*

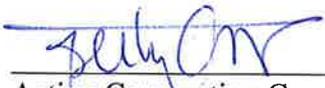
IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

NEW YORK CITY LAND DEVELOPMENT CORPORATION

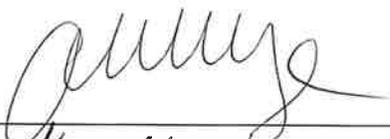
By:   
Name: Spencer Hobson  
Title: Executive Vice President / Treasurer

APPROVED AS TO FORM:

  
Acting Corporation Counsel  
(mm)

**Acknowledged and consented to:**

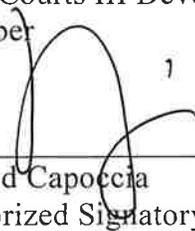
THE CITY OF NEW YORK

By:   
Name: Alicia Glen  
Title: Deputy Mayor

**ASSIGNEE:**

BEDFORD COURTS III LLC

By: Bedford Courts III Developer LLC,  
its sole member

By:  1  
Name: Donald Capoccia  
Title: Authorized Signatory

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

Maxwell C Padden  
Notary Public, State of New York  
No. 02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, ~~2017~~ 2021

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

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

JOSEPHINE MIRANDA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01MI6164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 20 19

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

On \_\_\_\_\_, 2019, before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On January 30, 2019, before me, the undersigned, personally appeared DONALD CAPOCCIA personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



\_\_\_\_\_  
Notary Public

FATMATA K. JALLOH  
Notary Public, State of New York  
Registration #01JA6332614  
Qualified In Westchester County  
Commission Expires Nov. 2, 2019

Exhibit A

**LEGAL DESCRIPTION PARCEL**

**BOROUGH OF BROOKLYN, BLOCK 1274, LOT 1:**

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

BEGINNING at a point on the northerly line of President Street (mapped 70 feet wide), said point being distant 117.45 feet easterly from the intersection of said northerly line of President Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE northerly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with said northerly side of President Street, a distance of 54.66 feet to a point;

THENCE easterly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 265.64 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 89 degrees, 59 minutes, 52 seconds with the previous course, a distance of 265.65 feet to a point, said point being the point or place of BEGINNING.

**MEMORANDUM OF LEASE**

**THE CITY OF NEW YORK, as Landlord,**

**and**

**NEW YORK CITY LAND DEVELOPMENT CORPORATION, as Tenant**

**Dated: as of January 31, 2019**

**Premises: 1089 President Street**

**Block 1274**

**Lot 2**

**City of New York**

**Borough of Brooklyn**

**State of New York**



## MEMORANDUM OF LEASE

**LANDLORD:** THE CITY OF NEW YORK ("Landlord")  
City Hall  
New York, New York 10007

**TENANT:** NEW YORK CITY LAND DEVELOPMENT CORPORATION  
 ("Tenant")  
110 William Street  
New York, New York 10038

**LEASE:** Agreement of Affordable Residential Lease, dated as of January 31,  
2019 (the "Lease"), between Landlord and Tenant.

**PREMISES:** That certain parcel of land lying and being in the City of New York,  
Borough of Brooklyn, State of New York, bounded as described in  
Exhibit A attached hereto and made a part hereof.

**TERM:** The initial term of the Lease (the "Initial Term") commences on the  
date of the Lease (the "Commencement Date") and expire at 11:59  
p.m. on (i) the day that is the Sixty Five (65<sup>th</sup>) anniversary of the  
Commencement Date, or, if the Commencement Date shall be any date  
other than the first day of a calendar month, then the last day of the  
month in which the Sixty Five (65<sup>th</sup>) anniversary of the Commencement  
Date occurs, *provided* that such date may be extended if Tenant exercises  
its rights in accordance with the terms of the Lease, or (ii) such earlier  
date as the Lease may be terminated in accordance with the terms of the  
Lease, (such date, the "Expiration Date").

Subject to the terms of the Lease, Tenant is granted the option to  
extend the Initial Term for up to two (2) consecutive renewal terms of  
Seventeen (17) years each.

**PROVISIONS:** This Memorandum of Lease is subject to all of the terms, conditions  
and agreements set forth in the Lease. This Memorandum of Lease is  
intended to give notice of certain of the terms of the Lease, and is not  
intended to, and shall not be deemed or construed to, change the  
provisions of the Lease in any respect. In the event of any conflict or  
inconsistency between the provisions of this Memorandum of Lease



and the provisions of the Lease, the provisions of the Lease shall prevail.

*[Signature page follows]*



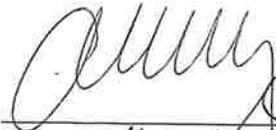
**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Memorandum of Lease as of the 31<sup>st</sup> day of January, 2019.

LANDLORD:

THE CITY OF NEW YORK

ATTEST:

  
\_\_\_\_\_  
Name: Michael McSweeney  
Title: City Clerk

By:   
\_\_\_\_\_  
Name: Anita Glen  
Title: Deputy Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Acting Corporation Counsel  
(mm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:   
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: **Spencer Hobson**  
**Executive Vice President / Treasurer**

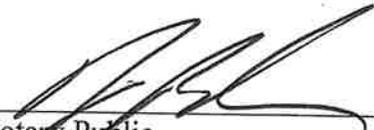
3 Oct 1963

Spencer Hobson

Executive Vice President, Treasurer

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

Maxwell C Padden  
Notary Public, State of New York  
No. 02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017 2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

JOSEPHINE MIRANDA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01MI6164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 20 19

On January 30, 2019, before me, the undersigned, personally appeared Michael Heweeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

ELIA DUMER  
Notary Public, State of New York  
No. 01MI6164430  
Qualified in Richmond County  
My Commission Expires Feb. 01, 20 20



Exhibit A  
DESCRIPTION OF PREMISES

**BOROUGH OF BROOKLYN, BLOCK 1274, LOT 2:**

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

BEGINNING at a point on the northerly line of President Street (mapped 70 feet wide), said point being distant 117.45 feet easterly from the intersection of said northerly line of President Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE northerly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with said northerly side of President Street, a distance of 54.66 feet to a point;

THENCE easterly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 265.64 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 89 degrees, 59 minutes, 52 seconds with the previous course, a distance of 265.65 feet to a point, said point being the point or place of BEGINNING.



**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Memorandum of Lease as of the 3<sup>rd</sup> day of January, 2019.

LANDLORD:

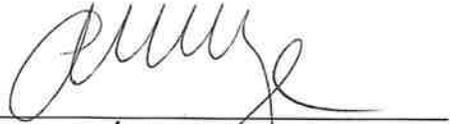
THE CITY OF NEW YORK

ATTEST:



Name: Michael McSweeney  
Title: City Clerk

By:



Name: Alicia Golem  
Title: Deputy Mayor

APPROVED AS TO FORM:

  
Acting Corporation Counsel  
(mm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:



Name: **Spencer Hobson**  
Title: **Executive Vice President / Treasurer**

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**Maxwell C Padden**  
Notary Public, State of New York  
No.02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017 2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**JOSEPHINE MIRANDA**  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M16164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 2019

On January 30, 2019, before me, the undersigned, personally appeared Michael McSweeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

LILJA BRYNER  
County Clerk of Deeds  
Qualified in Kings County  
Commission Expires 01/01/2020

## ASSIGNMENT AND ASSUMPTION OF LEASE

This ASSIGNMENT OF LEASE (this "Assignment") is made as of the 31st day of January, 2019 by and among NEW YORK CITY LAND DEVELOPMENT CORPORATION, a local development corporation organized pursuant to Section 1411 of the New York State Not-For-Profit Corporation Law ("Assignor"), having an address at 110 William Street, New York, New York 10038, BEDFORD COURTS III LLC, a New York limited liability company ("Assignee"), having an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201, and THE CITY OF NEW YORK, a municipal corporation of the State of New York, having an office in City Hall, New York, New York 10007 (the "City").

WHEREAS, the City is the owner of all of that certain property designated as Block 1274, Lot 101 on the Tax Map of the Borough of Brooklyn, City and State of New York (the "Property") as more particularly described on Exhibit A attached hereto and incorporated herein;

WHEREAS, Assignor entered into that certain Agreement of Mixed Residential Lease, dated on or about the date hereof, between the City, as landlord, and Assignor, as tenant, with respect to the Premises (the "Lease"), with the expectation that, simultaneous with the execution of the Lease, Assignor would assign to Assignee, and Assignee would assume from Assignor, all of Assignor's right, title, interest and obligations as tenant under the Lease;

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest, as tenant, in and to the Lease in accordance with the terms herein, and

WHEREAS, the City consents to the assignment by Assignor of all of its right, title, interest and obligations, as tenant, in and to the Lease to Assignee and Assignee's assumption of all of Assignor's right, title, interest and obligations, as tenant, in and to the Lease from Assignor.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meaning set forth in the Lease.

2. Assignment and Assumption of Lease. Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title, interest as tenant in and to the Lease and all of Assignor's obligations as tenant in and to the Lease. Assignee, for itself and its successors and assigns, hereby accepts the foregoing assignment and, subject to Paragraph 3 below, assumes all liabilities and obligations of Assignor as tenant under the Lease arising on or after the date hereof and agrees to observe and perform each and every obligation of Assignor as tenant under the Lease.

3. Consent and Release. The City hereby consents to this Assignment and releases Assignor from all liabilities and obligations of Tenant under the Lease (it being acknowledged and agreed that the City will look solely to Assignee for the observance and performance of the

liabilities and obligations of Tenant under the Lease arising on or after the date hereof). Assignee releases Assignor and any successor thereto, and its officers, directors and employees from any and all liability from claims or causes of action arising under the Lease and the assignment thereof, and the Premises.

4. Lease Administrator. New York City Economic Development Corporation (“NYCEDC”) shall administer the Lease as Lease Administrator under the Lease until such time as another party shall replace NYCEDC as Lease Administrator, subject to and in accordance with the terms of the Lease.

5. Notices. All notices, demands, consents, requests or other communications provided for or permitted to be given hereunder by a party hereto must be in writing and shall be deemed to have been properly given or served, as follows:

If to Assignor:

Executive Vice President for Property Management  
New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: Executive Vice President for Property Management

with copies to:

New York City Land Development Corporation  
c/o New York City Economic Development Corporation  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: General Counsel

If to the City

Chief, Economic Development Division  
New York City Law Department  
100 Church Street  
New York, New York 10007  
Attn: Chief, Economic Development Division

If to Assignee:

Bedford Courts III LLC  
c/o BFC Partners  
150 Myrtle Avenue, Suite 2  
Brooklyn, New York 11201  
Attn.: Donald Capoccia

With a copy to:

Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> floor  
New York, New York 10010  
Attn.: Russell A. Kivler, Esq.

6. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

7. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

8. Recording. This Assignment is intended to be recorded in the City Register immediately following the recordation of the Memorandum of Lease.

*[Signatures Follow on Next Page]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of the day and year first above written.

**ASSIGNOR:**

NEW YORK CITY LAND DEVELOPMENT  
CORPORATION

By: 

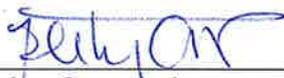
Name:

**Spencer Hobson**

Title:

**Executive Vice President / Treasurer**

APPROVED AS TO FORM:

  
Acting Corporation Counsel  
(imm)

**Acknowledged and consented to:**

THE CITY OF NEW YORK

By: 

Name: *Alicia Glen*

Title: *Deputy Mayor*

**ASSIGNEE:**

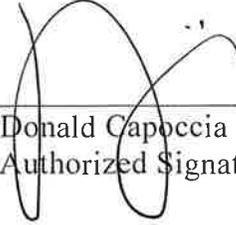
BEDFORD COURTS III LLC

By: Bedford Courts III Developer LLC,  
its sole member

By:

Name: Donald Capoccia

Title: Authorized Signatory

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by 'onald Capoccia'. The signature is written over a horizontal line that extends to the right.

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**Maxwell C Padden**  
Notary Public, State of New York  
No.02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017/21

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

On January 30, 2019, before me, the undersigned, personally appeared Alicia Green personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

JOSEPHINE MIRANDA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M6164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 2019

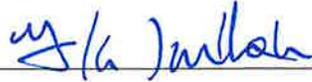
STATE OF NEW YORK )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2019, before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On January 20, 2019, before me, the undersigned, personally appeared DONALD CAPOCCIA personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



\_\_\_\_\_  
Notary Public

FATMATA K. JALLOH Notary Public, State of New York Registration #01JA6332614 Qualified In Westchester County Commission Expires Nov. 2, <u>2019</u>
---

Exhibit A

**LEGAL DESCRIPTION PARCEL**

**BOROUGH OF BROOKLY, BLOCK 1274, LOT 1:**

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

BEGINNING at a point on the southerly line of Union Street (mapped 70 feet wide), said point being distance 331.99 feet easterly from the intersection of said northerly line of Union Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE easterly along said southerly line of Union Street, a distance of 120.41 feet to a point;

THENCE southerly, forming an interior angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 255.58 feet to a point on the northerly line of President Street (mapped 70 feet wide);

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 120.40 feet to a point on the easterly line of Block 1274 Lot 2;

THENCE northerly, along said easterly line of Block 1274 Lot 2 and the easterly line of Block 1274 Lot 1, forming an interior angle of 90 degrees 00 minutes 08 seconds with the previous course, a distance of 255.58 feet to a point on the southerly line of Union Street, said point being the point or place of BEGINNING.

**MEMORANDUM OF LEASE**

**THE CITY OF NEW YORK, as Landlord,**

**and**

**NEW YORK CITY LAND DEVELOPMENT CORPORATION, as Tenant**

**Dated: as of January 31, 2019**

**Premises: 1101 President Street**

**Block 1274**

**Lot 101**

**City of New York**

**Borough of Brooklyn**

**State of New York**



## MEMORANDUM OF LEASE

- LANDLORD:** THE CITY OF NEW YORK ("Landlord")  
City Hall  
New York, New York 10007
- TENANT:** NEW YORK CITY LAND DEVELOPMENT CORPORATION  
("Tenant")  
110 William Street  
New York, New York 10038
- LEASE:** Agreement of Mixed Residential Lease, dated as of January 31, 2019  
(the "Lease"), between Landlord and Tenant.
- PREMISES:** That certain parcel of land lying and being in the City of New York,  
Borough of Brooklyn, State of New York, bounded as described in  
Exhibit A attached hereto and made a part hereof.
- TERM:** The initial term of the Lease (the "Initial Term") commences on the  
date of the Lease (the "Commencement Date") and expire at 11:59  
p.m. on (i) the day that is the Sixty Five (65<sup>th</sup>) anniversary of the  
Commencement Date, or, if the Commencement Date shall be any date  
other than the first day of a calendar month, then the last day of the  
month in which the Sixty Five (65<sup>th</sup>) anniversary of the Commencement  
Date occurs, *provided* that such date may be extended if Tenant exercises  
its rights in accordance with the terms of the Lease, or (ii) such earlier  
date as the Lease may be terminated in accordance with the terms of the  
Lease, including, but not limited to, if certain conditions are not met by  
Tenant in Lease Year 5 and thereafter during the term of the Lease (such  
date, the "Expiration Date").
- Subject to the terms of the Lease, Tenant is granted the option to  
extend the Initial Term for up to two (2) consecutive renewal terms of  
Seventeen (17) years each.
- PROVISIONS:** This Memorandum of Lease is subject to all of the terms, conditions  
and agreements set forth in the Lease. This Memorandum of Lease is  
intended to give notice of certain of the terms of the Lease, and is not  
intended to, and shall not be deemed or construed to, change the



provisions of the Lease in any respect. In the event of any conflict or inconsistency between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall prevail.

*[Signature page follows]*



**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Memorandum of Lease as of the 31<sup>st</sup> day of January, 2019.

LANDLORD:

THE CITY OF NEW YORK

ATTEST:



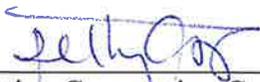
Name: Michael McSweeney  
Title: City Clerk

By:



Name: Alicia Glen  
Title: Deputy Mayor

APPROVED AS TO FORM:



Acting Corporation Counsel  
(nm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:



Name: **Spencer Hobson**  
Title: **Executive Vice President / Treasurer**

1/23/03

Spencer Hobson

Executive Vice President / Treasurer

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**Maxwell C Padden**  
Notary Public, State of New York  
No.02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017 2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

**JOSEPHINE MIRANDA**  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M6164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 29, 2019

On January 30, 2019, before me, the undersigned, personally appeared Michael McSwaney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

LILIA DWYER  
Commissioner of Deeds  
City of New York No. 8-7083  
Certified to Practice in New York County  
Notarized on 01/28/19 Feb. 01, 2020



Exhibit A  
DESCRIPTION OF PREMISES

**BOROUGH OF BROOKLYN, BLOCK 1274, LOT 101:**

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

BEGINNING at a point on the southerly line of Union Street (mapped 70 feet wide), said point being distance 331.99 feet easterly from the intersection of said northerly line of Union Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE easterly along said southerly line of Union Street, a distance of 120.41 feet to a point;

THENCE southerly, forming an interior angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 255.58 feet to a point on the northerly line of President Street (mapped 70 feet wide);

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 120.40 feet to a point on the easterly line of Block 1274 Lot 2;

THENCE northerly, along said easterly line of Block 1274 Lot 2 and the easterly line of Block 1274 Lot 1, forming an interior angle of 90 degrees 00 minutes 08 seconds with the previous course, a distance of 255.58 feet to a point on the southerly line of Union Street, said point being the point or place of BEGINNING.



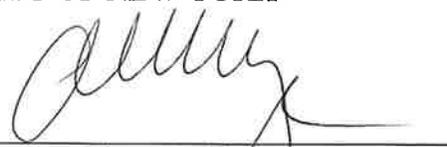
IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease as of the 3<sup>rd</sup> day of January, 2019.

LANDLORD:

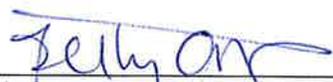
THE CITY OF NEW YORK

ATTEST:

  
Name: Michael McSweeney  
Title: City Clerk

By:   
Name: Alicia Glen  
Title: Deputy Mayor

APPROVED AS TO FORM:

  
Acting Corporation Counsel  
(mm)

TENANT:

NEW YORK CITY LAND  
DEVELOPMENT CORPORATION

By:   
Name: **Spencer Hobson**  
Title: **Executive Vice President / Treasurer**

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

On January 23, 2019, before me, the undersigned, personally appeared Spencer Hobson personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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

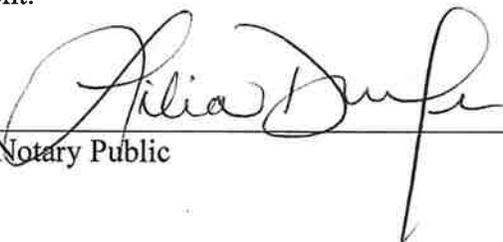
**Maxwell C Padden**  
Notary Public, State of New York  
No. 02PA6274310  
Qualified in Kings County  
Commission Expires Jan. 7, 2017 2021

On January 30<sup>th</sup>, 2019, before me, the undersigned, personally appeared Alicia Glen personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public  
JOSEPHINE MIRANDA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01M16164430  
QUALIFIED IN RICHMOND COUNTY  
MY COMMISSION EXPIRES APRIL 23, 20 19

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

On January 30, 2019, before me, the undersigned, personally appeared Michael McSweeney personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

LINA DUYVER  
Commissioner of Deeds  
City of New York  
Certificate Expires Feb. 01, 20 20

**MASTER SUB-LEASE**

**Between**

**BEDFORD COURTS III LLC,  
a New York limited liability company,**

**as Landlord**

**and**

**BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION, a  
New York not-for-profit corporation,**

**and**

**BEDFORD COURTS III LIHTC LLC,  
a New York limited liability company,**

**Collectively, as Tenant**

**Dated: as of January 31, 2019**

**TABLE OF CONTENTS**

**ARTICLE I DEFINITIONS ..... 3**

**ARTICLE II GRANT OF LEASE ..... 9**

Section 2.1 Lease ..... 9

Section 2.2 Condominium ..... 9

**ARTICLE III TERM; POSSESSION..... 9**

Section 3.1 Term; Condominium Conversion ..... 9

**ARTICLE IV RENT 10**

Section 4.1 Base Rent ..... 10

Section 4.2 Net Lease ..... 11

Section 4.3 No Termination; Exception ..... 13

Section 4.4 Compliance with Restrictions and Credit Conditions..... 13

**ARTICLE V IMPOSITIONS ..... 14**

Section 5.1 Landlord to Pay Impositions ..... 14

Section 5.2 Challenge of Impositions ..... 14

Section 5.3 PILOT Maintenance ..... 14

**ARTICLE VI USE OF PREMISES ..... 14**

Section 6.1 Use of Premises ..... 14

**ARTICLE VII UTILITIES AND SERVICES; OPERATING EXPENSES; DEBT SERVICE 15**

Section 7.1 Electric and other Utilities ..... 15

Section 7.2 Regulations Regarding Utilities and Services ..... 15

Section 7.3 Operating Expenses ..... 16

Section 7.4 Debt Service..... 16

Section 7.5 Replacement Reserves ..... 16

Section 7.6 Operating Reserve..... 17

Section 7.7 Operating Deficits..... 17

**ARTICLE VIII CONDITION AND CARE OF PREMISES ..... 17**

Section 8.1 Landlord Obligations ..... 17

Section 8.3 Compliance With Rules and Regulations; Compliance with Covenants 20

Section 8.4 Existing Equipment..... 20

Section 8.5 Tax Credits; Title to Demised Premises and LIHTC Condominium Units

20

Section 8.6 Initial F&E ..... 21

Section 8.7 Property Management..... 21

**ARTICLE IX RETURN OF DEMISED PREMISES ..... 21**

Section 9.1 Surrender of Possession ..... 21

Section 9.2 Installations and Additions ..... 22

Section 9.3 Trade Fixtures and Personal Property..... 22

Section 9.4	Survival.....	22
<b>ARTICLE X HOLDING OVER .....</b>		<b>22</b>
Section 10.1	Holding Over .....	22
<b>ARTICLE XI RIGHTS RESERVED TO LANDLORD.....</b>		<b>23</b>
<b>ARTICLE XII REGULATORY COMPLIANCE.....</b>		<b>23</b>
Section 12.1	Compliance with Restrictions .....	23
Section 12.2	HDC Requirements.....	23
<b>ARTICLE XIII ALTERATIONS.....</b>		<b>24</b>
<b>ARTICLE XIV ASSIGNMENT AND SUBLETTING .....</b>		<b>24</b>
Section 14.1	Assignment and Subletting .....	24
Section 14.2	Tenant To Remain Obligated.....	24
Section 14.3	Landlord’s Consent.....	25
Section 14.4	Assignee To Assume Obligations.....	25
Section 14.5	Change of Landlordship or Control of Tenant.....	25
<b>ARTICLE XV WAIVER OF CERTAIN CLAIMS; INDEMNITY BY TENANT .....</b>		<b>26</b>
Section 15.1	Waiver of Certain Claims; Release by Tenant.....	26
Section 15.2	Damage Caused by Tenant’s Neglect.....	26
Section 15.3	Tenant Responsible for Personal Property.....	26
Section 15.4	Indemnification .....	26
<b>ARTICLE XVI DAMAGE OR DESTRUCTION BY CASUALTY .....</b>		<b>27</b>
Section 16.1	Damage or Destruction by Casualty .....	27
<b>ARTICLE XVII EMINENT DOMAIN .....</b>		<b>28</b>
Section 17.1	Eminent Domain .....	28
<b>ARTICLE XVIII DEFAULT.....</b>		<b>29</b>
Section 18.1	Events of Default .....	29
Section 18.2	Rights and Remedies of Landlord .....	30
Section 18.3	Right To Reenter.....	31
Section 18.4	Intentionally Deleted.....	31
Section 18.5	Final Damages .....	31
Section 18.6	Removal of Personal Property .....	31
Section 18.7	Costs and Attorneys’ Fees .....	31
Section 18.8	Grant of Security Interest by Tenant.....	32
Section 18.9	Investor Member Rights .....	33
<b>ARTICLE XIX SUBORDINATION; NONDISTURBANCE .....</b>		<b>34</b>
Section 19.1	Subordination.....	34
Section 19.2	Modification; Termination.....	35
Section 19.3	Liability of Holder of Mortgage; Attornment.....	35
Section 19.4	Modification Required by Mortgagee.....	35
Section 19.5	Short Form Lease or Notice of Lease .....	35

<b>ARTICLE XX MORTGAGEE PROTECTION.....</b>	<b>36</b>
<b>ARTICLE XXI ESTOPPEL CERTIFICATE .....</b>	<b>36</b>
<b>ARTICLE XXII SUBROGATION AND INSURANCE .....</b>	<b>37</b>
Section 22.1    Waiver of Subrogation.....	37
Section 22.2    Insurance Required by Landlord and Tenant.....	37
Section 22.3    Certificates of Insurance .....	38
<b>ARTICLE XXIII NONWAIVER .....</b>	<b>38</b>
Section 23.1    Nonwaiver.....	38
<b>ARTICLE XXIV AUTHORITY OF LANDLORD AND TENANT.....</b>	<b>39</b>
<b>ARTICLE XXV REAL ESTATE BROKERS/TRANSFER TAX.....</b>	<b>39</b>
Section 25.1    Real Estate Brokers.....	39
Section 25.2    Transfer Tax.....	39
<b>ARTICLE XXVI NOTICES .....</b>	<b>39</b>
<b>ARTICLE XXVII HAZARDOUS SUBSTANCES.....</b>	<b>41</b>
Section 27.1    Defined Terms .....	41
Section 27.2    Tenant’s Obligations with Respect to Environmental Matters .....	42
Section 27.3    Copies of Notices.....	42
Section 27.4    Tests and Reports.....	43
Section 27.5    Access and Inspection.....	43
Section 27.6    Tenant’s Obligation To Respond.....	43
Section 27.7    Landlord’s Obligations with respect to Environmental Matters.....	43
Section 27.8    Indemnification.....	44
<b>ARTICLE XXVIII TITLE AND COVENANT AGAINST LIENS.....</b>	<b>44</b>
Section 28.1    Title.....	44
Section 28.2    Covenants Against Liens .....	45
<b>ARTICLE XXIX MISCELLANEOUS.....</b>	<b>45</b>
Section 29.1    Successors and Assigns .....	45
Section 29.2    Modifications in Writing .....	45
Section 29.3    No Option; Irrevocable Offer .....	45
Section 29.4    Definition of Tenant.....	45
Section 29.5    Definition of Landlord.....	46
Section 29.6    Headings .....	46
Section 29.7    Default Rate of Interest.....	46
Section 29.8    Severability .....	46
Section 29.9    Entire Agreement.....	46
Section 29.10    Force Maieure .....	46
Section 29.11    Waiver of Trial by Jury.....	46
Section 29.12    Relationship of Parties .....	47
Section 29.13    No Merger.....	47
Section 29.14    Third Party Beneficiary .....	47
Section 29.15    Brownfield Cleanup .....	47

**ARTICLE XXX EXCULPATORY PROVISIONS..... 47**  
    Section 30.1 Landlord..... 47  
    Section 30.2 Tenant ..... 47  
    Section 30.3 HDFC..... 48

Exhibits:

EXHIBIT A-1 Legal Description of the Property  
EXHIBIT A-2 Description of the Demised Premises

MASTER SUB-LEASE

**THIS MASTER SUB-LEASE (“Master Sub-Lease”)** is made and entered into as of January 31, 2019, by and among **BEDFORD COURTS III LLC**, a New York limited liability company (hereinafter referred to as “**Landlord**”) and **BEDFORD COURTS III HOUSING DEVELOPMENT FUND CORPORATION**, a New York not-for-profit corporation formed as a housing development fund company pursuant to Article XI of the New York Private Housing Finance Law (the “**HDFC**”) and **BEDFORD COURTS III LIHTC LLC**, a New York limited liability company (“**LIHTC Company**” and together with HDFC, collectively hereinafter referred to as “**Tenant**”).

RECITALS

1. The Landlord is the assignee under two ground leases (the “**Ground Leases**”) as follows: (i) that certain Agreement of Mixed Residential Lease between the City of New York (the “**City**”), as landlord and New York City Land Development Corporation (“**CLD**”), as tenant and assigned to Landlord as tenant with respect to that certain land at 1101 President Street, Brooklyn, Kings County, New York, Block 1274, Lot 101 (“**Lot 101**”) and (ii) that certain Agreement of Affordable Residential Lease between the City as landlord and CLD as tenant with respect to that certain land at 1089 President Street, Brooklyn, Kings County, New York, Block 1274, Lot 2 (“**Lot 2**”). The land comprising Lot 101 and Lot 2 is hereinafter referred to as the “**Premises**”).

2. The Landlord and Tenant desire that Landlord sub-lease to Tenant the Landlord’s interests as tenant under the Ground Leases with respect to that portion of the Premises that will comprise the to-be-formed LIHTC Condominium Units (hereinafter defined).

3. The HDFC, is nominee for the LIHTC Company pursuant to a certain Declaration of Interest and Nominee Agreement by and among HDFC, and LIHTC Company (the “**Nominee Agreement**”).

4. Landlord and Tenant are developing the Property (as defined below) as a mixed-use and mixed-income development (the “**Project**”) which, prior to the Project being placed in service, shall be converted to a condominium regime consisting of six (6) condominium units (the “**Condominium**”), of which three (3) condominium units and the Common Elements appurtenant thereto shall thereafter comprise the LIHTC Condominium Units, more particularly described below.

5. The Condominium is intended to be established pursuant to a Declaration of Condominium of Bedford Courts II and III Condominium (the “**Declaration**”). The Condominium shall be divided into six (6) condominium units (the “**Condominium Units**”) in two buildings as follows: (i) unit 1, located in a building (“**Building 2**”) on Lot 2+, shall consist of approximately 24,883 square feet of community facility space (the “**Community Facility Unit**”) (“**Unit 1**”); (ii) unit 2, located in Building 2 on Lot 2, shall consist of sixty (60) rental apartment units and is being developed as affordable rental housing, shall be held for occupancy for low-income residents and is intended to qualify for federal low-income housing tax credits (“**Federal Housing Tax Credits**”) under Section 42 of the Internal Revenue Code of 1986, as

amended (the “**Code**”) (“**Unit 2**”); (iii) unit 3, which is located in a building (“**Building 3**”) on Lot 101, shall consist of one hundred-nineteen (119) rental apartment units and is being developed as affordable rental housing, shall be held for occupancy for low-income residents and is intended to qualify Federal Housing Tax Credits (“**Unit 3**”); (iv) unit 4, which shall be in Building 3 on Lot 101 shall consist of seventy-one (71) rental apartment units and is being developed as affordable rental housing, shall be held for occupancy for low-income residents and is intended to qualify for Federal Housing Tax Credits (“**Unit 4**”); (v) unit 5, which shall be in Building 3 on Lot 101, shall consist of one hundred sixty-four (164) market-rate apartment units, plus one (1) superintendent’s unit (“**Unit 5**”); and (vi) unit 6, which shall be in Building 3 on Lot 101, shall consist of a parking garage containing approximately 118 parking spaces (the “**Parking Facility Unit**”) (“**Unit 6**”). Unit 2, Unit 3 and Unit 4 and the Common Elements appurtenant thereto are herein referred to as the “**LIHTC Condominium Units**”. Accordingly, the premises demised hereunder and subject to this Master Sub-Lease (the “**Demised Premises**”) shall consist of that portion of Premises necessary for the Tenant to construct and operate the LIHTC Condominium Units. Condominium Units 1, 5 and 6 and the Common Elements appurtenant thereto (the “**Non-LIHTC Units**”) shall be owned by the Landlord and the land necessary for Landlord to construct the Non-LIHTC Units is not subject to this Master Sub-Lease. The Premises and the Project are collectively referred to as the “**Property**”.

6. Pursuant to the Nominee Agreement, the record sub-leasehold interest owner of the Demised Premises and the LIHTC Condominium Units is HDFC and the economic beneficial interest in the Demised Premises and the LIHTC Condominium Units is owned by the LIHTC Company.

7. The Property will be subject to (i) financing arrangements with mortgage lenders secured by encumbrances upon the Property (among other property), and (ii) various Restrictions (as defined herein) relating to the operation of the Property, including the Demised Premises.

8. Tenant intends to operate the LIHTC Condominium Units located on the Demised Premises in accordance with the provisions of the Restrictions and Section 42 of the Code so as to enable the Tenant to be able to claim the Federal Housing Tax Credits with regard to the LIHTC Condominium Units. Tenant intends to in the future enter into subleases of the residential units included in the LIHTC Condominium Units pursuant to residential leases (the “**Residential Leases**”) with tenants who are qualified tenants under Section 42 of the Code and in accordance with the Restrictions.

9. Tenant desires to lease the Demised Premises from Landlord and Landlord desires to lease the Demised Premises to Tenant pursuant to the terms of this Master Sub-Lease to hold, maintain, operate, and sell or otherwise dispose of its interest in the Demised Premises hereunder (the “**Master Sub-Leasehold Interest**”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

## ARTICLE I

### DEFINITIONS

Capitalized terms used herein and not otherwise defined shall have the following meanings:

“Additional Rent” shall have the meaning set forth in Section 4.2(b).

“Additional Rent Estimate” shall have the meaning set forth in Section 4.2(c).

“Additional Rent Payment Date” shall have the meaning set forth in Section 4.2(c).

“Adverse Consequences” means all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees, including court costs and reasonable attorneys’ fees and expenses.

“Affiliate” means any Person which directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a member of Landlord or Tenant. For purposes hereof, the terms “control,” “controlled,” or “controlling” shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of the beneficial interest of any such Person, as the case may be, directly or indirectly, or acting through one or more Persons, (ii) the control in any manner over the manager(s) or managing member(s) or the election of more than one director or trustee (or Persons exercising similar functions) of such Person, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such Person.

“Allocation Agreement” shall have the meaning set forth in Section 7.4.

“Authority” means any housing credit agency under Section 42 of the Code or applicable housing finance authority, which is a public body corporate and politic created by the State of New York, City of New York or other agency authorized to allocate Credits or issue bonds or other evidence of indebtedness to finance residential rental housing developments.

“Bank” means Wells Fargo Bank, National Association.

“Base Rent” shall have the meaning set forth in Section 4.1.

“Bond Financing” means the financing for the construction of the LIHTC Condominium Units from the proceeds of the fixed rate, \$53,500,000 Multi-Family Housing Revenue Bonds (the “Bonds”) issued or to be issued by the New York City Housing Development Corporation (the “Issuer”) in two tranches pursuant to a Multi-Family Housing Revenue Bond Resolution adopted July 27, 1993 and supplemental resolutions thereto, the proceeds of which shall be used to make Tax-Exempt First Mortgage Loan. Credit enhancement in connection with the Bonds, in the form of a letter of credit, shall be provided by Wells Fargo. The terms of the Bond Financing are further described in the HDC Commitment.

“Bonds” has the meaning set forth in the definition of Bond Financing.

“By-Laws” means the By-Laws governing the operations of the Condominium, as same may be amended from time to time.

“Code” shall have the meaning set forth in the Recitals.

“Collateral” shall have the meaning set forth in Section 18.8.1(a).

“Collateral Assignment” shall have the meaning set forth in Section 18.8.2(c).

“Common Charges” means those expenses of the Project that are directly related to the operation and maintenance of the Common Elements, as set forth in an annual budget to be delivered pursuant to Section 4.2(c).

“Common Elements” shall mean the areas of the Project that are for common use of the residents of the Project or that provides services for the tenants of the Project which services are provided in consideration for rent payable by the tenants without separate charge or fee (other than Utilities), including public areas to the extent required for access to, use and enjoyment of the Project for residential purposes including, without limitation, common hallways on the floors on which the Demised Premises are located, stairways, elevators and lobby, subject to the terms, covenants, provisions and conditions of this Master Sub-Lease.

“Commencement Date” has the meaning set forth in Section 3.1.

“Community Facility Unit” has the meaning set forth in the Recitals.

“Compliance Period” shall have the meaning provided in Section 42(i)(1) of the Code.

“Condominium” shall have the meaning set forth in the Recitals.

“Condominium Documents” shall mean the Declaration, by-laws of the Condominium and any rules and regulations applicable to the Condominium.

“Construction Completion” has the meaning set forth in the Tenant Operating Agreement.

“Construction Lender” means HDC and Wells Fargo.

“Construction Loan” means, collectively, (i) the Tax-Exempt First Mortgage Loan in the original principal amount equal to \$53,500,000 prior to its conversion to a permanent loan and (ii) the Conventional Construction Loan.

“Conventional Construction Loan” means the construction loan to the Landlord and the LIHTC Company by HDC in the original principal balance equal to \$56,768,007, in which Wells Fargo will purchase a 100% participation interest.

“Credit Conditions” means, for the duration of the Compliance Period, any and all restrictions including, but not limited to, applicable Federal, state and local laws, rules and

regulations, which must be complied with in order to qualify for the Federal Housing Tax Credits or to avoid an event of recapture in respect of the Federal Housing Tax Credits.

“Credit” or “Credits” means Federal Housing Tax Credits, individually or collectively.

“Debt Payments” shall have the meaning set forth in Section 7.4.

“Declaration” shall have the meaning set forth in the Recitals.

“Default” shall have the meaning set forth in Section 18.1.

“Deferred Additional Rent” shall have the meaning set forth in Section 18.1.

“Demised Premises” shall have the meaning set forth in the Recitals.

“Development Replacement Reserve” has the meaning set forth in Section 7.5.

“Designated Prime Rate” means the prime rate of interest published from time to time in The Wall Street Journal or if, at any time, such prime rate shall not be published or publicly announced, the rate announced by such other “money center” bank located in New York City as may be selected by Landlord, adjusted as such prime rate adjusts.

“Entity” means any general partnership, limited partnership, corporation, joint venture, trust, limited liability company, business trust, cooperative or association.

“Environmental Laws” shall have the meaning set forth in Section 27.1(b).

“Estimated Additional Rent” shall have the meaning set forth in Section 4.2(c).

“Event of Bankruptcy” or “Bankruptcy” means, as to a specified Person:

(i) the entry of a decree or order for relief by a court having jurisdiction in respect of such Person in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of his property, or ordering the winding-up or liquidation of his affairs and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

(ii) the commencement by such Person of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by him to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of such Person or for any substantial part of his property, or the making by him of any assignment for the benefit of creditors, or the taking of action by the Person in furtherance of any of the foregoing.

“Existing Equipment” shall have the meaning set forth in Section 8.4.

“Expiration Date” shall have the meaning set forth in Section 3.1(a).

“Federal Housing Tax Credits” means the low income housing tax credit allowable under Section 42 of the Code as further described in the Recitals.

“F&E” shall have the meaning set forth in Section 8.6.

“FIFRA” shall have the meaning set forth in Section 27.1(b).

“Financing Documents” means the various documents evidencing and securing financing arrangements by mortgage lenders to Landlord and Tenant with respect to the Project or the Demised Premises, as applicable, as the same shall exist from time to time.

“First Mortgage Loan” means collectively, the Tax-Exempt First Mortgage Loan and the Conventional Construction Loan.

“First Mortgage Loan Lender” means HDC and Wells Fargo.

“Governmental Authority” means any state, federal, local, municipal or other governmental authority, agency, or licensing authority of any kind whatsoever, including any so-called “business improvement district” or similar Entity or organization.

“Ground Leases” has the meaning set forth in the Recitals.

“Hazardous Materials” shall have the meaning set forth in Section 27.1(c).

“HDC” means the New York City Housing Development Corporation.

“HDC Commitment” means that certain Construction and Permanent Financing Commitment and Agreement dated January 31, 2019 addressed to the Tenant and Landlord with respect to the Project.

“HDC Fifth Mortgage Loan” means the fifth priority construction and permanent Mortgage Loan made by HDC from a grant made to HDC by HPD and loaned to the Landlord and LIHTC Company in the original principal amount of \$10,000,000, the terms of which are further described in the HDC Commitment.

“HDC Fourth Mortgage Loan” means the fourth priority construction and permanent Mortgage Loan made by HDC from a grant made to HDC by HPD and loaned to the Landlord and LIHTC Company in the original principal amount of \$2,000,000, the terms of which are further described in the HDC Commitment.

“HDC Second Mortgage Loan” means the second priority construction and permanent subordinate mortgage loan from HDC to the Landlord and LIHTC Company in the original principal amount of \$15,000,000, the terms of which are further described in the HDC Commitment.

“HDC Third Mortgage Loan” means the third priority construction and permanent subordinate mortgage loan from made by HDC from a grant made to HDC by HPD and loaned by HDC to the Landlord and the LIHTC Company in the original principal amount of \$31,075,000, the terms of which are further described in the HDC Commitment.

“HDFC” shall have the meaning set forth in the Recitals.

“HPD” means the City of New York, acting by and through its Department of Housing Preservation and Development.

“Impositions” shall have the meaning set forth in Section 5.1.

“Investor Member” means Wells Fargo Affordable Housing Community Development Corporation, a North Carolina Corporation and its successors and assigns, the investor member of Tenant.

“Land” shall have the meaning set forth in the Recitals.

“Landlord” shall have the meaning set forth in the heading of this Master Sub-Lease.

“Laws” shall mean all applicable laws, statutes, ordinances, resolutions, codes, rules, requirements, regulations, orders or similar items of any Governmental Authority having or asserting jurisdiction over the ownership, operation, occupancy, maintenance or use of the Property.

“Lease Year” shall mean the period commencing on the Commencement Date and ending on the first December 31 thereafter and each succeeding twelve (12) month period thereafter which falls in whole or in part during the Term.

“Lender” means any mortgagee under the Loan.

“LIHTC Condominium Units” has the meaning set forth in the Recitals.

“Limited Rental Source Limitation” shall have the meaning set forth in Section 4.2(b).

“Loan” means, collectively, the following loans: (i) the First Mortgage Loan (ii) the HDC Second Mortgage Loan; (iii) the HDC Third Mortgage Loan; (iv) the HDC Fourth Mortgage Loan; and (v) the HDC Fifth Mortgage Loan.

“Manage” shall have the meaning set forth in Section 27.1(d).

“Master Sub-Lease” shall have the meaning set forth in the heading of this Master Sub-Lease.

“Mortgage” shall have the meaning set forth in Section 19.1(a).

“Parking Facility Unit” has the meaning set forth in the Recitals.

“Permitted Alterations” shall have the meaning set forth in Article XIII.

“Permitted Use” shall have the meaning set forth in Article VI.

“Person” means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so admits; and, unless the context otherwise requires, the singular shall include the plural, and the masculine gender shall include the feminine and the neuter and vice versa.

“PILOT” means the payment in lieu of taxes provisions of Article III of the Ground Leases and the “PILOT Eligibility Requirements” set forth in the Ground Leases.

“Premises” shall have the meaning set forth in the Recitals.

“Project” shall have the meaning set forth in the Recitals.

“Property” shall have the meaning set forth in the Recitals.

“Property Manager” shall mean the property manager retained by Landlord and Tenant to manage the Project, including the LIHTC Condominium Units.

“Property Management Agreement” means the property management agreement to be executed by and between Tenant and the Property Manager with respect to the management of the LIHTC Condominium Units, as the same may be amended from time to time.

“Regulatory Agreement” means, collectively, (i) the Mandatory Inclusionary Housing Restrictive Covenant by and among the Landlord, Tenant, HDFC and (ii) the Regulatory Agreement among the Landlord, Tenant, HDFC, HDC and HPD.

“Rent” shall have the meaning set forth in Section 4.1.

“Rental Income” means all rents, income and profits of any kind arising from the Residential Leases and any renewals or extensions thereof (including, without limitation, any amounts that are payable as a result of the early termination or surrender of any of such leases).

“Reserve Deposits” shall have the meaning set forth in Section 7.5.

“Residential Leases” shall have the meaning set forth in the Recitals.

“Response” shall have the meaning set forth in Section 27.1(f).

“Restrictions” shall mean any restrictions of any Governmental Authority having jurisdiction over the Project and the Demised Premises, as applicable, and shall include without limitation, the Regulatory Agreement, the Credit Conditions and any laws or regulations pertaining to the receipt by Landlord and/or the LIHTC Company of the PILOT.

“Security Agreement” shall have the meaning set forth in Section 18.8.1(d).

“Start Date” shall have the meaning set forth in Section 16.1.

“Tax-Exempt First Mortgage Loan” means the co-first mortgage construction and permanent loan from HDC to the Landlord and LIHTC Company in the amount of \$53,500,000, from the proceeds of the Bonds, secured, together with the Conventional Construction Loan by a co-first-priority Mortgage.

“Tenant Operating Agreement” means the Amended and Restated Operating Agreement of Tenant dated as of the date hereof, as the same may be amended from time to time.

“Tenant Operating Expenses” shall have the meaning set forth in Section 7.3(a).

“Tenant Operating Shortfall” means a deficiency of funds occurring when the amount of Tenant Operating Expenses, Tenant’s share of Debt Payments as set forth in Section 7.4 and Additional Rent exceed the revenues available to tenant such that Tenant does not have sufficient funds to pay the full amount of Tenant Operating Expenses, Tenant’s share of Debt Payments and Additional Rent.

“Tenant’s Share” shall mean the proportional share that each of the Landlord and Tenant are required to pay for the Common Elements pursuant to the Condominium Declaration .

“Term” has the meaning set forth in Section 3.1.

“Wells Fargo” means Wells Fargo Bank, National Association.

## **ARTICLE II**

### **GRANT OF LEASE**

**Section 2.1 Lease.** Landlord hereby leases and demises to Tenant, and Tenant hereby leases from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions set forth herein, the Demised Premises.

**Section 2.2 Condominium.** Landlord and Tenant acknowledge and agree that Landlord intends to subject the Project to a condominium regime consisting of six (6) condominium units, and that upon the formation the Condominium, the Demised Premises shall consist of the Demised Premises and the Common Elements appurtenant thereto. The reasonable consent of the Tenant and the Investor Member to the Condominium Documents shall be required prior to formation of the Condominium, the scope of which consent shall include ensuring that the Condominium Documents do not impair the ownership of the Demised Premises established hereby, change the intended use and operation of the Demised Premises or increase the Tenant’s obligations as established hereunder.

## **ARTICLE III**

### **TERM; POSSESSION**

**Section 3.1 Term; Condominium Conversion.**

(a) This Master Sub-Lease shall have a term (the “**Term**”) commencing on the date hereof (such date being referred to herein as the “**Commencement Date**”) and shall end on the 65th anniversary of the date hereof (hereinafter referred to as the “**Expiration Date**”), unless sooner terminated as provided herein.

(b) The Condominium shall be formed prior to or concurrent with Construction Completion but shall not be formed until (i) the Bonds have been issued by HDC; (ii) Tenant and Investor Member have received evidence reasonably satisfactory to Tenant and Investor Member that the buildings containing the LIHTC Condominium Units has met the requirements for an allocation of Federal Housing Tax Credits under HPD’s qualified allocation plan applicable to the area in which the Demised Premises are located as required by Section 42(m)(1)(D) of the Code; (iii) Tenant and Investor Member have received evidence reasonably satisfactory to the Tenant and Investor Member that the Authority has determined the credit dollar amount necessary for the financial feasibility of the LIHTC Condominium Units and its viability as a qualified low-income housing project throughout the “credit period” (as such term is defined under Section 42(f)(1) of the Code) as required by Section 42(m)(2)(D) of the Code; (iv) the Authority has assigned “building identification numbers (B.I.N.)” to the buildings in the Demised Premises; and (v) recording of the Declaration, provided in no event shall the Declaration be recorded later than as required by the Lender. At such time as Landlord believes that “Construction Completion” (as defined in the Tenant Operating Agreement) has been achieved, Landlord shall provide notice thereof to Tenant together with a certification from the architect of the Condominium that Construction Completion has been achieved. Tenant shall then have the right to inspect the LIHTC Condominium Units to verify Construction Completion. The parties acknowledge and agree that the Construction Completion date shall occur prior to the date that the LIHTC Condominium Units is “placed in service” in accordance with the applicable provisions of the Code. In the event this Master Sub-Lease is terminated prior to the Tenant’s verification of Construction Completion, any Base Rent paid to the Landlord, if any, shall be paid by Landlord to Tenant upon such termination.

## ARTICLE IV

### RENT

**Section 4.1 Base Rent.** Landlord and Tenant acknowledge that Landlord is obligated pursuant to the Ground Lease to pay base rent of One Dollar (\$1.00) per year with respect to each Ground Lease, and with respect to the Ground Lease with respect to Lot 101, additional rent in the amount of \$50,000 per year, subject to adjustment as provided in the Ground Lease. Commencing on the Commencement Date and continuing on the anniversary date of the Commencement Date during the Term, Tenant shall make base rent payments to Landlord in the amount of Two Dollars (\$2.00) per year (“**Base Rent**”); the Landlord and Tenant agree that the amount of Base Rent is the fair market rent for the Demised Premises in light of the Restrictions. The Landlord, and not the Tenant, shall be solely responsible for the aforementioned \$50,000 additional rent payment required under the Ground Lease with respect to Lot 101. Tenant acknowledges and agrees that Landlord’s right to receive such Base Rent has been collaterally assigned and pledged by the Landlord to the Lender under the Financing Documents. Landlord and Tenant acknowledge and agree that the provisions of this Section 4.1 are for the benefit of the Lender under the Financing Documents and may not be modified or superseded without the prior written consent of the lenders under the Financing Documents. After the obligation to pay Base Rent has been satisfied, during

the entire Term, Landlord shall not be entitled to rent or charges other than Additional Rent (as hereinafter defined). Base Rent and Additional Rent and all other amounts becoming due from Tenant to Landlord hereunder (hereinafter collectively referred to as **“Rent”**) shall be paid in lawful money of the United States to Landlord at the office of Landlord, or as otherwise designated from time to time by written notice from Landlord to Tenant.

#### **Section 4.2 Net Lease.**

(a) This Master Sub-Lease is what is commonly called a “net lease,” it being understood that Landlord shall receive the Rent set forth in Section 4.1 hereof free and clear, after the Commencement Date, of Tenant’s Share of Impositions (as defined in Section 5.1 below), assessments, liens, charges or expenses of any nature whatsoever in connection with the ownership, maintenance, repair and operation of the LIHTC Condominium Units, except as otherwise provided herein, including, without limitation, Section 8.1 herein.

(b) From and after the date hereof, Tenant shall pay Tenant’s Share of (i) all Impositions assessed against the Demised Premises (ii) Common Charges; (iii) insurance premiums in connection with the Demised Premises; (iv) utilities (except for utility expenses separately allocated to Tenant by reason of such utility expenses being separately metered) in connection with the Demised Premises; (v) Reserve Deposits; and (vi) any other typical operating and maintenance charges, costs and expenses of Landlord pertaining to the Project or, following formation, the Condominium, which arise or may be contemplated under any provisions of this Master Sub-Lease during the Term; (the payment described in this sentence is referred to as **“Additional Rent”**, even though not necessarily payable to Landlord). Nothing contained in this Master Sub-Lease shall obligate Tenant for the payment of any portion of the items in the preceding sentence that are not required to be paid by the Tenant hereunder, or any income or franchise taxes payable by Landlord under applicable law. Notwithstanding the foregoing, Additional Rent that is payable by the Tenant may be less than the amount that would be payable if such Additional Rent were to be allocated in accordance with Tenant’s Share, with the balance accruing in accordance with Section 18.1, where such lesser Additional Rent is necessary to ensure that the aggregate Additional Rent and Tenant Operating Expenses required to be paid by the Tenant do not exceed Tenant’s Rental Income (the **“Limited Rental Source Limitation”**). The Limited Rental Source Limitation shall limit the amount of Additional Rent due from Tenant, so that such amount does not cause a Tenant Operating Shortfall. To the extent the Limited Rental Source Limitation is implemented to reduce the amount of the Additional Rent that would otherwise be payable by the Tenant, the Landlord shall be obligated to pay such amounts, provided that such amount shall be treated as Deferred Additional Rent.

(c) The following shall be undertaken in determining and paying Additional Rent pursuant to Section 4.2(b):

(i) Promptly following the Commencement Date, and thereafter within sixty (60) days preceding the termination of a Lease Year, but not later than the end of such Lease Year, Landlord shall furnish to Tenant a statement setting forth Landlord’s reasonable estimate of Additional Rent for such Lease Year which shall include a statement setting forth the Landlord’s reasonable estimate of any Impositions for such Lease Year and a Development Budget including the Common Charges of the Project (as may be adjusted pursuant to (iii) below, the **“Additional**

**Rent Estimate’)**. Tenant shall have the right to review and comment on the budgets and underlying assumptions regarding Additional Rent set forth in the Additional Rent Estimate, and Landlord shall reasonably cooperate with Tenant in connection therewith.

(ii) Upon completing (i), but no greater than fifteen (15) days following completion of the review and comment period set forth in (i) above, Landlord and Tenant shall agree upon the estimated amount of Additional Rent that Tenant is to pay with respect to such Lease Year. If they shall fail to agree such determination shall be made by an arbitrator appointed by the Chairman of the New York Real Estate Board, which arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The amount finally agreed upon by Landlord and Tenant or such arbitrator shall for purposes of this Section be the Additional Rent Estimate for purposes of determining the monthly payments of Additional Rent payable by Tenant pursuant to (iii) and (iv) below.

(iii) Following the completion of the determination of the Additional Rent Estimate, Tenant shall be required to pay with respect to such Lease Year monthly estimated payments of Additional Rent equal to the Additional Rent Estimate (the **“Estimated Additional Rent”**), which Estimated Additional Rent shall be payable in arrears on or prior to the fifth (5<sup>th</sup>) Business day preceding the end of each calendar month (the **“Additional Rent Payment Date”**) during such Lease Year in equal amounts of 1/12 of the Estimated Additional Rent for such Lease Year if such Estimated Additional Rent has been determined prior to the commencement of a Lease Year.

(iv) If Estimated Additional Rent is determined subsequent to the commencement of a Lease Year, then (a) until the month following the month in which the Estimated Additional Rent is determined, Tenant shall pay to Landlord on or before the Additional Rent Payment Date of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Section 4.2(c) during the last month of the preceding Lease Year, and (b) promptly after the Estimated Additional Rent is determined, Landlord shall give notice to Tenant stating whether the installments of Additional Rent previously made for such Lease Year were greater or lesser than the Estimated Additional Rent installments to be made for such Lease Year and (x) if there shall be a deficiency, Tenant shall pay the amount thereof within ten (10) Business Days after demand therefor, or (y) if there shall have been an overpayment, Landlord shall credit the amount thereof against subsequent payments of Estimated Additional Rent due hereunder, and (z) on or before the Additional Rent Payment Date of the month following the month in which the Estimated Additional Rent is determined, and on the Additional Rent Payment Date thereafter throughout the remainder of such Lease Year, Tenant shall pay to Landlord an amount equal to 1/12 of the Additional Rent Estimate.

(v) As soon as reasonably practicable but not greater than ninety days after the end of each Lease Year Landlord and Tenant will conduct a reconciliation with respect to Additional Rent (the **“Annual Reconciliation”**) with respect to such preceding Lease Year. Landlord shall furnish to Tenant a statement setting forth in reasonable detail the actual Additional Rent for such Lease Year, which shall include a description of how such Additional Rent has been calculated. If the Annual Reconciliation shall show that the sums of Estimated Additional Rent paid by Tenant under Section 4.2(b) exceeded the sum of the actual amount of Additional Rent for such Lease Year, Landlord shall credit the amount of such excess against the Additional Rent for

the following year or, if the Term has expired, Landlord shall promptly pay such amount to Tenant (net of any sums then owed by Tenant to Landlord). If the Annual Reconciliation for such Lease Year shall show that the sums of Estimated Additional Rent paid by Tenant under Section 4.2(b) were less than the sum of the actual amount of Additional Rent for such Lease Year, Tenant shall pay the amount of such deficiency within ten (10) Business Days after such amounts are determined.

(d) In the event that an Adjuster Distribution is payable to the Investor Member as a result of a Change In Law (as such terms are defined in the Tenant Operating Agreement), then following Tenant's payment of Base Rent and Additional Rent to Landlord, and Landlord's payment of required debt service under any Loan and the operating expenses of the Project, Landlord shall pay to Tenant an amount equal to twenty-five percent (25%) of the amount of available cash flow (prior to the payment of any other soft or cash flow payment obligations, distributions or fees, but expressly not including any required "hard-pay" debt service and operating expenses as set forth above) annually, until such time as the amount required to fully satisfy any Credit Adjuster Contribution (as such term is defined in the Tenant Operating Agreement) otherwise payable to the Tenant as a result of such Change In Law, and the Tenant shall make a corresponding Credit Adjuster Distribution (as such term is defined in the Tenant Operating Agreement) to the Investor Member in accordance with the terms of the Tenant Operating Agreement.

#### **Section 4.3 No Termination; Exception.**

(a) Except as otherwise expressly provided herein, Tenant agrees that it will remain obligated under this Master Sub-Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Master Sub-Lease, solely by reason of (i) the Bankruptcy of Landlord or any assignee of Landlord, and (ii) any action with respect to the Master Sub-Lease which may be taken by any trustee or receiver of Landlord or of any assignee of Landlord in any such proceeding or by any court in any such proceeding; provided that this Master Sub-Lease is not rejected or disaffirmed in such proceedings nor are Tenant's rights of use, occupancy or quiet enjoyment of the Master Sub-Leasehold Interest abridged, disturbed or otherwise adversely affected and Tenant receives reasonable assurance thereof within a reasonable period of time following the commencement of such proceedings.

**Section 4.4 Compliance with Restrictions and Credit Conditions.** Tenant covenants and agrees that: (i) each of the provisions of this Master Sub-Lease shall be subject to, and the Tenant covenants to act and operate the LIHTC Condominium Units in accordance with, the Regulatory Agreement and Restrictions including the Credit Conditions and all applicable Laws; (ii) the Restrictions including the Credit Conditions and all such laws and regulations, as amended or supplemented, shall govern the rights and obligations of the Tenant, its successor and assigns, and they shall control as to any terms in this Master Sub-Lease which are inconsistent therewith, and any such inconsistent terms in this Master Sub-Lease shall be unenforceable by or against Tenant; (iii) upon any dissolution of the Tenant or any transfer of the Master Sub-Lease, no right to the possession and control of the Demised Premises and no right to collect rent under the Residential Leases shall pass to any Person who is not, or does not become, bound by the Restrictions including the Credit Conditions; and (iv) any conveyance or transfer of Tenant's interest in all or any portion of the Demised Premises required or permitted under this Master Sub-

Lease shall in all respects be subject to the Restrictions including the Credit Conditions and all conditions, approvals or other requirements of the rules and regulations of any Governmental Authority applicable thereto. Landlord agrees to take no actions which would, in any manner, be inconsistent with the provisions of this Section 4.4.

## **ARTICLE V**

### **IMPOSITIONS**

**Section 5.1 Landlord to Pay Impositions.** Landlord shall pay all Impositions for the Project and Tenant shall pay Tenant's Share of such Impositions to Landlord as Additional Rent. The term "**Impositions**" shall mean all taxes and assessments, general and special, water rates (to the extent not based on usage) and all other impositions, ordinary and extraordinary, of every kind and nature whatsoever, which may be levied, assessed, charged or imposed during the Term of the Master Sub-Lease with respect to the Project or any part thereof. Impositions shall also include fees and costs incurred by Landlord during the Master Sub-Lease Term for the purpose of contesting or protesting tax assessments or rates, to the extent such fees and costs relate to savings anticipated by Landlord during the Term of the Master Sub-Lease that would also reduce Tenant's Share of the Impositions. Impositions "for" a given calendar year shall mean Impositions that are due for payment in such calendar year, regardless of when such Impositions are actually paid.

**Section 5.2 Challenge of Impositions.** Only Landlord may institute proceedings to reduce tax assessments or rates. If Landlord receives a refund of Impositions for any Lease Year, Landlord shall, at the election of Tenant, either pay to Tenant an amount equal to Tenant's Share of such refund or credit against subsequent payments of Additional Rent due hereunder, net of any expenses incurred by Landlord in achieving such refund, which amount shall not exceed Tenant's payment of Impositions with respect to such Lease Year.

**Section 5.3 PILOT Maintenance.** Landlord and Tenant shall be obligated to cause the Project to comply with the PILOT, under the laws as currently in effect. Landlord shall further be obligated to use commercially reasonable efforts to (x) cause the Project to comply with the PILOT, if the laws pursuant to which the PILOT is applicable are amended and such amendment applies to the Property, and (y) seek any extension of the PILOT that may reasonably be available.

## **ARTICLE VI**

### **USE OF PREMISES**

**Section 6.1 Use of Premises.** Tenant shall use and occupy the Demised Premises for purposes of the construction and operation of a residential rental property qualifying for Federal Housing Tax Credits (the "**Permitted Use**") and for no other use or purpose. Tenant covenants and agrees the Demised Premises will be used and occupied in conformity with the Restrictions including the Credit Conditions and all Laws, subject to Section 4.4. Tenant shall not use any materials that are hazardous or toxic, nor shall Tenant create any offensive or toxic emissions or effluents to emanate from the Demised Premises, except to the extent reasonable or appropriate in connection with the lawful use of the Demised Premises in the ordinary course of Tenant's business, and Tenant shall comply with all legal requirements in connection with such use. At all

times during the Term, Tenant shall to the extent within its control cause all of the Demised Premises to remain in compliance with all Restrictions, Credit Conditions and legal requirements and, to the extent that Tenant should fail to do so beyond any applicable notice and grace or cure period, Landlord shall have the right to take all actions required or necessary to bring the Demised Premises into compliance with all legal requirements, and all sums paid by Landlord, including, without limitation, any reasonable legal fees and disbursements, incurred by Landlord as a result of Tenant's failure shall constitute Additional Rent. Tenant shall use commercially reasonable efforts to cause the subtenants under Residential Leases to comply with all Laws and Restrictions to the extent such action is within the control of such subtenant. Tenant shall not be in default of this Master Sub-Lease if after taking such commercially reasonable efforts such residential unit is in violation of Laws and the Restrictions, and the cause of such violation was not directly caused by Tenant.

## **ARTICLE VII**

### **UTILITIES AND SERVICES; OPERATING EXPENSES; DEBT SERVICE**

**Section 7.1 Electric and other Utilities.** If any utility charges are incurred by the Project which are also supplied to the Tenant and which are not otherwise included in Additional Rent then, to the extent such utility charges are based upon usage (and are not otherwise separately metered for the Premises), Tenant shall be obligated to reimburse Landlord for that portion of such utility services that were used by Tenant or the subtenants under the Residential Leases in the Demised Premises as Rent, which payments shall be made on the Additional Rent Payment Date for the month following the month of receipt of a statement of the amount of such assessment together with Landlord's method of allocating such utility charges between Landlord and Tenant.

**Section 7.2 Regulations Regarding Utilities and Services.** Tenant agrees to cooperate fully, at all times, with Landlord in abiding by all rules, regulations and requirements which Landlord may prescribe for the proper functioning and protection of all utilities and services necessary for the operation of the Project, provided that Landlord has provided such rules, regulations and requirements to Tenant beforehand and subject to the limitations described in Section 4.4 hereunder. Throughout the Term of this Master Sub-Lease, Landlord and its contractors, agents and designees shall have access after advance notice (in any emergency situation no such notice shall be necessary) to any and all building systems which right of access shall be exercised in such manner as will minimize interference with the use and occupancy of the Demised Premises and in a manner consistent with the residential leases of the LIHTC Condominium Units, and Tenant agrees that there shall be no construction of partitions or other obstructions which might interfere with access to or the moving of servicing equipment to or from the enclosures containing said building systems. Tenant further agrees that neither Tenant nor its employees, agents, licensees, invitees or contractors shall at any time tamper with or otherwise take any action which would in any manner adversely affect the building systems. Landlord and Tenant hereby acknowledge that they are parties to a certain Power and Thermal Energy Purchase Agreement (the "**Power Purchase Agreement**") by and between Bedford Courts I, LLC ("**Bedford Courts I**"), the Landlord and Tenant (and that substantially similar agreements is being entered into by with Bedford Courts I and other Condominium unit owners) pursuant to which Landlord and Tenant will purchase "Power" and "Thermal Energy", as such terms are defined in

the Power Purchase Agreement. Landlord and Tenant hereby agree to abide by their respective rights and obligations pursuant to the Power Purchase Agreement.

**Section 7.3 Operating Expenses.**

(a) To the extent applicable, Tenant shall pay all separate expenses of its operation of the LIHTC Condominium Units including, without limitation, electric and other utility charges, pro rata share of maintenance and repair charges, costs for repairs and replacements (to the extent not paid from Development Replacement Reserve), management fees and all other charges, whether or not contemplated under this Master Sub-Lease, that are unique to the operation of the LIHTC Condominium Units and not to the operation of the Project as a whole (collectively, **“Tenant Operating Expenses”**). Tenant shall also make the Debt Payments as required under Section 7.4. Tenant Operating Expenses are exclusive of and do not constitute Additional Rent.

(b) Landlord shall be obligated to pay (i) all operating expenses of the Project except those Operating Expenses for which the Tenant is responsible pursuant to this Master Sub-Lease and, upon formation of the Condominium, operating expenses attributable to the other portions of the Condominium and Common Charges attributable thereto, (ii) its share of any and all Debt Payments and any and all other charges, premiums and amounts on account of any Financing Documents, (iii) all costs including Common Charges incurred in connection with the operation of any commercial, retail or other residential space in the Project outside of the Demised Premises, if any, (iv) all Impositions due on the Project, provided that Tenant shall be responsible for paying Additional Rent with respect to the Tenant’s Share of Imposition under Section 5.1 and (v) all costs for which the Landlord is responsible pursuant to this Master Sub-Lease (except to the extent expressly agreed to be paid directly by Tenant). The obligation of Landlord to make such payments shall be absolute and unconditional, provided that such obligation shall not eliminate any claims Landlord has against Tenant for breach of its obligations under this Lease or any rights of offset or counterclaim. In the event of the failure by Landlord to pay any such amounts within any applicable grace or cure period under the Financing Documents or otherwise, Tenant, upon prior notice and subject to any applicable provisions of the Financing Documents, shall have the right to pay such amounts on behalf of Landlord and Landlord shall be obligated to reimburse Tenant for the costs thereof and, in addition, so long as Tenant is not in default hereunder, Tenant shall have the right to set off against the next Rent payable hereunder such amounts as are advanced by Tenant on behalf of Landlord hereunder.

**Section 7.4 Debt Service.** Landlord shall pay its share of any principal, interest, prepayment premiums or other amounts due in connection with the Loan (“Debt Payments”) as set forth in that certain Allocation Agreement by and between Landlord and Tenant dated as of the date hereof (**“Allocation Agreement”**). Tenant shall pay its share of Debt Payments, as set forth in the Allocation Agreement.

**Section 7.5 Replacement Reserves.** Landlord shall maintain a replacement reserve account for the Project (the “Development Replacement Reserve”) and shall fund the Development Replacement Reserve in accordance with the requirements of the Financing Documents (“Reserve Deposits”). Tenant shall establish and maintain its own separate replacement reserve in accordance with the Tenant Operating Agreement. Use of funds in the Development Replacement Reserve shall be as set forth in the Financing Documents. Tenant acknowledges and agrees that

the Landlord may, in its sole discretion, pledge the Development Replacement Reserve to any lender providing financing to the Project and Tenant shall cooperate in executing any necessary pledge agreement and/or deposit account control agreement, in form and substance reasonably acceptable to Tenant as required by any such lender to effectuate the foregoing pledges.

**Section 7.6 Operating Reserve.** Landlord and Tenant acknowledge that pursuant to Section 6.10(o)(ii) of the Tenant Operating Agreement, the LIHTC Company's Managing Member (as defined in the Tenant Operating Agreement), which is an Affiliate of the Landlord's managing member, is obligated to establish and thereafter maintain a Project Development Operating Reserve, as defined in the Tenant Operating Agreement. Landlord agrees that the Project Development Operating Reserve may only be used to pay any "Project Development Operating Deficit" (as defined in the Tenant Operating Agreement) in accordance with such Section 6.10(o)(ii), except with the consent of the Investor Member as provided therein. In addition, Landlord agrees to cooperate reasonably with the LIHTC Company's Managing Member in connection with the release of funds from the "Operating Reserve" (as defined in Section 6.10(o)(ii) of the Tenant Operating Agreement) and that it will take no action which is inconsistent with such Section 6.10(o)(ii). In addition, to the extent that the LIHTC Company's Managing Member is required to establish a "Debt Service Reserve" (as defined in Section 6.10(o)(iv) of the Tenant Operating Agreement), the Landlord agrees to cooperate reasonably with the LIHTC Company's Managing Member in connection with the payments of debt service on the Project and that it will take no action which is inconsistent with such Section 6.10(o)(iv).

**Section 7.7 Operating Deficits.** Landlord and Tenant acknowledge that pursuant to Section 6.12 of the Tenant Operating Agreement, the LIHTC Company's Managing Member is obligated to cause the Guarantor (as defined in the Tenant Operating Agreement) to fund any Project Development Operating Deficit (as defined in the Tenant Operating Agreement), subject to the provisions of such Section 6.12. Landlord agrees that in the event that a Project Development Operating Deficit exists that is subject to such Section 6.12, it will cooperate reasonably with the LIHTC Company's Managing Member and the Guarantor in connection with the funding of such Project Development Operating Deficits and that it will take no action which is inconsistent with such Section 6.12.

## **ARTICLE VIII**

### **CONDITION AND CARE OF PREMISES**

#### **Section 8.1 Landlord Obligations.**

(a) Notwithstanding any provision to the contrary contained herein (other than as set forth in Section 8.2 hereof), Landlord agrees, throughout the Term, to maintain the Property as required by the Regulatory Agreement and the Financing Documents, including (i) taking good care of the Project, the Common Elements, all building systems whether or not located within the Demised Premises; (ii) keeping the same in good order and condition; and (iii) making and performing all maintenance thereof and all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, of every nature, kind and description, including, without limitation, any maintenance required under the Financing Documents as may be necessary for the purpose of not unreasonably interfering with the Tenant's

quiet enjoyment of the Demised Premises. Landlord shall be obligated to take all actions required under the Ground Leases, including but not limited to, on its own and on behalf of Tenant, to comply with the obligations set forth in Exhibit F (pertaining to the M/WBE (as defined therein) requirements, Exhibits H and M (pertaining to HireNYC (as defined therein) requirements and Exhibit N (pertaining to Living Wage (as defined therein) requirements and shall indemnify Tenant with respect to such obligations as provided in Section 8.1(c)(iv) and Section 15.4.

(b) Landlord shall cause the Project and all building systems and structural elements thereof (including the structural elements of the exterior and interior of the Demised Premises such as walls, ceilings, windows, doorways, bathrooms, closets and hallways), to comply with all applicable Laws and shall obtain, comply with and maintain all necessary licenses, permits, certificates and other permissions required from time to time by any Governmental Authority having jurisdiction over the Project, for the proper and lawful operation and use thereof. Landlord shall operate the Project in compliance with all Laws and the Regulatory Documents.

(c) In connection with the foregoing, except to the extent caused by or the responsibility of Tenant pursuant to this Master Sub-Lease, Landlord agrees to hold harmless, defend and indemnify Tenant against all claims, actions, causes of action, demands, rights, damages (but not punitive or other consequential damages and not loss of federal income tax benefits), actual costs, losses, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which any party now has or which may in the future arise or in either case pertain to:

(i) The Project, including without limitation the Demised Premises, for claims arising due to conditions which existed at the Project on or prior to the date hereof, including any hazardous materials in, at, under, or related to the Project or any violation of any Law, including without limitation Environmental Laws. Landlord and Tenant shall jointly cause the Project general contractor to (i) correct any work performed and replace any materials that do not comply with the plans for the Project to the extent required under the general construction contract, and (ii) correct any latent defects to the extent of any warranties set forth in the general construction contract. ;

(ii) Any claims of any individual tenants under Residential Leases with regard to a claim pursuant to Section 8.1(a)(i) above;

(iii) Any default by Landlord under the Ground Leases, including but not limited to, any loss of and of recapture of Federal Housing Tax Credits or which results from a termination of the Ground Lease following a default by Landlord thereunder, unless such default is caused by an action or inaction of Tenant following the removal of the LIHTC Company's Managing Member pursuant to the Tenant Operating Agreement; and

(iv) Any Adverse Consequences arising from the Landlord's default or violation of the obligations set forth in the Ground Lease in Exhibit F (pertaining to the M/WBE (as defined therein) requirements, Exhibits H and M (pertaining to HireNYC (as defined therein) requirements and Exhibit N (pertaining to Living Wage (as defined therein) requirements.

(d) The obligations of Landlord under this Section 8.1 shall survive the expiration of the Term or sooner termination of this Master Sub-Lease.

**Section 8.2 Tenant Obligations.**

(a) Other than as set forth in Section 8.1 herein, Tenant shall at its sole cost and expense throughout the Term, (i) take good care of the Demised Premises; (ii) keep the same in good order and condition; and (iii) make and perform all maintenance thereof and all necessary repairs thereto, of every nature, kind and description; provided, however if such action is required to be undertaken by the Landlord then Tenant shall reimburse the costs thereof to the Landlord (if Landlord expends funds for such purpose). When used in this Section 8.2, the term “repairs” shall include all necessary replacements, renewals, alterations, additions and betterments. All repairs made by Tenant shall be in accordance with all Laws and the Restrictions. The necessity for or adequacy of maintenance and repairs shall be measured by the standards which are appropriate for improvements of similar construction and class, provided that Tenant shall in any event make all repairs reasonably necessary to avoid any structural damage or other damage or injury to the Demised Premises and the occupants thereof.

(b) Notwithstanding anything herein to the contrary, Tenant shall be obligated to pay Tenant’s share of the costs of constructing and developing the Demised Premises and agrees that it shall be a signatory to the general construction contract for the construction of the Project and shall enter into a development services agreement with the developer of the Demised Premises. Tenant shall be responsible for incurring expenditures which shall be included in the “eligible basis” (as such term is defined in Section 42(d) of the Code) of the Demised Premises in order to generate Federal Housing Tax Credits. The Landlord and Tenant hereby agree that the construction that will occur on the Demised Premises is being done exclusively for the use and ownership by Tenant.

(c) Subject to the terms and conditions for the making of the Investor Member’s Conversion and Completion Installment (as such term is defined in the Tenant Operating Agreement), including any adjustments to such Installment, and in accordance with the Financing Documents, Tenant shall be obligated upon receipt of the Conversion and Completion Installment to pay to the Construction Lender a portion of the proceeds of such Installment, in the anticipated amount of \$33,213,701, in order to reduce the principal balance of the Conventional Construction Loan. Landlord and Tenant acknowledge that the Investor Member is anticipated to make five installments of capital contributions to the Tenant, the proceeds of which will be used to pay certain development costs of the LIHTC Condominium Units to be incurred by Tenant, but none of which shall be considered Additional Rent due hereunder.

(d) Other than as set forth in Section 8.1 herein or elsewhere expressly provided in this Master Sub-Lease, Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in, about or to the Demised Premises. Other than as set forth in Section 8.1 herein or elsewhere expressly provided in this Master Sub-Lease, Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Demised Premises and the LIHTC Condominium Units. Notwithstanding the foregoing, Landlord and Tenant acknowledge that a qualified property

manager (the “Property Manager”) will be retained by both Landlord and Tenant to manage the entire Project, including the LIHTC Condominium Units. Landlord agrees that a default by Tenant under any provision of this Master Sub-Lease that is caused in whole or in part by the actions of the Property Manager shall not constitute a Default for which Landlord can take action against Tenant.

(e) The obligations of Tenant under this Section 8.2 shall survive the expiration of the Term or sooner termination of this Master Sub-Lease.

**Section 8.3 Compliance With Rules and Regulations; Compliance with Covenants.**

Tenant shall at its sole cost and expense:

(a) Other than as set forth in this Master Sub-Lease, comply with (i) all federal, state, county, municipal and other governmental and quasigovernmental statutes, laws, rules, orders, regulations and ordinances affecting the Demised Premises and the LIHTC Condominium Units or any part thereof, or the use thereof, including compliance with the requirements of any Governmental Authority relating to the operation of the Demised Premises and the LIHTC Condominium Units for the Permitted Use, and (ii) all rules, orders and regulations of the National Board of Fire Underwriters or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Demised Premises or the Project. Tenant shall comply with the requirements of all policies of public liability, fire and other insurance that at any time may be in force with respect to the Demised Premises and the Project.

(b) Comply with the requirements of the Restrictions to the extent applicable to Tenant and all amendments thereto to the extent adopted with the consent of the Tenant, to the extent required herein; except to the extent that such obligation hereunder is expressly required to be performed by Landlord pursuant to the terms of this Master Sub-Lease.

(c) Observe and not interfere with the rights reserved to Landlord under this Master Sub-Lease.

(d) In the event of Tenant’s failure to comply with the provisions of this Section 8.3 (without limitation of any other rights or remedies of Landlord hereunder), Landlord may, if such failure continues beyond the applicable notice and grace period hereunder, pay such amounts or perform such obligations as are necessary in order to comply therewith. The amounts reasonably expended by Landlord on account thereof shall constitute Rent, which Tenant shall pay to Landlord.

**Section 8.4 Existing Equipment.** Tenant acknowledges that Tenant is accepting possession of the Demised Premises inclusive of any and all fixtures, equipment and other moveable items (collectively, the “Existing Equipment”) located therein, provided however, Landlord and Tenant acknowledge that any Existing Equipment will be removed during the demolition of improvements located on the Premises. Subject to Section 8.1, Landlord makes no representations or warranties whatsoever as to the condition of the Existing Equipment.

**Section 8.5 Tax Credits; Title to Demised Premises and LIHTC Condominium Units.** At all times during the Term of this Master Sub-Lease, the Demised Premises and the

LIHTC Condominium Units shall be owned for income tax purposes by Tenant and during the Term, Tenant alone shall be entitled to all of the tax attributes of ownership, including, without limitation, the right to claim depreciation or cost recovery deductions, and the right to claim Federal Housing Tax Credits and Tenant shall have the right to amortize capital costs and to claim any other federal or state tax benefits attributable to the Demised Premises and the LIHTC Condominium Units. Landlord and Tenant further agree and acknowledge that Financing Documents will be secured by, among other things, the Demised Premises. Landlord and Tenant will take such other steps as may be reasonably requested by either party to further this agreement on income tax treatment.

**Section 8.6 Initial F&E.** Notwithstanding anything to the contrary herein, the Landlord and the Tenant agree that the initial fixtures and equipment (“F&E”) for the Demised Premises and the LIHTC Condominium Units will be provided by Landlord in accordance with the plans and specifications approved by Tenant but shall be owned by Tenant for federal income tax purposes. No additional rent beyond that set forth in Article IV hereof shall be payable by Tenant with respect to the F&E provided by Landlord. Following the installation of the initial F&E, all replacement F&E shall be provided by Tenant as and when needed with funds that have been first made available pursuant to the Development Replacement Reserve account required under the Tenant Operating Agreement, and such replacement shall occur in compliance with the provisions of this Master Sub-Lease.

**Section 8.7 Property Management.** Landlord and Tenant acknowledge and agree that the property manager for the LIHTC Condominium Units and the rest of the Project shall at all times be the same entity but subject to separate property management agreements. The initial property manager shall be as set forth in the Property Management Agreement and both the identity of the initial property manager and the Property Management Agreement shall be subject to the approval of the Tenant. In the event that any property manager is required to be terminated pursuant to the Financing Documents, Tenant shall cooperate in such termination and acknowledges that the replacement property manager shall be subject to the approval of the holders of any Mortgages as set forth in the Financing Documents. In the event that any property manager is required to be terminated pursuant to the Tenant Operating Agreement, Landlord shall cooperate in such termination and acknowledges that the replacement property manager shall be subject to the approval of the holders of any Mortgages as set forth in the Financing Documents.

## **ARTICLE IX**

### **RETURN OF DEMISED PREMISES**

**Section 9.1 Surrender of Possession.** At the termination of this Master Sub-Lease by lapse of time or otherwise, Tenant shall surrender possession of the Demised Premises and the LIHTC Condominium Units to Landlord and deliver all keys to the Demised Premises and the LIHTC Condominium Units to Landlord, and shall, subject to the following Section 9.2, return the Demised Premises, the LIHTC Condominium Units and all equipment and fixtures of Landlord therein to Landlord in as good condition as when Tenant originally took possession, ordinary wear, loss or damage by fire or other insured casualty, and damage resulting from the act of Landlord or its employees and agents excepted, failing which Landlord may restore the Demised Premises and

LIHTC Condominium Units and such equipment and fixtures to such condition and Tenant shall pay the reasonable cost thereof to Landlord on demand.

**Section 9.2 Installations and Additions.** All installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements, temporary or permanent, which are atypical of a residential installation, except movable furniture and equipment belonging to Tenant, in or upon the Demised Premises, whether placed there by Tenant or Landlord, shall be Landlord's property and shall remain upon the Demised Premises at the termination of this Master Sub-Lease, all without compensation, allowance or credit to Tenant; provided, however, that if prior to such termination Landlord so directs by notice, Tenant, at Tenant's sole cost and expense, shall promptly remove such of the installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements placed in the Demised Premises by Tenant as are designated in such notice and repair any damage to the Demised Premises caused by such removal, failing which Landlord may remove the same and repair the Demised Premises, and Tenant shall pay the reasonable cost thereof to Landlord on demand. Tenant may request, prior to making the atypical installations, additions or other improvements provided hereinabove that Landlord determine whether Tenant shall be obligated to remove such installations, additions or other improvements (in which case Landlord shall make such determination in a reasonable manner within five (5) days following such request); provided, however, that Landlord shall not be limited from exercising its right to require such removal, notwithstanding a prior manifestation of the contrary intent, if the condition of such installations, additions or other improvements have deteriorated and constitute in Landlord's reasonable determination, unreasonable wear and tear.

**Section 9.3 Trade Fixtures and Personal Property.** Tenant shall also remove Tenant's furniture, and other items of movable personal property of every kind and description belonging to Tenant from the Demised Premises and restore any damage to the Demised Premises caused thereby, such removal and restoration to be performed prior to the end of the Term (whether by lapse of time or by earlier termination of this Master Sub-Lease). If Tenant fails to remove such items, Landlord may do so and thereupon the provisions of Section 18.6 shall apply, and Tenant shall pay to Landlord upon demand the reasonable cost of removal and of restoring the Demised Premises.

**Section 9.4 Survival.** All obligations of Tenant under this Article IX shall survive the expiration of the Term or sooner termination of this Master Sub-Lease.

## **ARTICLE X**

### **HOLDING OVER**

**Section 10.1 Holding Over.** For each day Tenant retains possession of the Demised Premises or any part thereof after termination of this Master Sub-Lease, or of Tenant's right to possession of the Demised Premises, by lapse of time or otherwise, Tenant shall continue to pay all Additional Rent, plus Tenant shall also pay Landlord: (i) its actual out-of-pocket costs, expenses and damages sustained by Landlord by reason of such retention and (ii) a penalty in an additional amount equal to twice the Additional Rent. Nothing contained in this Section shall be construed or operate as a waiver of Landlord's right of reentry or any other right or remedy of Landlord. Any such holding over shall be a tenancy at sufferance.

## ARTICLE XI

### RIGHTS RESERVED TO LANDLORD

Landlord reserves the following rights, exercisable after reasonable advance notice and in such manner as will minimize interference with the use and occupancy of the Demised Premises, the LIHTC Condominium Units and the Project and in a manner that is in compliance with the Residential Leases:

- (a) to retain at all times, and to use in appropriate instances, pass keys to the Demised Premises and the LIHTC Condominium Units and Tenant shall provide such keys;
- (b) to exhibit the Demised Premises and the LIHTC Condominium Units at reasonable hours;
- (c) to enter the Demised Premises and the LIHTC Condominium Units (and permit the Authority and any holders of any mortgages on the Project and their respective representatives) at reasonable hours for inspection; and
- (d) to enter the Demised Premises and the LIHTC Condominium Units in the event of an emergency (without advance notice) and take all steps deemed reasonably necessary by it to respond to such emergency.

## ARTICLE XII

### REGULATORY COMPLIANCE

**Section 12.1 Compliance with Restrictions.** Tenant hereby covenants and agrees to at all times comply with the terms and conditions of any and all Restrictions (including, but not limited to the Regulatory Agreement) affecting the Demised Premises and the LIHTC Condominium Units.

**Section 12.2 HDC Requirements.** Anything contained in this Master Sub-Lease to the contrary notwithstanding, during any time when HDC holds a mortgage on the Project, Tenant shall not, without the prior written consent of HDC: (i) except as provided in the Financing Documents and Regulatory Agreement, assign, transfer, pledge, hypothecate or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this Master Sub-Lease or any interest under it; (ii) allow to exist or occur any transfer of or lien upon this Master Sub-Lease or Tenant's interest herein by operation of law; (iii) except as provided in the Financing Documents and Regulatory Agreement, sublet the Demised Premises in whole, or in part (except for the Residential Leases pursuant to the provisions hereof; (iv) permit the use or occupancy of the Demised Premises or any part thereof for any purpose not provided for under Article VI of this Master Sub-Lease (including, without limitation, the Restrictions (including the Credit Conditions)) or by anyone other than Tenant and Tenant's employees and permitted subtenants pursuant to the Residential Lease; or (v) modify or amended this Master Sub-Lease so as to reduce or postpone payment of the Rent or shorten the Term provided hereunder or increase Landlord's obligations or decrease Tenant's obligations or so as to otherwise adversely affect in any other respect any material extent the rights of Landlord and obligations of Tenant.

## **ARTICLE XIII**

### **ALTERATIONS**

Subject to any applicable limitations set forth in the Financing Documents or Regulatory Agreement, Tenant shall have the right following Construction Completion to make any alterations, additions or improvements to the LIHTC Condominium Units which are required in order for the Demised Premises and the LIHTC Condominium Units to comply with Section 42 of the Code and/or to obtain the maximum rental value of the residential units within the Demised Premises, subject to the Restrictions (the “**Permitted Alterations**”, provided such alterations, additions or improvements, including the Permitted Alterations, are permitted to be made without the prior approval of any Authority, if applicable under the Financing Documents and Regulatory Agreement. Any alterations, additions or improvements shall continue to be subject to the remaining terms and conditions set forth in this Master Sub-Lease.

## **ARTICLE XIV**

### **ASSIGNMENT AND SUBLETTING**

**Section 14.1 Assignment and Subletting.** Except as otherwise herein provided, Tenant shall not, without the prior written consent of Landlord and in conformance with the Restrictions, if any, in each instance, (i) assign, transfer, pledge, hypothecate or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this Master Sub-Lease or any interest under it; (ii) allow to exist or occur any transfer of or lien upon this Master Sub-Lease or Tenant’s interest herein by operation of law; (iii) sublet the Demised Premises in whole, or in part (except for the Residential Leases pursuant to the provisions hereof); or (iv) permit the use or occupancy of the Demised Premises or any part thereof for any purpose not provided for under Article VI of this Master Sub-Lease (including, without limitation, the Restrictions (including the Credit Conditions)) or by anyone other than Tenant and Tenant’s employees and permitted subtenants pursuant to the Residential Leases. Notwithstanding the foregoing, Landlord hereby consents to the subleasing of the LIHTC Condominium Units to various tenants pursuant to the Residential Leases and to the other tenants upon termination of any of such subleases or successor subleases, provided in each case that the sublease (i) complies with all applicable requirements, including any consent provisions, of the Financing Documents and the Property Management Agreement and (ii) is subject at all times to the Restrictions, including the Credit Conditions. After a Default by Tenant hereunder, Landlord may collect rent or any other amounts due under a Residential Lease from the tenant thereunder and shall apply such amounts to Rent or any other sums due under this Master Sub-Lease. No such subletting or collection or rent or any other amount from a tenant under a Residential Lease shall be deemed to be a waiver of any provision of this Master Sub-Lease or acceptance by Landlord of any tenant under a Residential Lease as a tenant hereunder.

**Section 14.2 Tenant To Remain Obligated.** Consent by Landlord to any assignment, subletting, use, occupancy or transfer shall not operate to relieve Tenant from any covenant or obligation hereunder except to the extent, if any, expressly provided for in such consent, or be deemed to be a consent to or relieve Tenant from obtaining Landlord’s consent to any subsequent

assignment, transfer, lien, charge, subletting, use or occupancy. This provision shall not apply to a transfer of interests in the Tenant.

**Section 14.3 Landlord's Consent.** Landlord will not unreasonably withhold or delay its consent to Tenant's assignment of this Master Sub-Lease or subletting the space leased hereunder wherever such consent is required hereunder. Landlord shall not be deemed to have unreasonably withheld its consent to a sublease of the entire Demised Premises or an assignment of this Master Sub-Lease if its consent is withheld because: (i) Tenant is then in default beyond any applicable grace period; (ii) any notice of termination of this Master Sub-Lease or termination of Tenant's possession shall have been given under Article 18 hereof; (iii) the proposed use of the Demised Premises by the subtenant or assignee does not conform with the Permitted Uses; (iv) in the reasonable judgment of Landlord, the proposed subtenant or assignee is not sufficiently financially responsible to perform its obligations under the proposed sublease or assignment or the proposed assignee does not have experience in complying with the Restrictions, including the Credit Conditions or (v) such assignment or subletting is not permitted under the Financing Documents; provided, however, that the foregoing are merely examples of reasons for which Landlord may withhold its consent and shall not be deemed to be exclusive of any permitted reasons for reasonably withholding consent, whether similar to or dissimilar from the foregoing examples. Any consent by Landlord to a proposed assignment or sublease shall in any event be subject to the terms of Section 14.1 and Section 14.2 above.

**Section 14.4 Assignee To Assume Obligations.** If Tenant shall assign this Master Sub-Lease as permitted herein, the assignee shall expressly assume all of the obligations of Tenant hereunder in a written instrument reasonably satisfactory to Landlord and furnished to Landlord not later than fifteen (15) days prior to the effective date of the assignment. If Tenant shall sublease the Demised Premises as permitted herein, Tenant shall obtain and furnish to Landlord, not later than fifteen (15) days prior to the effective date of such sublease and in form satisfactory to Landlord, the written agreement of such subtenant stating that the subtenant will attorn to Landlord, at Landlord's option and written request, in the event this Master Sub-Lease terminates before the expiration of the sublease.

**Section 14.5 Change of Landlordship or Control of Tenant.** Notwithstanding anything to the contrary in this Article XIV, if during the Term of this Master Sub-Lease, Tenant contemplates that the ownership of the membership interests in Tenant shall be changing pursuant to the terms of the Tenant Operating Agreement, such proposed change shall not constitute a proposed assignment of this Master Sub-Lease or otherwise be governed by the terms of this Article XIV. Landlord agrees to the subsequent transfer of Investor Member or Managing Member interests in Tenant pursuant to the terms of the Tenant Operating Agreement without consent. However, such changes shall be subject to the provisions of the Restrictions and the Financing Documents, if applicable. Notwithstanding the foregoing, Tenant shall advise Landlord of any such changes.

## ARTICLE XV

### WAIVER OF CERTAIN CLAIMS; INDEMNITY BY TENANT

**Section 15.1 Waiver of Certain Claims; Release by Tenant.** To the extent not expressly prohibited by law or provided in Section 8.1 herein, Tenant releases Landlord and its beneficiaries, if any, and their agents, servants and employees, from and waives all claims for damages to person or property sustained by Tenant, or by any other person, resulting directly or indirectly from fire or other casualty, or any existing or future condition, defect, matter or thing in or about the Demised Premises or Tenant's use of the Project or the Common Elements of the Project, or from any equipment or appurtenance therein, or from any accident in or about the Demised Premises or Tenant's use of the Project or the Common Elements of the Project, or from any act or neglect of any other person, including Landlord's agents and employees and contractors; provided, however, that the foregoing release shall not operate in the event of the negligence or willful misconduct of Landlord's agents, employees or contractors. This Section 15.1 shall apply especially, but not exclusively, to damage caused by water, snow, frost, steam, excessive heat or cold, wind, sewerage, gas, odors or noise, or the bursting or leaking of pipes or plumbing fixtures, broken glass, sprinkling or air conditioning devices or equipment, or flooding of basements, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the acts specifically enumerated above or from any other thing or circumstance, whether of a like nature or of a wholly different nature.

**Section 15.2 Damage Caused by Tenant's Neglect.** If any damage to the Demised Premises, the LIHTC Condominium Units, the Project or the Project Common Elements, or any equipment or appurtenance thereon, results from any act or neglect of Tenant, its employees, agents, contractors, licensees or invitees, or the subtenants under the Residential Leases, Tenant shall be liable therefor, and Landlord may at its option following expiration of the applicable grace period repair or cause the repair of such damage, and Tenant shall upon demand by Landlord reimburse Landlord for all reasonable costs of repairing such damage. Tenant shall receive a credit towards Rent for any insurance proceeds actually paid with regard to such damage.

**Section 15.3 Tenant Responsible for Personal Property.** All personal property on the Demised Premises belonging to Tenant shall be there at the risk of Tenant, and Landlord shall not be liable for damage thereto or theft or misappropriation thereof.

**Section 15.4 Indemnification.** To the extent not expressly prohibited by law, Tenant agrees to hold Landlord and its beneficiaries, if any, and their agents, servants and employees, harmless and to indemnify each of them against Adverse Consequences arising from injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Premises, the Project or the Project Common Elements, arising from Tenant's occupancy of the Demised Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises, the Project or the Project Common Elements, or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Master Sub-Lease, or due to any other act or omission of Tenant, its agents, contractors, invitees, licensees or employees, but Tenant shall receive a credit towards Rent for any insurance proceeds paid with regard to such damages, provided, however, that the foregoing indemnification shall not operate in the event and

to the extent that the Adverse Consequences result from the act or neglect of Landlord or Landlord's agents, servants or employees. Tenant's obligation to indemnify Landlord hereunder shall include the duty to defend against any claims creating such Adverse Consequences and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, reasonably incurred in connection therewith. For such purpose, Tenant shall be entitled to the use of an attorney designated by it or its insurer, subject to Landlord's approval which approval shall not be unreasonably withheld, delayed or conditioned. In addition, Landlord agrees to hold Tenant and its beneficiaries, if any, and their agents, servants and employees, harmless and to indemnify each of them against Adverse Consequences arising from injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Premises, the Project or the Project Common Elements, arising from Landlord's actions or inactions with respect to the Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Landlord in or about the Premises, the Project or the Project Common Elements, or from any breach or default on the part of Landlord in the performance of any covenant or agreement on the part of Landlord to be performed pursuant to the terms of the Ground Leases, this Master Sub-Lease or due to any other act or omission of Landlord, its agents, contractors, invitees, licensees or employees, provided, however, that the foregoing indemnification shall not operate in the event and to the extent that the Adverse Consequences result from the act or neglect of Tenant or Tenant's agents, servants or employees. Landlord's obligation to indemnify Tenant hereunder shall include the duty to defend against any claims creating such Adverse Consequences and to pay any judgments, settlements, costs, fees and expenses, including attorney's fees, reasonably incurred in connection therewith. For such purpose, Landlord shall be entitled to the use of an attorney designated by it or its insurer, subject to Tenant's approval which approval shall not be unreasonably withheld, conditioned or delayed.

## ARTICLE XVI

### DAMAGE OR DESTRUCTION BY CASUALTY

#### **Section 16.1 Damage or Destruction by Casualty.**

(a) If the Demised Premises and the LIHTC Condominium Units shall be damaged by fire or other casualty and if such damage does not render all or a substantial portion of the Demised Premises untenable, then Landlord shall proceed to repair and restore or cause to be repaired and restored any Common Elements of the Project or Condominium, as applicable, serving or supporting the Demised Premises (the repair and restoration of the portions of the Demised Premises that are not Common Elements shall be the responsibility of the Tenant) with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control. If any such damage renders all or a substantial portion of the Demised Premises untenable (a "**Substantial Casualty**"), Landlord shall, with reasonable promptness after the occurrence of such damage, provide a reasonable estimate of the length of time that will be required to substantially complete the repair and restoration of such damage and shall by notice advise Tenant of such estimate. If the Tenant reasonably determines that such repair and restoration schedule and the start date of the repair and restoration (the "**Start Date**") will prevent the Tenant from complying with the Credit Conditions (such determination to be accompanied by an opinion of counsel nationally recognized in matters affecting the Credit Conditions), then Tenant shall have the right to terminate this Master Sub-Lease as of the date of

such damage upon giving notice to the Landlord at any time within twenty (20) days after Landlord gives Tenant the notice containing said estimate. Unless this Master Sub-Lease is terminated as provided in the preceding sentence, Landlord shall proceed with reasonable promptness to repair and restore or cause to be repaired and restored any Common Elements of the Project or Condominium, as applicable, serving or supporting the Demised Premises (the repair and restoration of the portions of the Demised Premises that are not general Common Elements shall be the responsibility of the Tenant), subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control, and also subject to zoning laws and building codes then in effect. If the damages are not repaired or restored within the time period estimated by Landlord (as the same may be extended by notice to Tenant to the extent that additional time is required on account of Landlord's inability to timely perform as more specifically provided in Section 29.10 below or due to insurance adjustment or matters beyond the Landlord's control), after the Start Date, then either party may terminate this Master Sub-Lease, effective as of the date of such fire or other casualty, by written notice to the other party not later than thirty (30) days after the expiration of said period, but prior to substantial completion of repair or restoration. Notwithstanding anything to the contrary herein set forth, (a) Landlord shall have no duty pursuant to this Article XVI to expend for any repair or restoration amounts in excess of insurance proceeds paid to Landlord and available for repair or restoration (without limiting Tenant's right to terminate this Master Sub-Lease as aforesaid); (b) Tenant shall not have the right to terminate this Master Sub-Lease pursuant to this Article XVI if the damage or destruction was caused by the gross negligence or willful misconduct of Tenant or its agents, contractors or employees; and (c) if any such damage rendering all or a substantial portion of the Demised Premises untenable shall occur during the last year of the Term, either party shall have the option to terminate this Master Sub-Lease by giving written notice to the other within sixty (60) days after the date such damage occurred, and, if such option is so exercised, this Master Sub-Lease shall terminate as of the date of such notice. During the period when all or a portion of the Demised Premises are not available for their intended use as a result of casualty and this Master Sub-Lease is not terminated, Additional Rent shall not be reduced as to the portion of the Demised Premises not affected by such casualty.

(b) If this Master Sub-Lease is terminated as a result of a casualty, all net insurance proceeds made available to Landlord and Tenant on account of such casualty shall be apportioned between Tenant and Landlord based upon the agreed-upon fair market value of Landlord's and Tenant's respective interests in the Demised Premises.

(c) The provisions of this Article XVI shall be deemed an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and any law providing for such a contingency in the absence of an express agreement, now or hereafter in force, shall have no application in such case. The provisions of this Article XVI shall be subject to the Restrictions and the Financing Documents.

## **ARTICLE XVII**

### **EMINENT DOMAIN**

#### **Section 17.1 Eminent Domain.**

(a) If the Demised Premises, or a substantial part thereof, shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, subject to the provisions of the Restrictions and the Financing Documents including the rights of lenders set forth therein, the following shall apply. The Term of this Master Sub-Lease shall end upon and not before the earlier of (i) the date when the possession of the part so taken shall be required for such use or purpose or (ii) the effective date of the taking, and (except as otherwise herein provided) without apportionment of the award to or for the benefit of Tenant. In the event of the foregoing, Rent at the then current rate shall be apportioned as of the date of the termination. A “substantial part” of the Demised Premises shall be deemed taken or condemned if, as Tenant may reasonably determine, such part taken shall materially interfere with the economic utilization of the Demised Premises, taken as a whole. Landlord and Tenant shall each be entitled to receive the award or payment in connection with any taking as their interests may appear based upon the agreed-upon fair market value of Landlord’s and Tenant’s respective interests so taken. In the event that the Term of this Master Sub-Lease shall not be terminated as aforesaid in the event of a taking or condemnation, Landlord shall utilize the net proceeds from condemnation for the purpose of restoring or causing the restoration of the Demised Premises to an economic whole within such a period of time as shall be reasonably necessary under the circumstances.

## **ARTICLE XVIII**

### **DEFAULT**

**Section 18.1 Events of Default.** The occurrence of any one or more of the following matters constitutes a default (“**Default**”) by Tenant under this Master Sub-Lease:

(a) failure by Tenant to pay, within thirty (30) days after notice of failure to pay on the due date from Landlord to Tenant, Base Rent, Additional Rent or other moneys required to be paid by Tenant under this Master Sub-Lease;

(b) failure by Tenant to cure within a reasonable time after receipt of notice from Landlord of any hazardous condition which Tenant has created in violation of law or of this Master Sub-Lease but not longer than the earlier of (i) the date for correction of such violation set by any Authority or governmental entity or (ii) thirty (30) days from receipt of notice from the Landlord, unless the violation cannot be cured in thirty (30) days and Tenant is diligently pursuing such cure, then for such further period as is reasonably necessary to cure such condition;

(c) failure by Tenant to observe or perform any other covenant, agreement, condition or provision of this Master Sub-Lease, if such failure shall continue for thirty (30) days after notice thereof from Landlord to Tenant, or such longer period as is reasonably necessary to cure such condition, provided Tenant is acting diligently to cure same, if such failure cannot reasonably be corrected within said thirty (30) day period;

(d) the levy upon, under writ of execution, or the attachment by legal process of the Master Sub-Leasehold Interest, or the filing or creation of a mechanic’s lien in respect of such leasehold interest, which lien shall not be released, bonded or discharged within sixty (60) days from the date of such filing;

(e) Tenant abandons the Demised Premises whether or not Tenant thereafter continues to pay the Rent due under this Master Sub-Lease;

(f) Tenant makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Tenant or for the major part of its property;

(g) a trustee or receiver is appointed for Tenant or for the major part of its property and is not discharged or stayed within one-hundred (120) days after such appointment; or

(h) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted (i) by Tenant or (ii) against Tenant and are allowed against it or are consented to by it or are not dismissed or stayed within one-hundred twenty (120) days after such institution.

Notwithstanding the foregoing, if a Tenant Default occurs which is a result of a Tenant Operating Shortfall other than Base Rent after application of gross revenues of the Demised Premises and the LIHTC Condominium Units to Tenant's Operating Expenses, Additional Rent and Tenant's share of Debt Payments as reasonably determined by Landlord, then, Tenant shall not be deemed to be in Default at such time and the unpaid portion of the Tenant Operating Expenses, Additional Rent and Tenant's share of Debt Payments or other amounts due hereunder shall be deferred ("**Deferred Additional Rent**") until such time as Tenant either has sufficient funds with which to pay such Deferred Additional Rent; provided, however, the entire outstanding amount of the Deferred Additional Rent shall be due and payable to Landlord upon the earlier to occur of (i) the end of the Term, or (ii) a sale or assignment of the Tenant's interest in the Demised Premises hereunder; provided further, that any amounts advanced by Landlord pursuant to this Section 18.1 shall be treated as an "Operating Deficit Loan", as provided in the Tenant Operating Agreement and repayable pursuant to the Tenant Operating Agreement without regard to the "ODG Cap" or the occurrence of the "Operating Deficit Release Date", as such terms are defined in the Tenant Operating Agreement.

**Section 18.2 Rights and Remedies of Landlord.** If a Default occurs and during its continuance, subject to Section 19.2 below, Landlord shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Landlord of any other right or remedy allowed it by law:

(a) Landlord may terminate this Master Sub-Lease by giving to Tenant notice of Landlord's election to do so, in which event the Term of this Master Sub-Lease shall end, and all right, title and interest of Tenant hereunder shall expire on the date stated in such notice; and

(b) Landlord may enforce the provisions of this Master Sub-Lease and may enforce and protect the rights of Landlord hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Master Sub-Lease.

(c) If the Default is with respect to payment of Base Rent, Landlord may proceed against the Collateral under the security interest granted to it under Section 18.8 and take any and all actions permitted to a secured party under the laws of New York, including the Uniform Commercial Code as in effect in the State.

**Section 18.3 Right To Reenter.** If Landlord exercises either of the remedies provided for in subparagraphs (a) and (b) of Section 18.2, Tenant shall surrender possession and vacate the Demised Premises and immediately deliver possession thereof to Landlord, and Landlord may reenter and take complete and peaceful possession of the Demised Premises, pursuant to applicable legal proceedings, full and complete license so to do being hereby granted to Landlord, and Landlord may remove all occupants and property therefrom, without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.

**Section 18.4 Intentionally Deleted.**

**Section 18.5 Final Damages.** If this Master Sub-Lease is terminated by Landlord as provided for by subparagraph (a) of Section 18.2, Landlord shall be entitled to recover from Tenant all Rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant or for which Tenant is liable or in respect of which Tenant has agreed to indemnify Landlord under any of the provisions of this Master Sub-Lease (including any Deferred Additional Rent, which may be then owing and unpaid, and all costs and expenses, including court costs and attorneys' fees, reasonably incurred by Landlord in the enforcement of its rights and remedies hereunder, and, in addition, Landlord shall be entitled to recover as damages for loss of the bargain and not as a penalty: (i) the aggregate sum which at the time of such termination represents the excess, if any, of the present value of the aggregate rents which would have been payable after the termination date had this Master Sub-Lease not been terminated, including, without limitation; and (ii) any damages in addition thereto, including reasonable attorneys' fees and court costs, which Landlord shall have sustained by reason of the breach of any of the covenants of this Master Sub-Lease other than for the payment of Rent.

**Section 18.6 Removal of Personal Property.** All property of Tenant removed from the Demised Premises by Landlord pursuant to any provisions of this Master Sub-Lease or of law may be handled, removed or stored or thrown out by Landlord at the cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay Landlord for all expenses reasonably incurred by Landlord in such removal and storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. All such property not removed from the Demised Premises by the Tenant on or before the end of the Term, however terminated (i.e. whether by lapse of time or otherwise), or on or before the earlier termination of Tenant's right of possession of the Demised Premises, shall, at Landlord's option, be conclusively deemed to have been conveyed by Tenant to Landlord as by bill of sale without further payment or credit by Landlord to Tenant.

**Section 18.7 Costs and Attorneys' Fees.** Tenant shall pay all of Landlord's costs, charges and expenses, including court costs and reasonable attorneys' fees, reasonably incurred in enforcing Tenant's obligations under this Master Sub-Lease, reasonably incurred by Landlord in any action brought by Tenant in which Landlord is the prevailing party, or reasonably incurred by Landlord in any litigation, negotiation or transaction in which Tenant causes Landlord, without

Landlord's fault, to become involved or concerned. Landlord shall pay all of Tenant's costs, charges and expenses, including court costs and attorneys' fees reasonably incurred by Tenant in connection with the enforcement of Landlord's obligations under this Master Sub-Lease, reasonably incurred by Tenant in any action brought by Landlord in which Tenant is the prevailing party, or reasonably incurred by Tenant in any litigation, negotiation or transaction in which Landlord causes Tenant, without Tenant's fault, to become involved or concerned.

**Section 18.8 Grant of Security Interest by Tenant.**

**18.8.1 Security Interest.**

(a) To secure its obligations under this Master Sub-Lease to pay Base Rent, Tenant hereby grants to Landlord a security interest in all of Tenant's right, title and interest in, to and under the following-described property (the "**Collateral**"):

(i) All of Tenant's interest (whether presently existing or hereafter acquired) in all F&E which is or becomes attached to, installed in, or used on or in connection with the Demised Premises;

(ii) Tenant's right, title and interest to rent and other payments under the Residential Leases;

(iii) The Tenant's Share of the Development Replacement Reserve;

(iv) Tenant's revenues, incomes, proceeds, profits and other sums or benefits paid or payable to Tenant in connection with Tenant's operation of the Demised Premises and the LIHTC Condominium Units;

(v) The membership interests of the Managing Member of the Tenant and the capital contributions to be received by the Tenant;

(vi) All proceeds, including insurance or condemnation proceeds, that arise out of the sale, liquidation, or other transfer of, or damage to, condemnation of, or destruction of, or sale, use or enforcement of the above-described Collateral, or any proceeds thereof, including cash proceeds; and

(vii) Tenant's rights under the Property Management Agreement and any sub-management agreement or other managing agent.

(b) Tenant shall execute and deliver to Landlord, in form and substance satisfactory to Landlord, such financing statements as Landlord may consider reasonably necessary to create, protect and preserve Landlord's security interest herein granted, and Landlord may cause such statements to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

(c) The security interest granted pursuant to this Section 18.8 is a collateral security interest only, and Tenant shall have full use of and control over the Collateral prior to the occurrence of, and following the cure of, any Default hereunder.

(d) If requested to do so by Landlord, Tenant shall enter into separate security agreements with Landlord to provide in greater detail the details of the security interest in the Collateral (collectively, the “**Security Agreement**”) and consent to the filing of associated UCC-1 Financing Statements at the sole cost and expense of Landlord. Such Security Agreement and UCC-1 Financing Statements shall contain terms and conditions reasonably satisfactory to a mortgagee providing or about to provide financing to Landlord with respect to the Project.

18.8.2 **Collateral Assignment of Leases and Rental Income.**

(a) To secure its obligations to pay Base Rent under this Master Sub-Lease, Tenant hereby presently, irrevocably, absolutely and unconditionally grants, transfers and assigns to Landlord, for its benefit, all of Tenant’s present and future right, title and interest in, to and under: (i) all Residential Leases, (ii) all Rental Income, and (iii) all proceeds of the foregoing. This is a present assignment and transfer of title, and is not intended to be merely a collateral assignment for purposes of security.

(b) Upon the occurrence of a Default and at any time thereafter during the continuance thereof, upon written notice by Landlord, Tenant shall promptly deliver to Landlord all Rental Income then held by Tenant and Landlord shall thereafter be entitled to enforce the Residential Leases, to collect and receive, without deduction or offset, all Rental Income and to apply all such Rental Income to Tenant’s then outstanding and thereafter accruing obligations under this Master Sub-Lease.

(c) If requested to do so by Landlord, Tenant shall enter into a separate collateral assignment of Residential Leases and Rental Income with Landlord to provide in greater detail the specifics of the assignment of the Residential Leases and Rental Income (the “**Collateral Assignment**”) at the sole cost and expense of Landlord. Such Collateral Assignment shall contain terms and conditions reasonably satisfactory to a mortgagee providing or about to provide financing to Landlord with respect to the Condominium.

**Section 18.9 Investor Member Rights.**

(a) Landlord shall give Investor Member a duplicate copy of all notices of Default or other material notices (including but not limited to notices received pursuant to the Declaration or By-Laws) that Landlord may give to or serve in writing upon Tenant pursuant to the terms of this Master Sub-Lease. No such notice by Landlord to Tenant under this Master Sub-Lease shall be effective unless or until a copy of such notice has been provided to the Investor Member in accordance with the provisions hereof.

(b) The Investor Member may, at its option and during the time specified for the Tenant to cure any Default hereunder, either pay any amount or do any act or thing required of Tenant by the terms of this Master Sub-Lease. All payments made and all acts performed by the Investor Member during the cure period shall be effective to cure a Default hereunder and prevent a termination of this Master Sub-Lease to the same extent as if they had been performed by Tenant. Tenant authorizes the Investor Member to take any such action at the Investor Member’s option and does hereby authorize entry upon the Demised Premises by the Investor Member for such purpose.

(c) In addition to all other rights of the Investor Member hereunder, if, within thirty (30) days of receipt of said written notice of Default from the Landlord: (i) the Investor Member shall have commenced exercising its right to remove the Managing Member under the Tenant Operating Agreement pursuant to the provisions of the Tenant Operating Agreement, (ii) the substitute Managing Member is admitted to the Tenant's limited liability company, and (iii) the substitute Managing Member within thirty (30) days of being admitted to the Tenant's limited liability company either has cured such Default or, with respect to a non-monetary Default, has commenced to cure and thereafter diligently and continuously pursues same, if such non-monetary Default is capable of being cured by the substitute Managing Member, then the Tenant shall not be considered in default or breach hereunder.

(d) Following formation of the Condominium, Landlord will not consent to, waive or exercise any right under the Declaration or the By-Laws without the prior written consent of the Investor Member for so long as the Investor Member is a member of the Tenant, and any such purported action shall not be valid or effective without such prior written consent.

(e) Landlord shall not voluntarily convey or transfer its fee and beneficial interest in the Demised Premises without the prior written consent of the Investor Member.

(f) Landlord represents and warrants for the benefit of the Investor Member that there are no actions, whether voluntary or otherwise, pending against Landlord under any insolvency, bankruptcy or other debtor relief laws of the United States or any state and that Landlord has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against the Demised Premises.

## **ARTICLE XIX**

### **SUBORDINATION; NONDISTURBANCE**

#### **Section 19.1 Subordination.**

(a) Landlord and Tenant may have previously and may hereafter from time to time execute and deliver one or more mortgages (hereinafter referred to as a "**Mortgage**") against the Property or any interest therein including the Demised Premises. This Master Sub-Lease shall be subordinate to the Mortgage and, no further documentation shall be necessary to evidence such subordination; provided however, that if requested by the mortgagee under any Mortgage, Tenant will enter into a subordination, non-disturbance and attornment agreement with the mortgagee, in such form as may be reasonably approved by Tenant, with the consent of the Investor Member.

(b) In addition, upon request by any such mortgagee, as security for Landlord's obligations under Financing Documents, Landlord may grant such mortgagee a security interest in and assignment of (i) Landlord's interest in the Collateral in which Landlord has a security interest pursuant to Section 18.8 (including the therein referenced Security Agreement and associated UCC-1 Financing Statements) and (ii) Landlord's interest in the Residential Leases and Rental Income which have been assigned to Landlord pursuant to Section 18.8 (including the therein referenced Collateral Assignment). In such case, in the event of any foreclosure under any such security interest, Landlord shall be obligated to pay to Tenant any damages suffered by Tenant as

a result of such foreclosure including, without limitation, the fair market value of all Collateral lost by Tenant in such transaction; provided, however, the amounts due Tenant under this paragraph shall be offset by any amounts owed by Tenant to Landlord as a result of any default under this Lease.

**Section 19.2 Modification; Termination.** Landlord will not enter into any agreement with Tenant to terminate, cancel, surrender, amend, alter, modify, or extend the Master Sub-Lease without the prior written consent of the Investor Member, so long as the Investor Member is a member of the Tenant, and any such purported agreement shall not be valid or effective without such prior written consent. Without limiting the generality of the foregoing, the Investor Member's prior written consent shall be required prior to Tenant being permitted to terminate the Master Sub-Lease following the occurrence of damage, destruction or a taking.

**Section 19.3 Liability of Holder of Mortgage; Attornment.** It is further agreed that (i) if any Mortgage shall be foreclosed (or title is conveyed pursuant to a deed-in-lieu of foreclosure thereof), (A) the holder of the Mortgage or its grantee, or a purchaser at any foreclosure sale (or grantee in a deed in lieu of foreclosure), as the case may be, shall not be (x) liable for any act or omission of any prior landlord (including Landlord unless such act or omission is continued by such entity subsequent to such foreclosure or deed in lieu of foreclosure and then only from the date of such entity's act), or (y) subject to any offsets or counterclaims which Tenant may have against a prior landlord (including Landlord) except for offsets provided for herein; (B) the liability of the mortgagee hereunder or the purchaser at such foreclosure sale or the liability of a subsequent owner designated as Landlord under this Master Sub-Lease shall exist only so long as such mortgagee, purchaser or owner is the owner of the Property, and such liability shall not continue or survive with respect to claims accruing after further transfer of ownership; and (C) subject to the terms of any then-existing subordination, nondisturbance or attornment agreement, upon request of the mortgagee, if the Mortgage shall be foreclosed, Tenant will, at the mortgagee or purchaser's election, attorn, as Tenant under this Master Sub-Lease, to the purchaser at any foreclosure sale under any Mortgage, and Tenant will execute such instruments as may be necessary or appropriate to evidence such attornment; and (ii) this Master Sub-Lease may not be modified or amended so as to reduce or postpone payment of the Rent or shorten the Term provided hereunder or increase Landlord's obligations or decrease Tenant's obligations or so as to otherwise adversely affect in any other respect any material extent the rights of Landlord and obligations of Tenant without the consent of the holder of the Mortgage. The provisions of this Section shall not apply if the holder of the Mortgage or such grantee or purchaser is the Landlord or its Affiliates.

**Section 19.4 Modification Required by Mortgage.** Should any prospective mortgagee require a modification or modifications of this Master Sub-Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially change the rights and obligations of Tenant hereunder, Tenant agrees that this Master Sub-Lease may be so modified and agrees to execute whatever documents are required therefor and deliver the same to Landlord within ten (10) days following the request therefor.

**Section 19.5 Short Form Lease or Notice of Lease.** Should any prospective mortgagee require execution of a short form of lease for recording (containing the names of the parties, a description of the Demised Premises and the Term of this Master Sub-Lease) in such form as may be reasonably required by a prospective mortgagee, Tenant agrees to promptly execute such short

form of lease and deliver the same to Landlord within ten (10) days following the request therefor, whereupon Landlord shall join in the execution of such short form lease and arrange for the recordation thereof. In addition, at the request of Landlord or Tenant, the parties shall execute a short form of lease or notice of lease for recording containing the names of the parties, a description of the Demised Premises and the Term of this Master Sub-Lease or any other information required to be contained therein to record the same.

## **ARTICLE XX**

### **MORTGAGEE PROTECTION**

Tenant agrees to give any holder of any Mortgage against the Property, including HDC and Wells Fargo, or any interest therein, by certified mail, a copy of any notice or claim of Default served upon Landlord by Tenant, provided that prior to such notice Tenant has been notified in writing (by way of service on Tenant of a copy of an assignment of Landlord's interests in leases, or otherwise) of the address of such Mortgage holder. Tenant further agrees that if Landlord shall have failed to cure such Default within twenty (20) days after such notice to Landlord (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if Landlord has commenced within such twenty (20) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default), then the holder of the Mortgage, including HDC and Wells Fargo, shall have an additional thirty (30) days within which to cure or correct such Default (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if such holder of the Mortgage, including HDC and Wells Fargo, has commenced within such thirty (30) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default, including the time necessary to obtain possession if possession is necessary to cure or correct such Default) provided that no material adverse effects occur to Tenant's use, occupancy and operations during the Mortgagee's prosecution of the same.

## **ARTICLE XXI**

### **ESTOPPEL CERTIFICATE**

Tenant agrees that, from time to time upon not less than ten (10) days' prior request by Landlord or the holder of any Mortgage, Tenant (or any permitted assignee) will deliver to Landlord, or to the holder of any Mortgage, a statement in writing signed by Tenant certifying (i) that this Master Sub-Lease is unmodified and in full force and effect (or if there have been modifications, that this Master Sub-Lease as modified is in full force and effect and identifying the modifications); (ii) the payments of Base Rent that have been made and may be payable in the future; (iii) that to the best of Tenant's knowledge, Landlord is not in Default under any provision of this Master Sub-Lease, or, if in Default, the nature thereof in detail; (iv) that Tenant is in occupancy and paying Rent on a current basis with no rental offsets or claims (or the nature thereof in detail); (v) that there has been no prepayment of Rent other than that provided for in this Master Sub-Lease;(or the nature thereof in detail) (vi) that there are no actions, whether voluntary or otherwise, pending against Tenant under the bankruptcy laws of the United States or any state thereof;(or the nature thereof in detail) and (vii) such other matters as may be reasonably required by Landlord or the holder of the Mortgage. Landlord shall provide a statement of like tenor if and as requested by Tenant.

## ARTICLE XXII

### SUBROGATION AND INSURANCE

**Section 22.1 Waiver of Subrogation.** Landlord and Tenant agree to have all fire and extended coverage and other property damage insurance which may be carried by either of them endorsed with a clause (if commercially reasonably available) providing that any release from liability of, or waiver of claim for, recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder and providing further that the insurer waives all rights of subrogation which such insurer might have against the other party. Without limiting any release or waiver of liability or recovery set forth elsewhere in this Master Sub-Lease, and notwithstanding anything in this Master Sub-Lease which may appear to be to the contrary, each of the parties hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance policies. Notwithstanding the foregoing or anything contained in this Master Sub-Lease to the contrary, any release or any waiver of claims shall not be operative, nor shall the foregoing endorsements be required, in any case where the effect of such release or waiver is to invalidate insurance coverage or invalidate the right of the insured to recover thereunder or to increase the cost thereof (provided that in the case of increased cost the other party shall have the right, within ten (10) days following written notice, to pay such increased cost keeping such release or waiver in full force and effect).

### **Section 22.2 Insurance Required by Landlord and Tenant.**

(a) **Landlord's Required Insurance.** Landlord shall procure and maintain, policies of insurance, including, without limitation, liability, casualty for the Project and rental interruption insurance for the other portions of the Project during the entire Term hereof, which insurance shall comply with terms and coverages and companies required and meeting the conditions imposed under any Financing Documents or the Restrictions. Tenant shall be responsible to pay Tenant's Share of the cost of such insurance.

(b) **Tenant's Required Insurance.** Subject to the last sentence of this Section 22.2(b), Landlord shall procure and maintain on behalf of Tenant policies of insurance, including, without limitation, liability, casualty and rental interruption insurance for the Demised Premises, during the entire Term hereof with terms and coverages and companies consistent with the terms and coverages of insurance maintained by Landlord pursuant to Section 22.2(a), including all insurance required and meeting the conditions imposed under any Financing Documents or the Restrictions and the Tenant Operating Agreement. Tenant, pursuant to Section 4.3 hereof, shall reimburse Landlord for the cost of any insurance obtained on behalf of Tenant pursuant to this Section 22.2 as Additional Rent. Such reimbursement shall be equal to the Tenant's Share of the premiums payable by Landlord for the Project, but subject to the Limited Rental Source Limitation. In the alternative, Tenant may, by delivery of written notice to Landlord stating the time it elects to commence any such insurance, the insurance being obtained by Tenant, and such other information that may be required in order to comply with the provisions of this Master Sub-Lease, the Financing Documents or the Restrictions, elect to procure and maintain such insurance on its own behalf, and its sole cost and expense, in which event such insurance shall comply with

the provisions of Section 22.2(b) and shall be required to be paid for and maintained by Tenant for not less than ninety (90) days following delivery of written notice to Landlord that Tenant has determined that Landlord should maintain such insurance on behalf of Tenant, and given Landlord at least ninety (90) days prior to the date such insurance coverage shall terminate.

(c) All policies of insurance required hereunder which insure against loss or damage to the Demised Premises, the Project and the Common Elements and other units of the Condominium shall provide that the proceeds thereof (or so much of such proceeds as pertain to loss or damage to the Demised Premises, the Condominium and the Common Elements) shall be payable to Landlord and Tenant or their respective designees and shall also be payable to any holder of a Mortgage, as the interest of such holder of a Mortgage appears pursuant to a standard named insured or mortgagee clause. Tenant shall not, on Tenant's own initiative or pursuant to request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required hereunder, unless Landlord is included therein as named insured with loss payable as in this Section provided, and Tenant shall immediately notify Landlord whenever any such separate insurance is taken out and shall deliver to Landlord duplicate originals thereof or original certificates evidencing the same with true copies of such insurance policies attached. All such policies of insurance shall provide that any loss shall be payable to Landlord notwithstanding any act or omission of Tenant which might otherwise result in a forfeiture or reduction of such insurance.

**Section 22.3 Certificates of Insurance.** Prior to the commencement of the Term (unless Tenant has elected or is required to procure the policies of insurance as provided above), Landlord shall furnish to Tenant policies or certificates evidencing such coverage, which policies or certificates shall state that such insurance coverage may not be reduced, cancelled or not renewed without at least thirty (30) days' prior written notice to Landlord and Tenant (unless, in the event that such insurance has been obtained by Tenant, such cancellation is due to nonpayment of premium, and, in that case, only ten (10) days' prior written notice shall be sufficient).

## **ARTICLE XXIII**

### **NONWAIVER**

**Section 23.1 Nonwaiver.** No waiver of any condition expressed in this Master Sub-Lease shall be implied by any failure of either party to enforce any remedy on account of the violation of such condition whether or not such violation be continued or repeated subsequently, and no express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated. Without limiting Landlord's rights under Article X, it is agreed that no receipt of monies by Landlord from Tenant after the termination in any way of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given to Tenant prior to the receipt of such monies. It is also agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Demised Premises, Landlord may receive and collect any monies due, and the payment of said monies shall not waive or affect said notice, suit or judgment.

## ARTICLE XXIV

### AUTHORITY OF LANDLORD AND TENANT

Landlord and Bedford Courts III LIHTC LLC are each a limited liability company and HDFC is a New York not-for-profit corporation formed as a housing development fund company pursuant to Article XI of the New York Private Housing Finance Law. Landlord and Bedford Courts III LIHTC LLC each represents and warrants to the other and HDFC that all of the Persons who are managers or managing members in such limited liability company have executed this Master Sub-Lease on behalf of Landlord or Bedford Courts III LIHTC LLC. HDFC represents and warrants to the other parties that the Person who has executed this Master Sub-Lease has done so on behalf of HDFC. All parties to this Master Sub-Lease represent and warrant that it has been executed and delivered pursuant to and in conformity with a valid and effective authorization therefor by such entity and is and constitutes the valid and binding agreement of such entity enforceable in accordance with its terms.

## ARTICLE XXV

### REAL ESTATE BROKERS/TRANSFER TAX

**Section 25.1 Real Estate Brokers.** Each party represents that it has not dealt with any broker in connection with this Master Sub-Lease, and agrees to indemnify and hold the other harmless from all Adverse Consequences arising from any claims or demands of any broker or brokers or finders for any commission alleged to be due such broker or brokers or finders in connection with the Demised Premises or dealing with such party in the negotiation of this Master Sub-Lease.

**Section 25.2 Transfer Tax.** Landlord shall be obligated to pay any New York or City of New York transfer tax which may occur due to the execution of the Master Sub-Lease and although the parties do not believe transfer taxes will be due upon the formation of the Condominium, if applicable, the Landlord shall be obligation to pay any transfer taxes due upon the formation of the Condominium, and shall indemnify Tenant for any amounts assessed against or incurred by it arising out of the failure of Landlord to make any such payment.

## ARTICLE XXVI

### NOTICES

All notices, approvals, consents or other communications to be delivered under this Master Sub-Lease shall be in writing and signed by the party giving the same, and shall be (i) sent by certified mail, postage prepaid, return receipt requested; (ii) deposited in the United States mail; (iii) deposited with FedEx or a similar overnight delivery service of national standing; (iv) delivered by hand; or (v) sent by telecopier or other electronic or facsimile medium, transmission confirmed, in each case, to the parties as follows or to such other address or to such other members of the parties as may be designated by Notification by it or them:

If to the Landlord at:

150 Myrtle Avenue, 2nd Floor  
Brooklyn, New York 11201  
Attention: Donald Capoccia

With a copy to:  
Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> Floor  
New York, New York 10010  
Attention: Russell A. Kivler, Esq.

If to the Tenant at:  
c/o Bedford Courts III MM LLC  
150 Myrtle Avenue, 2nd Floor  
Brooklyn, New York 11201  
Attention: Donald Capoccia

With a copy to:  
Hirschen Singer & Epstein LLP  
902 Broadway, 13<sup>th</sup> Floor  
New York, New York 10010  
Attention: Russell A. Kivler, Esq.

And

Wells Fargo Affordable Housing Community Development Corporation  
MAC D1053 170  
301 South College Street  
Charlotte, North Carolina 28288  
Attention: Director of Tax Credit Asset Management

And

Nixon Peabody LLP  
799 9<sup>th</sup> Street NW, Suite 500  
Washington, DC 20001  
Attention: Richard S. Goldstein, Esq.

If to HDC, as Mortgagee:  
New York City Housing Development Corporation  
110 William Street, 10<sup>th</sup> Floor  
New York, New York 10038  
Attention: General Counsel

For the purposes of determining whether notification has been received, a notification will be deemed to have been received by recipient on the earlier of (a) the date of personal delivery or (b) the date which is three (3) days after the date of mailing thereof when it is sent via the U.S. mail or (c) the date which is the next business day after the date it is sent by overnight delivery service

when it is sent via overnight delivery service or (d) the next business day after the date it is sent by telecopier or other facsimile or electronic transmission, when it is sent via such medium, provided that such receipt is confirmed or it is followed by a writing sent either by US Mail or overnight delivery service to the recipient.

## ARTICLE XXVII

### HAZARDOUS SUBSTANCES

**Section 27.1 Defined Terms.** As used in this Article XXVII, the following terms shall have the meanings set forth below:

(a) **“Claim”** shall mean and include any demand, cause of action, proceeding or suit (i) for damages (actual or punitive), losses, injuries to person or property, damages to natural resources, fines, penalties, interest, contribution or settlement, (ii) for the costs of site investigations, feasibility studies, information requests, health or risk assessments or Response actions, and (iii) for enforcing insurance, contribution or indemnification agreements.

(b) **“Environmental Laws”** shall mean and include all existing and future federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and cleanup, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act (“**FIFRA**”), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act (“**RCRA**”), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act (“**CERCLA**”), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act (“**TSCA**”), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and state superlien and environmental cleanup statutes, with implementing regulations and guidelines. Environmental Laws shall also include all existing and future state, regional, county, municipal and other local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

(c) **“Hazardous Materials”** shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, byproduct or constituent regulated under CERCLA; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos containing materials, PCBs and other substances regulated under the TSCA; source material, special nuclear material, byproduct material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. §

1910.1200 et seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of RCRA, together with any and all other hazardous or toxic materials regulated from time to time under any other Environmental Laws.

(d) **“Manage”** or **“Management”** means to generate, manufacture, process, treat, store, use, reuse, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of or abandon Hazardous Materials.

(e) **“Release”** or **“Released”** shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment, as “environment” is defined in CERCLA.

(f) **“Response”** or **“Respond”** shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess or abate the Release of a Hazardous Material.

**Section 27.2 Tenant’s Obligations with Respect to Environmental Matters.** Subject to the provisions of Section 27.7 and Section 27.8, during the Term of this Master Sub-Lease: (i) Tenant shall at its own cost comply with all Environmental Laws relating to the conditions of the Demised Premises during the Term; (ii) Tenant shall not conduct or authorize the Management of any Hazardous Materials on the Demised Premises and/or the Property without prior written disclosure to and approval by Landlord, provided, however, that the use by Tenant of cleaning solvents and other materials used in the ordinary course of the operation of the Demised Premises shall be deemed disclosed to and approved by Landlord, as long as such use is not in violation of any Environmental Laws; (iii) Tenant shall not take any action that would subject the Demised Premises and the Property to permit requirements under RCRA or any other Environmental Laws for storage, treatment or disposal of Hazardous Materials; (iv) Tenant shall not dispose of Hazardous Materials in the Demised Premises or the Property; (v) Tenant shall not discharge Hazardous Materials into drains or sewers; (vi) Tenant shall not cause or knowingly allow the Release of any Hazardous Materials on, to or from the Demised Premises or the Property; (vii) Tenant shall at its own cost arrange for the lawful transportation and offsite disposal of all Hazardous Materials that is generated by the operation of the Demised Premises following the date hereof; and (viii) without limiting the foregoing, Tenant shall comply with the applicable provisions of the Financing Documents relating to Hazardous Materials. In no event shall Tenant be required to incur any cost or expense under this Article XXVII arising with respect to conditions that have occurred prior to the Commencement Date or with respect to any conditions caused by Landlord or its Affiliates.

**Section 27.3 Copies of Notices.** During the term of this Master Sub-Lease, Tenant shall promptly provide Landlord with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, or other federal, state or local agency or authority, or any other entity or individual, in each case received by Tenant, concerning (i) any Release of a Hazardous Material

on, to or from the Demised Premises or the Property; (ii) the imposition of any lien on the Demised Premises or the Property; or (iii) any alleged violation of or responsibility under Environmental Laws. Landlord and Landlord's agents, contractors, beneficiaries and employees (and the agents, contractors, employees or representatives of any such parties) shall have the right subject to the rights of subtenants and the other applicable provisions of this Master Sub-Lease to enter the Demised Premises and conduct appropriate inspections or tests in order to determine Tenant's compliance with Environmental Laws.

**Section 27.4 Tests and Reports.** Upon written request by Landlord, if Landlord has a reasonable basis to believe that a Release has occurred, Tenant shall provide Landlord with the results of appropriate reports and tests, with transportation and disposal contracts for Hazardous Materials, with any permits issued under Environmental Laws, and with any other applicable documents to demonstrate that Tenant complies with all Environmental Laws relating specifically to the Demised Premises, and if such reports, tests or other items reveal any failure of the Demised Premises to so comply with all Environmental Laws, and such failure is due to the failure of Tenant to comply with the obligations under Section 27.2, then, in addition to other rights and remedies of Landlord hereunder, Tenant shall reimburse Landlord for the reasonable cost of such reports, tests and other investigations but otherwise Landlord shall pay for the same.

**Section 27.5 Access and Inspection.** Landlord and its agents and representatives shall have access to the Demised Premises and to the books and records of Tenant (and any occupant of the Demised Premises claiming by, through or under Tenant, subject to the rights of such occupants) relating to Hazardous Materials for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind and quantity of all products, materials and substances brought onto the Demised Premises or made or produced thereon. Landlord and its agents and representatives shall have the right to take samples in quantity sufficient for scientific analysis of all Hazardous Materials present on the Demised Premises, including, but not limited to, samples of products, materials or substances brought onto or made or produced on the Demised Premises by Tenant or an occupant claiming by, through or under Tenant (other than tenants under Residential Leases) or otherwise present on the Demised Premises. And, further, notwithstanding any provision of this Master Sub-Lease or applicable statutes or judicial decisions to the contrary, with respect to any assignment, subletting, grant of license, concession or any other permission to use the Demised Premises by any Person other than Tenant, Landlord shall have the right to withhold Landlord's consent thereto if, the assignee, subtenant, licensee, concessionaire or such other Person is not capable of performing or is not sufficiently qualified to perform in accordance with the requirements of this Article (other than tenants under Residential Leases). Any assignment, sublease, license or other permission to use the Demised Premises from which Landlord withholds its consent as provided in this Section 27.5 shall be voidable at the Landlord's sole option.

**Section 27.6 Tenant's Obligation To Respond.** If Tenant's Management of Hazardous Materials at the Demised Premises (i) gives rise to liability or to a Claim under any Environmental Law, (ii) causes a significant public health effect, or (iii) creates a nuisance, Tenant shall promptly take all applicable action in Response.

**Section 27.7 Landlord's Obligations with respect to Environmental Matters.** Notwithstanding the foregoing, Landlord shall cause the Premises to be in compliance with all

Environmental Laws prior to the Construction Completion and, without limitation of the foregoing, shall cause all removal of Hazardous Materials on or about the Premises and all remediation work with respect to existing violation of Environmental Laws to be performed in accordance with the recommendations contained in the Environmental Report, if any, and shall provide satisfactory evidence of same to Tenant.

**Section 27.8 Indemnification**

(a) Subject to Section 8.1 above and Section 27.7, Tenant shall indemnify, defend and hold harmless Landlord, its partners or members, its beneficiaries, its lenders, any managing agents and leasing agents of the Demised Premises, and their respective beneficiaries, agents, partners, officers, directors and employees, from all Claims (other than those arising from a breach by Landlord of its obligation under Section 27.7 or from such indemnified parties gross negligence or willful misconduct) arising from or attributable to: (i) the presence of Hazardous Materials in or on the Demised Premises or the subsurface thereof or the violation of any Environmental Laws (including, without limiting the generality thereof, any cost, claim, liability or defense expended in remediation required by a governmental authority or by reason of the release, escape, seepage, leakage, discharge or migration of any Hazardous Material on or from the Demised Premises), or (ii) any breach by Tenant of any of its warranties, representations or covenants in this Article. Tenant's obligations hereunder shall survive the termination or expiration of this Master Sub-Lease.

(b) Landlord shall indemnify, defend and hold harmless Tenant, its partners or members, its beneficiaries, its lenders, any managing agents and leasing agents of the Demised Premises, and their respective beneficiaries, agents, partners, officers, directors and employers, from all claims arising from or attributable to any breach by Landlord of any of its representations, warranties or covenants in Section 27.7 unless such breach was occasioned by the gross negligence or willful misconduct of Tenant or its agents. Landlord's obligations hereunder shall survive the termination or expiration of this Master Sub-Lease.

**ARTICLE XXVIII**

**TITLE AND COVENANT AGAINST LIENS**

**Section 28.1 Title.** Landlord represents and warrants that it has good beneficial leasehold title to the Premises under the Ground Leases and Landlord covenants that it will defend, and indemnify and hold harmless Tenant from and against any loss, damage or other Adverse Consequences suffered by Tenant arising with respect to Landlord's title under the Ground Leases, except if caused by the Tenant's action or inaction. Landlord's title in and to the Project including the Demised Premises is and always shall be paramount to the title of Tenant, and nothing in this Master Sub-Lease contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord in and to the Project including the Demised Premises. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialmen created through the activities of Tenant or those claiming by or through Tenant to be placed upon or against the Project or against Tenant's Leasehold Interest in the Demised Premises and, in case of any such lien attaching, promptly to pay and remove or bond over same. Tenant has no authority or power to cause or knowingly permit any lien or encumbrance of any kind whatsoever, whether created by act of

Tenant, operation of law or otherwise, to attach to or be placed upon the Project including the Demised Premises and any and all liens and encumbrances created by Tenant shall attach only to Tenant's Leasehold Interest in the Demised Premises. If any such liens so attach and Tenant fails to pay and remove or bond over same within thirty (30) days after notice thereof, Landlord, at its election, may pay and satisfy or bond the same, and in such event the sums so paid by Landlord shall accrue with interest from the date of payment at the rate set forth in Section 29.7 hereof for amounts owed to Landlord by Tenant. Such sums shall be deemed to be Additional Rent due and payable by Tenant at once without notice or demand.

**Section 28.2 Covenants Against Liens.** Landlord hereby covenants that Tenant, upon performing all of its obligations in this Master Sub-Lease, shall quietly and exclusively have and enjoy the Demised Premises during the Term, without hindrance or molestation by Landlord or any party claiming rights by, on behalf of or through Landlord, including claims under the Ground Lease and any liens filed against the Premises, except any liens that result from the action or inaction of the Tenant, subject however in all events to the terms and conditions set forth in this Master Sub-Lease.

## **ARTICLE XXIX**

### **MISCELLANEOUS**

**Section 29.1 Successors and Assigns.** Each provision of this Master Sub-Lease shall extend to and shall bind and inure to the benefit not only of Landlord and Tenant, but also their respective heirs, legal representatives, successors and assigns, but this provision shall not operate to permit any transfer, assignment, mortgage, encumbrance, lien, charge or subletting contrary to the provisions of this Master Sub-Lease.

**Section 29.2 Modifications in Writing.** No modification, waiver or amendment of this Master Sub-Lease or of any of its conditions or provisions shall be binding upon either party unless in writing signed by such party. This Lease may only be modified, amended or changed by an agreement in writing signed by the Tenant and the Landlord. No waiver of any term, covenant or provision of this Lease shall be effective unless given in writing by the Tenant and if so given by the Tenant shall only be effective in the specific instance in which given.

**Section 29.3 No Option; Irrevocable Offer.** Submission of this instrument for examination shall not constitute a reservation of or option for the Demised Premises or the Residential Project or in any manner bind Landlord, and no lease or obligation of Landlord shall arise until this instrument is signed and delivered by Landlord and Tenant.

**Section 29.4 Definition of Tenant.** The word "**Tenant**" whenever used herein shall be construed to mean Tenants or any one or more of them in all cases where there is more than one Tenant; and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other organizations, partnerships or other Entities, or individuals, shall in all cases be assumed as though in each case fully expressed herein. In all cases where there is more than one Tenant, the liability of each shall be joint and several.

**Section 29.5 Definition of Landlord.** The term “Landlord” as used in this Master Sub-Lease means only the owner or owners at the time being of the Property and the Demised Premises so that in the event of any assignment, conveyance or sale, once or successively, of said Property and the Demised Premises, or any assignment of this Master Sub-Lease by Landlord, said Landlord making such sale, conveyance or assignment shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder accruing after such sale, conveyance or assignment, and Tenant agrees to look solely to such purchaser, grantee or assignee with respect thereto. This Master Sub-Lease shall not be affected by any such assignment, conveyance or sale, and Tenant agrees to attorn to the purchaser, grantee or assignee.

**Section 29.6 Headings.** The headings of Articles and Sections are for convenience only and do not limit, expand or construe the contents of the Sections.

**Section 29.7 Default Rate of Interest.** All amounts (including, without limitation, Rent and Additional Rent) owed by Tenant to Landlord pursuant to any provision of this Master Sub-Lease and not paid within ten (10) days from the date when due shall bear interest from the date due until paid at the annual rate of one percent (1%) in excess of the Designated Prime Rate, unless a lesser rate shall then be the maximum rate permissible by law with respect thereto, in which event said lesser rate shall be charged. Notwithstanding the foregoing, no default interest shall accrue, or be due and payable, so long as Bedford Courts III LIHTC MM LLC is the managing member of Tenant.

**Section 29.8 Severability.** The invalidity of any provision of this Master Sub-Lease shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Master Sub-Lease.

**Section 29.9 Entire Agreement.** All understandings and agreements, oral or written, heretofore made between the parties hereto are merged in this Master Sub-Lease, which alone fully and completely expresses the agreement between Landlord (and its beneficiary, if any, and their agents) and Tenant.

**Section 29.10 Force Maieure.** If either party fails to timely perform any of the terms, covenants and conditions of this Master Sub-Lease on its part to be performed (other than relating to the payment of money) and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by the other party (or the other party’s agents, employees, contractors, licensees or invitees) or any other cause beyond the reasonable control of such party, then such party shall not be deemed in default under this Master Sub-Lease as a result of such failure and any time for performance by such party provided for herein shall be extended by the period of delay resulting from such cause.

**Section 29.11 Waiver of Trial by Jury.** It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall, and they hereby do, waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Master Sub-Lease, the

relationship of Landlord and Tenant, Tenant's use of or occupancy of the Demised Premises or any claim of injury or damage and any emergency statutory or any other statutory remedy.

**Section 29.12 Relationship of Parties.** Nothing contained in this Master Sub-Lease shall be deemed or construed by the parties to this Master Sub-Lease, or by any third party, to create the relationship of principal and agent, partnership, joint venture, lender and borrower, or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computing Rent hereunder nor any other provisions contained in this Master Sub-Lease nor any acts of the parties to this Master Sub-Lease shall be deemed to create any relationship between Landlord and Tenant, other than the leasehold relationship contemplated hereby.

**Section 29.13 No Merger.** The parties agree that absent the express written consent of Landlord and Tenant, the fee estate and the leasehold estate created by this Master Sub-Lease shall not merge during the Term, regardless whether the same persons or entities are the owners of both estates.

**Section 29.14 Third Party Beneficiary.** The parties agree that the Investor Member shall be a third-party beneficiary of the Master Sub-Lease.

**Section 29.15 Brownfield Cleanup.** Notwithstanding anything herein to the contrary, Landlord and Tenant shall, for purposes of the Brownfield Site Cleanup Agreement (as defined in the Tenant Operating Agreement), jointly investigate and remediate the Premises and Demised Premises.

## **ARTICLE XXX**

### **EXCULPATORY PROVISIONS**

**Section 30.1 Landlord.** It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Landlord (or default through, under or by any of its agents or representatives), Tenant shall look solely to the interests of Landlord in the Demised Premises or the proceeds of the sale thereof and any other assets of Landlord, including, without limitation, the Property, and that none of Landlord's partners, members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief. It is further acknowledged and agreed that in accordance with the terms and conditions of that certain Declaration of Interest and Nominee Agreement dated as of the date hereof between Landlord and HDFC, the rights of Landlord shall be exercised and the obligations of Landlord shall be performed solely by Landlord and Tenant will look solely to Landlord with respect to the exercise of Landlord's rights hereunder and the performance of Landlord's obligations hereunder.

**Section 30.2 Tenant.** It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Tenant (or default through, under or by any of its agents or representatives), Landlord shall look solely to

the interest of Tenant in the Demised Premises or the proceeds of the sale thereof and any other assets of Tenant and none of Tenant's partners, members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief.

**Section 30.3 HDFC.** The Landlord shall defend the HDFC and Settlement Housing Fund, Inc. ("SHF") and indemnify the HDFC and SHF and hold the HDFC and SHF (and their agents, directors, officers and employees) harmless from and against, and pay, any liability, loss, damage and/or expense (including the reasonable attorneys' fees of counsel selected by the HDFC and/or SHF) incurred by the HDFC and/or SHF in connection with this Master Sub-Lease, except in the case of the HDFC's gross negligence or willful misconduct. This Indemnity shall survive any expiration or termination of this Master Sub-Lease. Notwithstanding anything herein to the contrary, any payments to be made by Tenant hereunder shall be the obligation of Bedford Courts III LIHTC LLC and not HDFC.

**REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.**  
**SIGNATURE PAGE TO FOLLOW.**

**IN WITNESS WHEREOF**, the parties hereto have caused this Master Sub-Lease to be executed as of the date first written above.

**LANDLORD:**

**BEDFORD COURTS III LLC,**  
a New York limited liability company

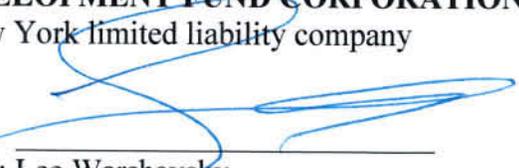
By: Bedford Courts III Developer LLC,  
its sole member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory

**IN WITNESS WHEREOF**, the parties hereto have caused this Master Sub-Lease to be executed as of the date first written above.

**TENANT:**

**BEDFORD COURTS III HOUSING  
DEVELOPMENT FUND CORPORATION,**  
a New York limited liability company

By: 

Name: Lee Warshavsky

Title: Secretary/Treasurer

**IN WITNESS WHEREOF**, the parties hereto have caused this Master Sub-Lease to be executed as of the date first written above.

**TENANT:**

**BEDFORD COURTS III LIHTC LLC,**  
a New York limited liability company

By: Bedford Courts III LIHTC MM LLC,  
its managing member

By: Bedford Courts III Managers LLC,  
its sole member

By: Bedford Courts III Developer LLC  
its managing member

By: \_\_\_\_\_  
Name: Donald Capoccia  
Title: Authorized Signatory



**EXHIBIT A-1**

**Description of the Demised Premises**

**PERIMETER DESCRIPTION:**

EXHIBIT A

LEGAL DESCRIPTION

LOT 101

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

BEGINNING at a point on the southerly line of Union Street (mapped 70 feet wide), said point being distance 331.99 feet easterly from the intersection of said southerly line of Union Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE easterly along said southerly line of Union Street, a distance of 120.41 feet to a point;

THENCE southerly, forming an interior angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 255.58 feet to a point on the northerly line of President Street (mapped 70 feet wide);

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 120.40 feet to a point on the easterly line of Block 1274 Lot 2;

THENCE northerly, along said easterly line of Block 1274 Lot 2 and the easterly line of Block 1274 Lot 1, forming an interior angle of 90 degrees 00 minutes 08 seconds with the previous course, a distance of 255.58 feet to a point on the southerly line of Union Street, said point being the point or place of BEGINNING.

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**LOT 2:**

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

BEGINNING at a point on the northerly line of President Street (mapped 70 feet wide), said point being distant 117.45 feet easterly from the intersection of said northerly line of President Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE northerly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with said northerly side of President Street, a distance of 54.66 feet to a point;

THENCE easterly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 265.64 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 89 degrees, 59 minutes, 52 seconds with the previous course, a distance of 265.65 feet to a point, said point being the point or place of BEGINNING.

**EXHIBIT A-2**

**Description of the Property**

## PROPERTY DESCRIPTION

### LOT 1:

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

BEGINNING at the intersection of the easterly side of Bedford Avenue (mapped 80 feet wide), and the northerly side of President Street (mapped 70 feet wide);

THENCE northerly along the easterly side of Bedford Avenue, forming an interior angle of 78 degrees, 41 minutes, 42 seconds on its southeasterly side with said northerly side of President Street, a distance of 260.64 feet (260 feet 7-5/8 inches) to the southerly line of Union Street (mapped 70 feet wide);

THENCE easterly, along said southerly line of Union Street, forming an interior angle of 101 degrees, 18 minutes, 18 seconds with the previous course, a distance of 331.99 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 200.92 feet to a point on the northerly line of Block 1274 Lot 2;

THENCE westerly, along said northerly line of Block 1274 Lot 2, forming an interior angle of 89 degrees 59 minutes 52 seconds with the previous course, a distance of 265.64 feet to a point;

THENCE southerly, forming an exterior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 117.45 feet to a point, said point being the point or place of BEGINNING.

Together with the benefits and subject to the burdens, if any, of an Egress Easement Agreement made between Bedford Courts III LLC, Bedford Courts Local Development Corporation and Bedford Courts I LLC dated 1/31/2019 and intended to be recorded.

### LOT 101

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

BEGINNING at a point on the southerly line of Union Street (mapped 70 feet wide), said point being distance 331.99 feet easterly from the intersection of said southerly line of Union Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE easterly along said southerly line of Union Street, a distance of 120.41 feet to a point;

THENCE southerly, forming an interior angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 255.58 feet to a point on the northerly line of President Street (mapped 70 feet wide);

THENCE westerly, along said northerly line of President Street, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 120.40 feet to a point on the easterly line of Block 1274 Lot 2;

THENCE northerly, along said easterly line of Block 1274 Lot 2 and the easterly line of Block 1274 Lot 1, forming an interior angle of 90 degrees 00 minutes 08 seconds with the previous course, a distance of 255.58 feet to a point on the southerly line of Union Street, said point being the point or place of BEGINNING.

**LOT 2:**

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

BEGINNING at a point on the northerly line of President Street (mapped 70 feet wide), said point being distant 117.45 feet easterly from the intersection of said northerly line of President Street and the easterly line of Bedford Avenue (mapped 80 feet wide);

THENCE northerly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with said northerly side of President Street, a distance of 54.66 feet to a point;

THENCE easterly, forming an interior angle of 90 degrees, 00 minutes, 00 seconds with the previous course, a distance of 265.64 feet to a point on the westerly line of Block 1274 Lot 101;

THENCE southerly, along said westerly line of Block 1274 Lot 101, forming an interior angle of 90 degrees, 00 minutes, 08 seconds with the previous course, a distance of 54.66 feet to a point on said northerly line of President Street;

THENCE westerly, along said northerly line of President Street, forming an interior angle of 89 degrees, 59 minutes, 52 seconds with the previous course, a distance of 265.65 feet to a point, said point being the point or place of BEGINNING.