

GROUND LEASE

between

AUSTIN HOUSING FINANCE CORPORATION,

as Landlord

and

TIMBERS CLAYTON 104 APARTMENTS, L.P.

as Tenant

Dated: As of _____, 2015

**GROUND
LEASE**

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Exhibits

- A Description of Land
- B Schedule of Permitted Encumbrances
- C Insurance Requirements
- D Final Plans and Specifications

LEASE ADDEUNDUM

GROUND LEASE

THIS GROUND LEASE (“**Lease**”) is made effective as of this ____ day _____ of, 2015, by and between the Austin Housing Finance Corporation, a housing finance corporation organized under the laws of the State of Texas (“**Landlord**”), and Timbers Clayton 104 Apartments, L.P., a Texas limited partnership (“**Tenant**”).

RECITALS

A. Landlord is the owner of certain Land (as defined herein) which Landlord has agreed to lease under the terms and conditions hereof to Tenant for Tenant’s construction and operation upon the Land of a rental project (“**Project**”), comprised of 104 rental dwelling units (the “**Units**”).

B. Tenant and Landlord intend that all of the Units shall be rented to lessees so as to qualify the Units for Low Income Housing Tax Credits as defined in Section 42 of the Code (as defined below).

NOW THEREFORE, IN CONSIDERATION of the covenants and agreements of the parties hereto, as are hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord all of that tract of land (the “**Land**”), in Travis County, Texas, and which is described in Exhibit A attached hereto,

TOGETHER WITH any and all rights, alleys, ways, privileges, appurtenances and advantages, to the same belonging or in any way appertaining (all of which, together with the Land, are hereinafter referred to collectively as the “**Premises**”), excluding any and all Improvements now or hereafter thereon (but without limiting Landlord’s rights thereto under this Lease),

SUBJECT TO THE OPERATION AND EFFECT of the Permitted Encumbrances,

TO HAVE AND TO HOLD the Premises unto Tenant, its successors and permitted assigns, for the sole purpose and term of years set forth herein,

ON THE TERMS AND SUBJECT TO THE CONDITIONS which are hereinafter set forth:

SECTION 1. DEFINITIONS.

1.1 Specific. As used herein, the following terms have the following meanings:

“**Additional Rent**” has the meaning given to it in subsection 4.1.2.

“**Annual Rent**” has the meaning given it in subsection 4.1.1.

“**Bankruptcy**” shall be deemed, for any person or entity, to have occurred either

(a) if and when such person or entity (i) applies for or consents to the appointment of a receiver, trustee or liquidator of such person or entity or of all or a substantial part of its assets, (ii) files a voluntary petition in bankruptcy or admits in writing its inability to pay its debts as they

come due, (iii) makes an assignment for the benefit of its creditors, (iv) files a petition or an answer seeking a reorganization or an arrangement with its creditors or seeks to take advantage of any insolvency law, (v) performs any other act of bankruptcy, or (vi) files an answer admitting the material allegations of a petition filed against such person or entity in any bankruptcy, reorganization or insolvency proceeding; or

(b) if (i) an order, judgment or decree is entered by any court of competent jurisdiction adjudicating such person or entity a bankrupt or an insolvent, approving a petition seeking such an adjudication, or reorganization, or appointing a receiver, trustee or liquidator of such person or entity or of all or a substantial part of its assets, or (ii) there otherwise commences with respect to such person or entity or any of its assets any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and if such order, judgment, decree or proceeding continues unstayed for any period of ninety (90) consecutive days after the expiration of any stay thereof.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commencement Date” has the meaning given it in subsection 3.1.1.

“Environmental Laws” shall mean any and all Federal, State or local statutes, laws, rules, regulations, ordinances, orders, codes, determinations, decrees, or rules of common law pertaining to health, safety, or the environment now or at any time hereafter in effect and any judicial or administrative interpretation thereof (including, but not limited to, any judicial or administrative order, consent decree or judgment relating to the environment or Hazardous Substances, or exposure to Hazardous Substances) including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Resource, Conservation and Recovery Act of 1976, as amended, the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, the Oil Pollution Act of 1990, as amended, the Safe Drinking Water Act, as amended, the Hazardous Materials Transportation Act, as amended, the Toxic Substances Control Act, as amended, and any other environmental or health conservation or protection laws.

“Equipment” means all apparatus, machinery, devices, fixtures, appurtenances, equipment and personal property now or hereafter located on or within the Premises or the Improvements and necessary or desirable for the proper operation and maintenance of the Premises or the Improvements (other than moveable equipment belonging to any management company servicing the Improvements), including but not limited to any and all awnings, shades, screens and blinds; asphalt, vinyl, composition and other floor, wall and ceiling coverings; partitions, doors and hardware; elevators, escalators and hoists; heating, plumbing and ventilating apparatus; gas, electric and steam fixtures; chutes, ducts and tanks; oil burners, furnaces, heaters, incinerators and boilers; air-cooling and air-conditioning equipment; washroom, toilet and lavatory fixtures and equipment; engines, pumps, dynamos, motors, generators, electrical wiring and equipment; tools, building supplies, lobby decorations and window washing hoists and equipment; garage equipment, security systems, and gardening and landscaping equipment; swimming pool, recreational furniture and equipment; refrigerators, dishwashers, disposals, ranges, washers, dryers, and other kitchen appliances and all additions thereto and replacements thereof.

“Event of Default” has the meaning given it in subsection 15.1.

“Fee Estate” means the fee simple estate in the Premises, subject to the operation and effect of this Lease.

“Force Majeure” means any (a) strike, lock-out or other labor troubles, (b) governmental restrictions or limitations, (c) failure or shortage of electrical power, gas, water, fuel oil, or other utility or service, (d) riot, war, insurrection or other national or local emergency, (e) accident, flood, fire or other casualty, (f) adverse weather conditions resulting in cessation of work on the Project for in excess of one (1) week, (g) other act of God, or (h) other cause similar or dissimilar to any of the foregoing and beyond the reasonable control of the person in question.

“General Partner” means AHFC 1034 Clayton Non-Profit Corporation, a Texas nonprofit corporation.

“Holdover Rent” has the meaning given it in subsection 3.3.2.

“Improvements” has the meaning given it in subsection 5.1(b)(i).

“Institutional Lender” means any entity which is a lender to the Project or a servicer for such lender, and is either a commercial bank, savings bank, savings and loan institution or insurance company authorized to do business in Texas, a governmental revenue or development authority or any other governmental entity.

“Insurance Requirements” has the meaning given it in subsection 5.2.1.

“Land” shall mean that tract of realty located in Travis County, Texas, which is described in Exhibit A attached hereto;

“Investor Limited Partner” means _____, a _____, or its affiliates, and their respective successors and/or assigns or such other equity investor approved by Tenant.

“Landlord” means Landlord and its successors and assigns as holder of the Fee Estate.

“Landlord Event of Default” shall have the meaning given it in Section 15.5.

“Land Records” means the Official Public Records of Real Property of Travis County, Texas.

“Lease Year” means (a) the period commencing on the Commencement Date and terminating on the first (1st) anniversary of the last day of the calendar month containing the Commencement Date, and (b) each successive period of twelve (12) calendar months thereafter during the Term.

“Leasehold Estate” means the leasehold estate in the Premises held by Tenant under this Lease. The Leasehold Estate is intended to convey to Tenant ownership of the Improvements and Equipment, and the leasehold interest in the Land.

“Leasehold Mortgagee” means any lender holding a Mortgage against the Property.

“Legal Requirements” has the meaning given it in subsection 5.2.1.

“LIHTC/Bond Housing Requirements” means applicable Low Income Housing Tax Credits requirements as found in (i) Section 42 of the Code, and as required by the Texas Department of Housing and Community Affairs for the appropriate extended-use period, and (ii) applicable tax-exempt bond requirements as found in Section 142(d) (and other applicable provisions of the Code).

“Loan Documents” means all documents and instruments, including a Permitted Leasehold Mortgage, executed and delivered in connection with a loan from any Permitted Leasehold Mortgagee.

“Mortgage” means any mortgage or deed of trust at any time encumbering any or all of the Property, and any other security interest therein existing at any time under any other form of security instrument or arrangement used from time to time in the locality of the Property (including but not limited to any such other form of security arrangement arising under any deed of trust, sale-and-leaseback documents, lease-and-leaseback documents, security deed or conditional deed, or any financing statement, security agreement or other documentation used pursuant to the Uniform Commercial Code or any successor or similar statute), provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, has been recorded among the Land Records or in such other place as is, under applicable law, required for such instrument to give constructive notice of the matters set forth therein.

“Mortgagee” means the Person secured by a Mortgage.

“Option Exercise Notice” has the meaning given it in subsection 20.1.

“Partnership Agreement” means that certain Amended and Restated Agreement of Limited Partnership of Timbers Clayton 104 Apartments, L.P., dated as of _____, 2015, as may be amended from time to time.

“Permitted Encumbrances” means any and all instruments and matters of record or in fact on the date hereof, including but not limited to the instruments and matters listed in a schedule attached hereto as Exhibit B and matters permitted under Section 9.1.10 herein, and including any liens or encumbrances securing any construction and/or permanent loans made to the Tenant, at Tenant’s request, in connection with the Project and matters permitted by lenders of such loans.

“Permitted Leasehold Mortgage” has the meaning given in subsection 9.1.10(a).

“Permitted Leasehold Mortgagee” means each mortgagee, as the case may be, extending a Permitted Leasehold Mortgage, as defined in subsection 9.1.10(b). Upon inception of the Lease, Dougherty Mortgage LLC, a Delaware limited liability company, and _____, and each of their respective successors and/or assigns, shall be a Permitted Leasehold Mortgagee. No additional entity shall be a Permitted Leasehold Mortgagee without the approval of both HUD and Dougherty Mortgage LLC.

“Person” means a natural person, a trustee, a corporation, a partnership, a limited liability company and any other form of legal entity.

“Premises” has the meaning given it hereinabove; provided, that if at any time hereafter any portion of the Premises becomes no longer subject to this Lease, “Premises” shall thereafter mean so much thereof as remains subject to this Lease.

“Property” means the Premises, the Improvements and the Equipment.

“Purchase Option” has the meaning given it in subsection 20.1.

“Rent” means all Annual Rent and all Additional Rent payable under Section 4.

“Regulatory Agreement” means, collectively (i) the Texas Department of Housing and Community Affairs low-income housing tax credit land use restriction agreement, and (ii) the Bond-related Regulatory and Land Use Restriction Agreement.

“Resident” shall mean a person occupying a Unit in the Project pursuant to a Tenancy Agreement.

“Restoration” means the repair, restoration or rebuilding of any or all of the Property after any damage thereto or destruction thereof, with such alterations or additions thereto as are made by Tenant in accordance with this Lease, together with any temporary repairs or improvements made to protect the Property pending the completion of such work.

“Tax” and **“Taxes”** have the meanings given in subsection 6.1.

“TDHCA” means the Texas Department of Housing and Community Affairs.

“Tenancy Agreement” shall mean the form of lease agreement between the Tenant and a Resident under the terms of which a Resident is entitled to enjoy possession of a Unit in the Project.

“Tenant” means Timbers Clayton 104 Apartments, L.P., and its successors and permitted assigns as holder of the Leasehold Estate.

“Term” has the meaning given it in subsection 3.1.1. **“Termination Date”** has the meaning given it in subsection 3.1.1. **“Transfer”** has the meaning given it in subsection 14.1.1

1.2 General. Any other term to which meaning is expressly given in this Lease shall have such meaning.

1.3 Construction. Any Rent or any other amount paid hereunder shall be construed as made by Tenant solely for the use of the Premises, as Tenant shall be deemed to own the Improvements and the Equipment for all purposes. Any covenants contained herein made by the Tenant regarding the Improvements and the Equipment shall be construed solely to protect Landlord from liability in connection with the Improvements and the Equipment.

SECTION 2. TITLE. Tenant and Landlord hereby acknowledge that the fee estate to the real property upon which the Improvements are to be constructed is held exclusively by Landlord.

SECTION 3. TERM.

3.1. Length.

3.1.1. Original Term. This Lease shall be for a term (“**Term**”) commencing on the date of this Lease (“**Commencement Date**”), and (b) terminating at 11:59 o’clock P.M. on the day immediately before the seventy-fifth (75th) anniversary of the first (1st) day of the first (1st) full calendar month following the Commencement Date (the “**Termination Date**”, except that if the date of such termination is hereafter advanced to an earlier date or postponed pursuant to any provision of this Lease, or by express, written agreement of the parties hereto, or by operation of law, the date to which it is advanced or postponed shall thereafter be the “Termination Date” for all purposes of this Lease). Nothing in this Lease shall be deemed in any way to extend or permit the extension of the Term beyond the seventy-fifth (75th) anniversary, anything in this Lease to the contrary notwithstanding.

3.1.2. Confirmation of commencement and termination. Landlord and Tenant shall upon either’s prior written request therefor, within fifteen (15) days after, respectively, (a) the commencement of the Term, and (b) the expiration of the Term or any earlier termination of this Lease by action of law or in any other manner, confirm in writing by instrument in recordable form that, respectively, such commencement or such termination has occurred, setting forth therein the Commencement Date and the Termination Date.

3.2. Surrender. Subject to Section 8.4 (Voluntary Surrender), Tenant shall, at its expense and subject to subsection 3.4, at the expiration of the Term or any earlier termination of this Lease, (a) promptly yield up to Landlord the Premises, the Units and the rest of the Improvements, and the Equipment, in good order and repair, ordinary wear and tear, and damage by casualty, subject to Section 12, and broom clean, (b) remove therefrom Tenant’s signs, goods and effects and any machinery, trade fixtures and equipment used in conducting Tenant’s trade or business and not part of the Units or the Equipment or otherwise owned by Landlord, and (c) repair any damage to the Property caused by such removal. Upon such expiration or termination (whether by reason of an Event of Default or otherwise), (a) neither Tenant nor its creditors and representatives shall thereafter have any right at law or in equity in or to any or all of the Property (including the Units and the rest of the Improvements) or to repossess any of same, or in, to or under this Lease, and Landlord shall automatically be deemed immediately thereupon to have succeeded to all of the same, free and clear of the right, title or interest therein of any creditor of Tenant or any other person whatsoever (but subject to the rights of any person then holding any lien, right, title or interest in or to the Fee Estate), and (b) Tenant hereby waives any and all rights of redemption which it may otherwise hold under any applicable law.

3.3. Holding Over.

3.3.1. Nothing in this Lease shall be deemed in any way to permit Tenant to use or occupy the Premises after the expiration of the Term or any earlier termination of this Lease. If and only if Tenant continues to occupy the Premises after such expiration or termination after obtaining Landlord’s express, written consent thereto,

(a) such occupancy shall (unless the parties hereto otherwise agree in writing) be deemed to be under a month-to-month tenancy, which shall continue until either party hereto notifies the other in writing, by at least thirty (30) days before the end of any calendar

month, that the party giving such notice elects to terminate such tenancy at the end of such calendar month, in which event such tenancy shall so terminate;

(b) subject to the provisions of subsection 3.3.1(c), but anything in the remaining provisions of this Section to the contrary notwithstanding, the Annual Rent payable with respect to each such monthly period shall equal one-twelfth (1/12) of the Annual Rent for the Lease Year during which such expiration or termination occurred, as aforesaid, and the Additional Rent payable under Section 4; and

(c) such month-to-month tenancy shall be on the same terms and subject to the same conditions as those set forth in this Lease, except that if Landlord gives Tenant, by at least thirty (30) days before the end of any calendar month during such month-to-month tenancy, written notice that such terms and conditions (including any thereof relating to the amount and payment of Rent) shall, after such month, be modified in any manner specified in such notice, then such tenancy shall, after such month, be on the said terms and subject to the said conditions, as so modified.

3.3.2. If Tenant continues to occupy the Premises after the expiration of the Term or any earlier termination of this Lease without having obtained Landlord's express, written consent thereto, then without altering or impairing any of Landlord's rights under this Lease or applicable law, (a) Tenant hereby agrees to pay to Landlord immediately on demand by Landlord as holdover rental ("**Holdover Rent**") for the Premises, for each calendar month or portion thereof after such expiration of the Term or such earlier termination of this Lease, as aforesaid, until Tenant surrenders possession of the Premises to Landlord, a sum equaling the Annual Rent plus One Hundred and 00/100 Dollars (\$100.00) per each day of such holdover occupancy, and (b) Tenant shall surrender possession of the Premises to Landlord immediately on Landlord's having demanded the same. Nothing in this Lease shall be deemed in any way to give Tenant any right to remain in possession of the Premises after such expiration or termination, regardless of whether Tenant has paid any such Holdover Rent to Landlord.

3.4. Title to and Alterations of Improvements. At all times during the Term of this Lease, including without limitation for tax purposes, the Improvements and the Equipment shall be owned by Tenant and during the Term, Tenant alone shall be entitled to all of the tax attributes of ownership of the Improvements and the Equipment, including, without limitation, the right to claim depreciation or cost recovery deductions, amortization and the right to claim the low-income housing tax credit described in Section 42 of the Code. At the expiration or earlier termination of the Term of this Lease, or any portion thereof, Tenant shall peaceably leave, quit and surrender the Premises in the manner required under subsection 3.3.2, subject to the rights of Residents in possession of Units under Tenancy Agreements with Tenant (provided, however, that such Residents are not then in default thereunder, and attorn to Landlord as their lessor). Upon such expiration or termination of this Lease, the Premises, Improvements and Equipment, or any portion thereof so terminated, shall become the sole property of Landlord at no cost to Landlord, and shall be free of all liens and encumbrances other than Permitted Encumbrances and in good condition, subject only to reasonable wear and tear, and in the event of a casualty, to the provisions of Section 12.

SECTION 4. RENT.

4.1. Amount. As rent for the Premises, Tenant shall pay to Landlord.

4.1.1. Initial Payment and Rent. For and in consideration of this Lease by the Landlord, the Tenant shall pay the Landlord \$_____, payable in a single installment on the date hereof, \$_____ of which shall be allocated to the purchase of the existing Improvements (the “**Improvements Purchase Price**”) and \$_____ of which shall be allocable to the use or rent of the Land during the initial applicable 15-year tax credit compliance period (the “**Land Rent**” and, collectively with the Improvements Purchase Price, the “**Leasing Consideration Payment**”). Thereafter, an annual rent in the sum of One Hundred Dollars and 00/100 Dollars (\$100) (the “**Annual Rent**”) shall be paid by the Tenant to the Landlord. All Annual Rent is due and payable for each Lease Year in advance of the first day of each Lease Year in lawful currency of the United States of America, to Landlord by delivering or mailing it to the Landlord’s Address, or such other address or in such other manner as Landlord from time to time specifies by written notice to Tenant. At Tenant’s option, Tenant may prepay the Annual Rent for the entire Term or any portion thereof at any time.

4.1.2. Additional Rent. Additional rent (“**Additional Rent**”) in the amount of any payment referred to as such in this Lease which accrues while this Lease is in effect (which Additional Rent shall include any and all charges or other amounts which Tenant is obligated to pay under this Lease, including, but not limited to, costs of taxes, insurance and public utility charges, other than the Annual Rent). Such Additional Rent, unless required to be paid sooner hereunder, shall be due and payable within 30 days of Landlord’s written demand therefor.

4.2. Tax on Lease. If federal, state or local law now or hereafter imposes any tax, assessment, levy or other charge (other than any income tax) directly or indirectly upon (a) Landlord with respect to this Lease or the value thereof, (b) Tenant’s use or occupancy of the Premises, (c) the Annual Rent, Additional Rent or any other sum payable under this Lease, or (d) this transaction, Tenant shall pay the amount thereof as Additional Rent to Landlord upon demand

4.3. Security Deposit. No security deposit shall be required.

4.4. Net Lease. Other than as is expressly set forth in this Lease (and except for Landlord’s legal fees, third-party consultants retained by Landlord and Landlord’s own personnel costs), all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Premises and the construction, ownership, leasing, operation, maintenance, repair, rebuilding, use, occupation of, or conveyance of any or all of Tenant’s Leasehold Estate, this Lease generally shall be the sole responsibility of and payable by Tenant; all of which costs, expenses, liabilities and charges shall be deemed Additional Rent hereunder.

4.5. Condition of the Premises. **TENANT ACKNOWLEDGES AND AGREES THAT THE PREMISES SHALL BE LEASED TO TENANT AND TENANT SHALL ACCEPT THE PREMISES, “AS IS, WHERE IS, AND WITH ALL FAULTS.” LANDLORD HEREBY EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE OR ANY OTHER DISCLAIMER SET FORTH HEREIN, LANDLORD AND TENANT HEREBY AGREE THAT LANDLORD HAS NOT MADE AND IS NOT MAKING ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR**

IMPLIED, WRITTEN OR ORAL, AS TO (A) THE NATURE OR CONDITION, PHYSICAL OR OTHERWISE, OF THE PREMISES OR ANY ASPECT THEREOF, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE; (B) THE SOIL CONDITIONS, DRAINAGE CONDITIONS, TOPOGRAPHICAL FEATURES, ACCESS TO PUBLIC RIGHTS-OF-WAY, AVAILABILITY OF UTILITIES OR OTHER CONDITIONS OR CIRCUMSTANCES WHICH AFFECT OR MAY AFFECT THE PREMISES OR ANY USE TO WHICH TENANT MAY PUT THE PREMISES; (C) ANY CONDITIONS AT OR WHICH AFFECT OR MAY AFFECT THE PREMISES WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, DEVELOPMENT POTENTIAL OR OTHERWISE; (D) ANY ENVIRONMENTAL, GEOLOGICAL, METEOROLOGICAL, STRUCTURAL OR OTHER CONDITION OR HAZARD OR THE ABSENCE THEREOF, HERETOFORE, NOW, OR HEREAFTER AFFECTING IN ANY MANNER THE PREMISES, INCLUDING, BUT NOT LIMITED TO, THE ABSENCE OF ASBESTOS, LEAD PAINT, OR ANY OTHER ENVIRONMENTALLY HAZARDOUS SUBSTANCE ON, IN, UNDER OR ADJACENT TO THE PREMISES, AND (E) THE COMPLIANCE OF THE PREMISES OR THE OPERATION OR USE OF THE PREMISES WITH ANY APPLICABLE RESTRICTIVE COVENANTS, OR ANY LAWS, ORDINANCES, OR REGULATIONS OF ANY GOVERNMENTAL BODY (INCLUDING SPECIFICALLY, WITHOUT LIMITATION, ANY ZONING LAWS OR REGULATIONS, ANY BUILDING CODES, ANY ENVIRONMENTAL LAWS, AND THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL AS AMENDED FROM TIME TO TIME).

SECTION 5. USE OF PROPERTY.

5.1. Nature of Use. As long as the Regulatory Agreement is in effect, Tenant shall throughout the term of the Regulatory Agreement continuously use and operate the Premises and the Improvements and the Equipment only for the following uses and such other uses as are reasonably and customarily attendant to such uses including, without limitation, construction, development, marketing for lease and leasing of the Units in a manner which strictly satisfies the requirements of this Lease and the Regulatory Agreement (so long as it is in effect) and as follows:

(a) the Project shall be operated in accordance with the provisions of (a) the Regulatory Agreement (as long as the Regulatory Agreement is in effect); and (b) subsections 9.1.5 through 9.1.7, and have, at a minimum, the following characteristics: 104 Units, subject to LIHTC/Bond Housing Requirements (collectively, the “**Tax Credit Units**”), and

(b) in conjunction with the foregoing,

(i) the following improvements to the Premises (all of which, together with the Project and the Units, are herein referred to collectively as “**Improvements**”):

(1) such number of off-street parking spaces as is required for the Property from time to time by the applicable provisions of the municipal parking ordinance, as amended by any valid variance therefrom issued to Landlord, or other applicable law;

(2) the driveways and sidewalks set forth on the final site plan covering the Premises which has been approved in all respects by Landlord prior to the closing of the Loan and execution of this Lease (the “**Site Plan**”);

(3) such utility lines and facilities, open space areas, landscaping or other improvements or features as are shown on the Site Plan;

(4) such interior Unit amenities as are on the plans and specifications approved in connection with the closing of the financing and execution of this Lease.

(5) any replacement or substitution of or addition to the Units or any of such amenities, parking facilities, driveways, sidewalks, utility lines and facilities, landscaping or other Improvements, provided that such replacement or addition is substantially consistent with the original design; and

(ii) the Equipment, and any replacements, alterations, additions or repairs thereto.

5.2. Compliance With Law and Covenants. Tenant, throughout the Term and at its sole expense, in its construction, possession and use of the Premises, the Units or the rest of the Improvements, and the Equipment,

5.2.1. shall materially comply promptly and fully with (a) all applicable laws, ordinances, notices, orders, rules, regulations and requirements of all federal, state and municipal governments and all departments, commissions, boards and officers thereof, including all applicable LIHTC/Bond Housing Requirements as long as the Regulatory Agreement is in effect (all of which are hereinafter referred to collectively as “**Legal Requirements**”); and (b) all requirements (i) of the National Board of Fire Underwriters (or any other body now or hereafter constituted exercising similar functions) which are applicable to any or all of the Property, or (ii) imposed by any policy of insurance covering any or all of the Property and required by Section 7 to be maintained by Tenant (all of which are hereinafter referred to collectively as “**Insurance Requirements**”); and (c) the provisions of the other Permitted Encumbrances, all if and to the extent that any of the Legal Requirements, the Insurance Requirements or the said provisions relate to any or all of the Premises, the Improvements, the Equipment, the fixtures and equipment upon the Premises, or the use or manner of use thereof, whether any of the foregoing are foreseen or unforeseen, or are ordinary or extraordinary;

5.2.2. (without limiting the generality of the foregoing provisions of this subsection) shall keep in force throughout the Term all licenses, consents and permits required from time to time by applicable law to permit the Property to be used in accordance with this Lease;

5.2.3. shall pay or cause to be paid when due all personal property taxes, income taxes, license fees and other taxes or special assessments assessed, levied or imposed upon Tenant or any other person (other than Landlord) in connection with the operation of any business upon the Property or its use thereof in any other manner;

5.2.4. shall not take or fail to take any action, as the result of which action or failure to act Landlord’s estate, right, title or interest in and to any or all of the Premises or the rest of the Property might be impaired; and

5.2.5. shall not (either with or without negligence) (a) knowingly cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials, or (b) knowingly allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, or (c) knowingly allow any such materials or substances to be brought onto the Property except to use in the ordinary course of Tenant's business or by lessees of the Units. For purposes of this Lease, "**hazardous substances or materials**" shall include, without limitation, those substances described as such in any Environmental Law. If any lender or governmental agency reasonably requires testing to ascertain whether or not there has been any release of hazardous substances or materials on the Premises while this Lease is in effect, then the costs thereof shall be reimbursed by Tenant to Landlord upon demand as Additional Rent if such requirement applies to the Premises. Tenant shall execute affidavits, representations and the like from time to time at Landlord's reasonable request concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises.

5.3. Restrictions Applicable to Tax Credit Units. The Units are subjected and benefited by the terms and conditions of the LIHTC/Bond Housing Requirements (as long as the Regulatory Agreement is in effect). All LIHTC/Bond Housing Requirements (as long as the Regulatory Agreement is in effect) and the restrictions set forth in Section 5 with respect to the Units shall be binding upon Landlord and Tenant and each of their respective successors and assigns, except any entity which succeeds to Tenant's interest in the Premises by foreclosure or an instrument in lieu of foreclosure, such entity having the ability to opt out of the LIHTC/Bond Housing Requirements pursuant to and in accordance with the Regulatory Agreement.

SECTION 6. TAXES AND OPERATING EXPENSES.

6.1. Tenant to Pay. Tenant (a) shall bear the full expense of any and all real property or other taxes, including any and all payments in lieu of taxes, if applicable, metropolitan district charges or other assessments or charges levied against any or all of the Premises, the Units, the other Improvements and the Equipment, whether against the Fee Estate or the Leasehold Estate therein, and payable with respect to any calendar or tax year or other period falling wholly or partly within the Term, including but not limited to any assessments or fees levied against the Units pursuant to any Permitted Encumbrances each a "Tax" and all of which are hereinafter referred to collectively as "**Taxes**"), except that if any such tax, charge or assessment is levied with respect to a period beginning before the Commencement Date or ending after the Termination Date, Tenant shall bear the full expense of only that percentage thereof equaling the percentage of such period falling within the Term; (b) shall pay the same when due and payable and before any penalty is incurred for late payment thereof; and (c) shall deliver to Landlord the receipted bill for such Taxes within ten (10) days after Landlord requests it from Tenant in writing. Tenant shall not be required to pay any income taxes otherwise chargeable to the Landlord.

6.2. Delivery of Bills and Notices. Each party hereto shall deliver to the other, promptly after such party's receipt thereof, the originals or accurate copies of any and all bills for Taxes and notices of assessments or reassessments made or to be made for the purpose of levying any Taxes. If the Premises are not now treated as a separate tax lot by the assessing authority, Landlord shall use its reasonable efforts promptly hereafter to have the Premises so treated.

6.3. Proceedings to Contest. Subject to the terms and conditions in subsection 9.2.3 hereof, Tenant may, without postponing payment thereof, as aforesaid, bring proceedings to contest

any Legal Requirement and to contest the validity or the amount of any Taxes, or to recover any amount thereof paid by Tenant, provided that prior thereto Tenant notifies Landlord in writing that Tenant intends to take such action. Tenant shall indemnify and hold harmless Landlord against and from any expense arising out of any such action. Landlord shall, upon written request by Tenant, cooperate with Tenant in taking any such action, provided that Tenant indemnifies and holds harmless Landlord against and from any expense or liability arising out of such cooperation.

6.4. Operating Expenses.

6.4.1. Tenant's Obligation. Subject to Tenant's legal rights to dispute such expenses and to the terms and conditions in Section 9.2.3 hereof, Tenant will pay (or cause to be paid) directly to the providers of such services all costs and expenses attributable to or incurred in connection with the development, construction, completion, marketing, leasing, maintenance, management and occupancy of the Premises and the Improvements (collectively, "**Operating Expenses**") including without limitation (a) all energy sources for the Improvements, such as propane, butane, natural gas, steam, electricity, solar energy and fuel oil; (b) all water, sewer and trash disposal services; (c) all maintenance, repair, replacement and rebuilding of the Improvements including, without limitation, all Equipment; (d) all landscaping, maintenance, repair and striping of all parking areas; (e) all insurance premiums relating to the Premises and the Improvements, including fire and extended coverage, public liability insurance, rental insurance and all risk insurance; and (f) the cost and expenses of all capital improvements or repairs (whether structural or non-structural) required to maintain the Improvements in good order and repair, including but not limited to any required by any governmental or quasi- governmental authority having jurisdiction over the Premises or the Improvements.

6.4.2. Permits and Licenses. Tenant shall also procure, or cause to be procured, at Tenant's sole cost and expense, any and all necessary permits, licenses, or other authorizations required for the lawful and proper installation and maintenance upon the Premises of wires, cables, pipes, conduits, tubes, fiber optics and other equipment and appliances for use in supplying any such service to the Improvements and upon the Premises. Landlord, upon request of Tenant, and at the sole expense and liability of Tenant, will join with Tenant in any application required for obtaining or continuing any such services.

6.5. Right to Pay Taxes and Senior Mortgage. Any Permitted Leasehold Mortgagee shall have the right (but not the obligation) to pay any taxes payable by Landlord or Tenant with respect to the Premises, and to cure any monetary or non-monetary default by Landlord or Tenant under any Mortgage or other encumbrance on the Premises which has priority over the Lease; and if Permitted Leasehold Mortgagee does so pay or cure, Landlord or Tenant, as applicable, agrees that it will reimburse Permitted Leasehold Mortgagee for the amount thereof promptly following request by Lender therefor unless the Landlord or Tenant is protesting such taxes in good faith pursuant to and in accordance with Permitted Leasehold Mortgagee's Loan Documents.

SECTION 7. INSURANCE AND INDEMNIFICATION.

7.1. Insurance to be Maintained by Tenant. Tenant shall maintain at its expense throughout the Term insurance adequate to protect Tenant's and Landlord's interests in the Property. Landlord has approved the insurance requirements attached hereto as Exhibit C and any additional insurance coverage that Tenant is required to maintain under Permitted Leasehold Mortgagee's Loan Documents. Tenant shall fully comply with all of the insurance requirements

imposed upon Tenant under the Permitted Leasehold Mortgage and the Loan Documents to which the Tenant is a party. All insurance coverages shall have waiver of subrogation provisions reasonably acceptable to Landlord. Approval, disapproval or failure to act by Landlord regarding any insurance applied by Tenant shall not relieve Tenant of full responsibility or liability for damages or accidents as set forth in this Lease. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate Tenant from any such liability.

7.2. Insureds. Each such policy shall name as insureds thereunder (a) Tenant, (b) Landlord, and as additional insureds, each designee of Landlord and any Permitted Leasehold Mortgagee.

7.3. Insurer. All insurance required and all renewals of insurance shall be issued by companies of recognized responsibility licensed to issue such policies and otherwise transact business in the State of Texas. All insurance policies will expressly provide that such policies will not be canceled or altered without thirty (30) days' prior written notice to Landlord, and any other named and additional insured thereunder, in the case of "All Risk" coverage insurance, and to Landlord, and all other named and additional insureds thereunder, in the case of general liability insurance. Such insurance will, to the extent obtainable, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance will affect or limit the obligation of the insurance company to pay the amount of any loss sustained; and will, to the extent obtainable, contain a waiver by the insurer of its rights of subrogation against Landlord. Upon issuance, each insurance policy or duplicate or certificate of such policy shall be delivered to Landlord.

7.4. Evidence. Tenant shall deliver to Landlord no later than thirty (30) days after the Commencement Date an original or a signed duplicate copy of each such policy, and at least ten (10) days before any such policy expires, Tenant shall deliver to Landlord an original or a signed duplicate copy of a binder/certificate of insurance therefore for renewal coverage. All public liability, property damage liability, and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry.

7.5. Indemnification of Landlord.

7.5.1 TENANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LANDLORD FROM THIRD PARTY CLAIMS NOT ATTRIBUTABLE TO LANDLORD'S ACTION OR INACTION AGAINST AND FROM ANY AND ALL LIABILITY, CLAIM OF LIABILITY OR EXPENSE ARISING OUT OF OR IN ANY WAY CONNECTED WITH (A) THE USE, OCCUPANCY, CONDUCT, OPERATION OR MANAGEMENT OF THE PROPERTY DURING THE TERM, OR (B) ANY WORK OR THING WHATSOEVER DONE OR NOT DONE ON THE PROPERTY DURING THE TERM, OR (C) ANY BREACH OR DEFAULT BY TENANT IN PERFORMING ANY OF ITS OBLIGATIONS UNDER THIS LEASE OR APPLICABLE LAW, OR (D) ANY NEGLIGENT, INTENTIONALLY TORTIOUS OR OTHER ACT OR OMISSION OF TENANT OR ANY OF ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES, SUBTENANTS, LICENSEES OR INVITEES DURING THE TERM, OR (E) ANY INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO ANY PROPERTY, OCCURRING ON THE PROPERTY DURING THE TERM (WHETHER OR NOT SUCH EVENT RESULTS FROM A CONDITION EXISTING BEFORE THE EXECUTION OF THIS LEASE BUT

EXCLUDING ANY HAZARDOUS SUBSTANCE CONDITION UNKNOWN TO TENANT AS OF, AND EXISTING BEFORE, THE EXECUTION OF THIS LEASE) AND FROM AND AGAINST ALL EXPENSES AND LIABILITIES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR ANY ACTION OR PROCEEDING BROUGHT THEREON (INCLUDING BUT NOT LIMITED TO THE REASONABLE FEES OF ATTORNEYS, INVESTIGATORS AND EXPERTS), ALL REGARDLESS OF WHETHER SUCH CLAIM IS ASSERTED DURING OR AFTER THE EXPIRATION OF THE TERM OR ANY EARLIER TERMINATION OF THIS LEASE BUT EXCLUDING, HOWEVER, ANY LIABILITY, CLAIM OF LIABILITY OR EXPENSE CAUSED DIRECTLY BY LANDLORD, ITS EMPLOYEES OR AGENTS. THIS SUBSECTION 7.5.1 SHALL SURVIVE THE TERMINATION OF THIS LEASE.

7.5.2 TENANT AGREES THAT LANDLORD SHALL NOT BE LIABLE FOR ANY DAMAGE OR LIABILITY OF ANY KIND OR FOR ANY INJURY TO OR DEATH OF PERSONS OR DAMAGE TO PROPERTY OF TENANT OR ANY OTHER PERSON FROM ANY CAUSE WHATSOEVER BY REASON OF ANY WORK, LABOR OR MATERIALS PERFORMED OR DELIVERED TO, OR CONNECTED TO THE USE, OCCUPANCY, OR ENJOYMENT OF THE PREMISES BY TENANT OR ANY PERSON ON THE PREMISES. TENANT DOES HEREBY INDEMNIFY AND SAVE HARMLESS LANDLORD FROM ALL CLAIMS, ACTIONS, DEMANDS, COSTS AND EXPENSES AND LIABILITY WHATSOEVER, INCLUDING REASONABLE ATTORNEYS' FEES, ON ACCOUNT OF ANY SUCH REAL OR CLAIMED DAMAGE OR LIABILITY SUSTAINED BY THIRD PARTIES AND FROM ALL LIENS, CLAIMS AND DEMANDS OCCURRING IN OR AT THE PREMISES, OR ARISING OUT OF THE CONSTRUCTION, USE, OCCUPANCY OR ENJOYMENT OF THE PREMISES AND ITS FACILITIES, OR ANY REPAIRS OR ALTERATIONS WHICH TENANT MAY MAKE UPON THE PREMISES, OR OCCASIONED IN WHOLE OR IN PART BY ANY ACT OR OMISSION OF TENANT, ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES, INVITEES OR ANY OTHER PARTY, OTHER THAN CLAIMS, ACTIONS, DEMANDS, COSTS AND EXPENSES AND LIABILITIES ARISING DIRECTLY FROM THE ACTS OR OMISSIONS OF LANDLORD, ITS EMPLOYEES OR AGENTS.

7.5.3 Tenant acknowledges that Landlord is not required to provide security for persons or property in or about the Premises. Tenant hereby waives and releases any claim against Landlord for injury to or death of any person and any property damage arising out of or attributable to any criminal activity in or about the Premises, specifically including, but not limited to, vandalism, theft, burglary, robbery, rape, murder or assault, unless arising directly from the acts or omissions of Landlord, its employees or agents.

7.5.4 TENANT HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND AND HOLD LANDLORD AND LANDLORD'S RELATED PARTIES HARMLESS FROM ANY AND ALL CLAIMS, CAUSES OF ACTIONS AND SUITS FOR INJURY TO OR DEATH OF ANY OF TENANT'S RELATED PARTIES OR RESIDENTS OF THE UNITS RESULTING FROM CRIMINAL ACTIVITIES IN OR ABOUT THE PREMISES, INCLUDING ALL COSTS, REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED. TENANT SHALL DEFEND ANY CLAIM, CAUSE OF ACTION OR SUIT MADE OR BROUGHT AGAINST LANDLORD OR LANDLORD'S RELATED PARTIES AT TENANT'S SOLE EXPENSE, BY COUNSEL REASONABLY SATISFACTORY TO

LANDLORD. AS USED HEREIN, “LANDLORD’S RELATED PARTIES” SHALL MEAN AND REFER TO LANDLORD’S OFFICERS, DIRECTORS, AFFILIATES, AGENTS, CONTRACTORS, VOLUNTEERS AND EMPLOYEES, AND THEIR RESPECTIVE HEIRS AND PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS. AS USED HEREIN, “TENANT’S RELATED PARTIES” SHALL MEAN TENANT’S AGENTS, CONTRACTORS, EMPLOYEES, PATRONS, BUSINESS INVITEES AND GUESTS, OTHER THAN CLAIMS, ACTIONS, DEMANDS, COSTS AND EXPENSES AND LIABILITIES ARISING DIRECTLY FROM THE ACTS OR OMISSIONS OF LANDLORD, ITS EMPLOYEES OR AGENTS.

7.5.5 TENANT HEREBY AGREES TO INDEMNIFY LANDLORD AND HOLD LANDLORD HARMLESS FROM AND AGAINST ANY AND ALL LOSS, DAMAGES, LIABILITIES, EXPENSE AND COST INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS’ FEES, PAID, INCURRED OR SUFFERED BY LANDLORD AS A DIRECT OR INDIRECT RESULT OF THE PRESENCE ON OR UNDER, OR THE ESCAPE, SEEPAGE, LEAKAGE, SPILLAGE, EMISSION, DISCHARGE, MIGRATION OR RELEASE FROM THE PROPERTY OF ANY HAZARDOUS SUBSTANCE, AS HEREINAFTER DEFINED, OTHER THAN CLAIMS, ACTIONS, DEMANDS, COSTS AND EXPENSES AND LIABILITIES ARISING DIRECTLY FROM THE ACTS OR OMISSIONS OF LANDLORD, ITS EMPLOYEES OR AGENTS.

7.5.6 HUD Indemnification Provision. Notwithstanding anything to the contrary set forth in this Lease, the payment of Tenant’s indemnification obligations under this Lease is restricted to available Surplus Cash, as such term is defined in the Regulatory Agreement for Multifamily Projects executed by Tenant and U.S. Department of Housing and Urban Development, and available liability insurance proceeds. Additionally, notwithstanding anything to the contrary set forth in this Lease, HUD and Permitted Leasehold Mortgagee shall have no indemnification obligations under this Lease, including without limitation, if HUD or Permitted Leasehold Mortgagee become a successor in interest to Tenant hereunder; however, such indemnity provisions may apply to a subsequent purchaser of the Project from HUD.

7.6. Increase in Risk.

7.6.1. Tenant shall not do or permit to be done any act or thing which would result in either (a) any policy of insurance of any kind covering any or all of the Property or any liability of Landlord in connection therewith becoming void or suspended, or (b) the insurance risk under any such policy (in the opinion of the insurer thereunder) being made materially greater; and

7.6.2. if such insurance is maintained by Landlord, Tenant shall pay as Additional Rent the amount of any increase in any premium for such insurance resulting from any breach of such covenant, within ten (10) business days after Landlord notifies Tenant in writing of such increase.

7.7. Participation by Permitted Leasehold Mortgagee. Landlord agrees that the Permitted Leasehold Mortgagee will participate with Tenant in the settlement of all insurance claims and Permitted Leasehold Mortgagee shall control disbursements, and subject to HUD requirements, if any, control use of all insurance proceeds.

7.8. Insurance Proceeds. Landlord and the Tenant hereby agree that for so long as a Permitted Leasehold Mortgage is outstanding, any and all insurance proceeds received by the Tenant or the Landlord in connection with the Property shall be applied in accordance with the most senior Permitted Leasehold Mortgage.

SECTION 8. LEASEHOLD MORTGAGE REQUIREMENTS.

8.1. Future Fee Estate Mortgages. Other than Permitted Encumbrances and the Regulatory Agreement, Landlord shall not mortgage or permit any future liens or encumbrances whatsoever against the Fee Estate or Premises, or otherwise pledge, assign or otherwise dispose of the Fee Estate or Premises without the prior written consent of Tenant, Investor Limited Partner and any Permitted Leasehold Mortgagee, and such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion. To the extent a future Mortgage on the Fee Estate is permitted hereunder, such Mortgage shall expressly provide that it is subordinate and subject to the Tenant's interest under this Lease and any Permitted Leasehold Mortgage. Additionally, the Tenant shall not subordinate its interest in the Leasehold Estate to any future Mortgage of the Fee Estate obtained by Landlord.

8.2. Nonmerger. This Lease shall not terminate as to the Permitted Leasehold Mortgagee due to any conveyance of Tenant's interest in the Leasehold Estate to Landlord or of the Landlord's interest in the Fee Estate hereunder to the Tenant. Accordingly, if this Lease and the Fee Estate in the Premises are commonly held, then they shall remain separate and distinct estates. They shall not merge without written consent by all Permitted Leasehold Mortgagees.

8.3. Foreclosure Rights of Leasehold Mortgagee. Upon foreclosure or assignment in lieu of foreclosure of the Leasehold Estate, the most senior Permitted Leasehold Mortgagee shall have the right to acquire the Lease in its own name or the name of a nominee without consent or approval of Landlord. In the event that Tenant's interest in the Leasehold Estate hereunder is acquired by any Leasehold Mortgagee, or its nominee or designee, then such Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign or sublet the leasehold interest hereunder to a third party without the consent or approval of Landlord.

Foreclosure of any Permitted Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Permitted Leasehold Mortgage, or in lieu of foreclosure, or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision of, or a default under, the Lease, and upon such foreclosure, sale or conveyance, Landlord shall recognize the purchaser or other transferee in connection therewith as the Tenant under the Lease (the "**New Tenant**").

8.3.1 Obligations of New Tenant. The New Tenant shall only be personally obligated for performance of obligations under the Lease commencing as of the date of such foreclosure, sale or conveyance in lieu of foreclosure and end as of the date of any assignment of the Lease to a successor Tenant, being the date such a successor Tenant shall be responsible for the obligations of Tenant hereunder.

8.4. Voluntary Surrender. Notwithstanding anything contained herein to the contrary, Landlord shall not accept a voluntary surrender of the Lease at any time during which the Leasehold Estate is encumbered by a Permitted Leasehold Mortgage and prior to the later of (a) expiration of the applicable fifteen (15) year tax credit compliance period and extended use period

as set forth in Section 42 of the Internal Revenue Code of 1986, as amended, for the last building in the Project, or (b) such time as the Investor Limited Partner is no longer a partner of the Tenant.

SECTION 9. IMPROVEMENTS TO PREMISES.

9.1. Intentionally Omitted.

9.1.1. Intentionally Omitted.

9.1.2. Intentionally Omitted.

9.1.3. Intentionally Omitted.

9.1.4. Intentionally Omitted.

9.1.5. **Utilities.** Prior to the commencement of any construction or excavation activities by Tenant, Tenant shall contact all appropriate utility agencies for the purpose of verifying the location, depth and nature of all utilities affecting the Premises and any areas bordering upon the Premises.

9.1.6. **Safety.** Tenant shall comply in all respects with the overall safety programs promulgated by any applicable governmental or quasi-governmental agency, from time to time, applicable to the Premises.

9.1.7. **Alterations.** Any improvements made to the Premises by either party hereto shall be made only in good and workmanlike manner using new materials of the same quality as the original Improvements, and in accordance with all applicable building codes and other laws.

9.1.8. Intentionally Omitted.

9.1.9. **Warranty.** Tenant warrants to Landlord that material and equipment furnished in connection with the construction of the Improvements, or any alteration, addition, of the Improvements undertaken in accordance with subsection 9.1.7, will be of good quality and new, that all construction work associated with the Improvements will be free from any material defects, and that such construction work will comply in all material respects with the requirements of the approved Plans and Specifications. All construction work not conforming to these requirements, including substitutions, shall be considered defective. Tenant's warranty excludes any of the following, to the extent directly caused by Landlord: damage or defect caused by abuse, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. If required by Landlord, pursuant to written notice from Landlord to Tenant, Tenant shall within 20 days thereafter, furnish reasonably satisfactory evidence as to the kind and quality of materials and equipment. Without limiting the indemnification provisions of Section 7.5, but intending to elaborate thereon, Tenant shall defend, indemnify and hold harmless Landlord against and from any and all liability, claim of liability or expense arising directly or indirectly, wholly or in part out of any failure of Tenant's warranties hereunder to be true, complete and accurate in all material respects, other than claims, actions, demands, costs and expenses and liabilities arising directly from the acts or omissions of Landlord, its employees or agents.

9.1.10. Permitted Leasehold Mortgages.

(a) Landlord acknowledges and agrees that it will not be possible for the Tenant to construct the Improvements without obtaining a loan or loans from one or more Persons in order to finance the construction of said Improvements and the development of the Project. Therefore, Landlord hereby covenants and agrees that its interest in the Lease is and shall be subject to, subordinate and inferior to any and all loans (interim, permanent, “cash flow”, “soft” or refinancings thereof) obtained by the Tenant for the purpose of financing the construction of the Improvements and the development and operation of the Project, and to the lien of any Mortgages (each, a “**Permitted Leasehold Mortgage**”), assignments of rents and leases, security agreements, and other collateral or security documents or instruments required by the Permitted Leasehold Mortgagee providing such financing, and to all renewals, extensions, modifications, consolidations, replacements and refinancings and to all advances made or hereafter to be made upon the security of such Mortgages, assignments of rents and leases, security agreements, and other collateral or security documents or instruments and the LURA. Landlord shall, at Tenant’s request, join in, execute and/or deliver any and all such assignments of rents and leases, security agreements, and other collateral or security documents or instruments as may be required by such Permitted Leasehold Mortgagee in order to subject and subordinate the Landlord’s interest in this Lease to the lien of such documents or instruments, and upon Tenant’s request shall join in, execute and/or deliver any and all such further instruments or assurances as any such Permitted Leasehold Mortgagee may reasonably deem necessary to evidence or confirm the subordination of this Lease or the encumbrance of the Landlord’s interest herein to the lien of any such Permitted Leasehold Mortgage, assignments of rents and leases, security agreements, and other collateral or security documents or instruments. Provided, however, and notwithstanding anything contained herein to the contrary, Landlord shall not be required to suffer, incur, accept or assume any personal liability for any such financing, loans or indebtedness, or any costs or expenses thereof, or any other indebtedness or liability of Tenant thereunder, and any Mortgage, assignments of rents and leases, security agreements, and other collateral or security documents or instruments of any nature whatsoever which the Landlord may be called upon to join in, execute and/or deliver under and pursuant to this section shall expressly exculpate Landlord from and against any and all such personal liability.

(b) Tenant may, with Landlord’s consent (Landlord having consented to the Wilmington Trust, National Association as a Permitted Leasehold Mortgage, assign or Mortgage this Lease (including any options it contains) to any Leasehold Mortgagee for the purposes described in Section 9.1.10(a) above, each a “**Permitted Leasehold Mortgage**”. A Permitted Leasehold Mortgagee (and anyone whose title derives from a Permitted Leasehold Mortgagee) may, without Landlord’s consent, hold a foreclosure sale, convey through deed in lieu of foreclosure, take title to this Lease, and transfer or assign this Lease, either in its own name or through a nominee, to any party and the party acquiring the Leasehold Estate and its successors and/or assigns shall not be subject to Section 14.

(c) Except: (i) as permitted pursuant to Sections 9.1.10(a) and (b), and (ii) as to the successor or assign to a Permitted Leasehold Mortgagee, neither Tenant nor any successor in interest to the Premises or any part thereof shall engage in any financing or any other transaction creating any Mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Premises, except as approved with the prior written consent of Landlord in each instance, which

consent may be withheld in Landlord's reasonable discretion (any Mortgage consented to by Landlord, as aforesaid, is also hereinafter referred to singularly as a Permitted Leasehold Mortgage), and except for an inchoate lien for taxes or municipal obligations, utility and access easements, and restrictions required by Section 42 of the Code.

9.2. Mechanics' or Other Liens.

9.2.1. Tenant shall: (a) within sixty (60) days after it is filed or claimed, have released (by bonding or otherwise) any mechanics', materialman's or other lien filed or claimed against any or all of the Premises, the Property, by reason of labor or materials provided for or about any or all of the Premises, the Units, or the rest of the Improvements or the Property during the Term, or otherwise arising out of Tenant's use or occupancy of any or all of the Premises, the Units, or the rest of the Improvements or the Property, and (b) defend, indemnify and hold harmless Landlord against and from any and all liability, claim of liability or expense (including but not limited to that of reasonable attorneys' fees) incurred by Landlord on account of any such lien or claim other than such liens arising out of the actions of the Landlord or its agents, acting as Landlord.

9.2.2. Nothing in this Lease shall be deemed in any way (a) to constitute Landlord's consent or request, express or implied, that any contractor, subcontractor, laborer or materialman provide any labor or materials for any alteration, addition, improvement or repair to any or all of the Property if doing so would give rise to the filing of any mechanic's or materialman's lien against any or all of the Property or Fee Estate or Landlord's estate or interest therein, or (b) to give Tenant any right, power or authority to contract for or permit to be furnished any service or materials, if doing so would give rise to the filing of any mechanics' or materialmans' lien against any or all of the Property or Landlord's estate or interest therein, or (c) to evidence Landlord's consent that the Property be subjected to any such mechanics' or materialmans' lien.

9.2.3. Right to Contest Certain Claims. Notwithstanding the provisions of Sections 9.2.1 or 9.2.2 of this Lease to the contrary, Tenant shall not be in default for failure to comply with any Legal Requirement or to pay or discharge any Tax, assessment, fine, claim, or mechanic's or materialman's lien asserted against the Property if, and so long as, (a) Tenant shall have notified Landlord of same within five (5) business days of obtaining knowledge thereof; (b) Tenant shall diligently and in good faith contest the same by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same and the sale of the Property or any part thereof, to satisfy the same; (c) Tenant shall have furnished to Landlord a cash deposit, or an indemnity bond satisfactory to Landlord with a surety reasonably satisfactory to Landlord, or in lieu thereof Tenant is permitted to deposit any amount required by law to secure the Tenant's obligations during the pendency of such contest with the appropriate authority, in the amount of the Tax, claim, assessment, fine or mechanic's or materialman's lien claim, plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, to assure payment of the matters under contest and to prevent any sale or forfeiture of the Property or any part thereof; (d) Tenant shall promptly upon final determination thereof pay the amount of any such Tax, assessment or claim so determined, together with all costs, interest and penalties which may be payable in connection therewith, and to the extent Tenant has made funds available to Landlord pursuant to Section 9.2.3(c) (the Landlord shall make such funds available to Tenant to make the payment contemplated under this Section

9.2.3(d)); (e) the failure to pay the Tax, claim, assessment, fine or mechanic's or materialman's lien claim does not constitute a default under any deed of trust, mortgage or security interest covering or affecting any part of the Property; and (f) notwithstanding the foregoing, Tenant shall immediately upon request of Landlord pay (and if Tenant shall fail to do so, Landlord or Permitted Leasehold Mortgagee may, but shall not be required to, pay or cause to be discharged or bonded against) any such Tax, claim, assessment, fine or claim or mechanic's or materialman's claim notwithstanding such contest, if in the reasonable opinion of Landlord or Leasehold Mortgagee the Property shall be in jeopardy or in danger of being forfeited or foreclosed. Landlord or Permitted Leasehold Mortgagee may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time after delivering advance written notice to the Tenant when, in the reasonable judgment of Landlord or Permitted Leasehold Mortgagee, the entitlement of such claimant is legally established. Upon the discharge and/or dismissal of all tax assessments, fines and liens covered by this Section 9.2.3, Landlord shall return any unexpended funds delivered to it by Tenant to fulfill its obligations under this Section 9.2.3.

9.3. Fixtures. Any and all improvements, repairs, alterations and all other property attached to or otherwise installed as a fixture within the Premises by Landlord or Tenant shall, immediately on the completion of their installation, become part of the Units and remain with the Units at the expiration or earlier termination of this Lease, except that any machinery, Equipment or fixtures installed by Tenant at no expense to Landlord and used in the conduct of Tenant's trade or business (rather than to service the Premises, the Units or the Property generally) and not part of the Equipment shall remain Tenant's property, and shall be removed from the Premises by Tenant at the end of the Term (and any damage to the Property caused by such removal shall be repaired at Tenant's expense).

9.4. Intentionally Omitted.

9.5. Signs. Tenant shall have the right to erect from time to time about the Units, in accordance with applicable law, such signs as it desires, and are approved in writing by Landlord (unless required by the Loan Documents), and provided that any such sign has been approved by all architectural review committees having jurisdiction over any portion of the Property pursuant to any Permitted Encumbrance. Moreover, Tenant shall erect from time to time, at Tenant's expense, and upon the request of Landlord, about the Units, in accordance with applicable law, such signs as Landlord reasonably desires in order to advise the public of Landlord's participation in the Project.

9.6 Tenant Control. Notwithstanding anything to the contrary herein, the Landlord shall have no control over the construction of the Improvements.

SECTION 10. REPAIRS AND MAINTENANCE.

10.1. Repairs. Tenant shall, throughout the Term and at its expense, use commercially reasonable efforts to

10.1.1. take good care of the Property and keep it in good order and condition; and

10.1.2. promptly make any and all repairs, ordinary or extraordinary, foreseen or unforeseen, to the Property (including but not limited to the landscaping thereon) as are necessary to maintain it in good condition, subject to ordinary wear and tear (including but not limited to any and all such repairs to the plumbing, heating, ventilating, air-conditioning, electrical and other

systems for the furnishing of utilities or services to the Property), and replace or renew the same where necessary (using replacements at least equal in quality and usefulness to the original improvements, equipment or things so replaced), and Landlord shall have no obligation hereunder as to the same.

10.2. Maintenance. Tenant shall use commercially reasonable efforts to keep and maintain all of the Property in a clean and orderly condition, free of accumulation of dirt, rubbish, snow and ice.

SECTION 11. LANDLORD'S RIGHT OF ENTRY.

11.1. Inspection and repair. Subject to the rights of any Resident under a Tenancy Agreement, Landlord and its authorized representatives shall be entitled to enter the Project and Units and the rest of the Property at any time during Tenant's business hours upon two (2) business days written notice and at any other reasonable time to (a) inspect the Property at any time with such notice and (b) make any repairs thereto and/or take any other action therein which Landlord is permitted to make by any provision of this Lease, after giving Tenant at least two (2) business days written notice of Landlord's intention to take such action and allowing Tenant reasonable time to take the appropriate action (provided, that in any situation in which, due to an emergency or otherwise, the health, welfare or safety of the Residents or physical condition of the Project and Units or any other part of the Property would be unreasonably jeopardized unless Landlord were to take such action immediately, Landlord shall give only such notice, if any, to Tenant as is reasonable under the circumstances, and may enter the same at any time). Nothing in this Section shall be deemed to impose any duty upon Landlord to make any such repair or take any such action, and Landlord's performance thereof shall not constitute a waiver of Landlord's right hereunder to have Tenant perform such work. Landlord may, while taking any such action upon the Property, store therein any and all necessary materials, tools and equipment, and Tenant shall have no liability to Landlord for any damage to or destruction of any such materials, tools and equipment, except if and to the extent that such damage or destruction is proximately caused by the gross negligence or intentional conduct of Tenant or its agents and employees. Landlord shall not in any event be liable to Tenant for any inconvenience, annoyance, disturbance, loss of business or other damage sustained by Tenant by reason of the making of such repairs or the taking of such action, or on account of the bringing of materials, supplies and equipment onto the Property during the course thereof, and Tenant's obligations under the provisions of this Lease shall not be affected thereby.

11.2. Exhibiting the Premises. Landlord and its business invitees may from time to time, after giving two (2) business days written notice thereof to Tenant, and subject to the rights of any Resident under a Tenancy Agreement, enter the Project and the Units and the rest of the Property during Tenant's normal business hours to exhibit the Premises for purposes of (a) during the last twenty-four (24) months of the Term (or at any time after Landlord or Tenant has exercised any right to terminate this Lease which it holds hereunder), leasing the Premises to any prospective tenant thereof, and (b) exhibiting the same to any governmental and/or quasi- governmental authorities or other third-parties which may have an interest in developments similar to the Property or similarly financed or for any other business purpose; provided that in doing so Landlord and each such invitee observes all reasonable safety standards and procedures which Tenant may require. In exercising its rights under this subsection 11.2, Landlord shall use its good

faith, reasonable efforts to minimize any interference or disruption of Tenant's work or Tenant's use or operation of the Property.

SECTION 12. FIRE AND OTHER CASUALTIES.

12.1. Where Cost of Restoration Exceeds Specified Sum.

12.1.1. Subject to provisions of the most senior Permitted Leasehold Mortgage as set forth in Sections 7.7 and 12.4, if any or all of the Property is damaged or destroyed, Tenant shall (a) immediately notify Landlord thereof if the cost of restoration on account thereof equals or exceeds Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), and (b) provided that any insurance proceeds are available to Tenant and adequate for such purposes, and regardless of the dollar amount of such damage or loss (and regardless of whether the cost of restoration is less than or greater than Twenty Five Thousand and 00/100 Dollars (\$25,000.00)), commence and complete restoration with reasonable diligence at Tenant's expense, as nearly as possible to the Property's value, condition and character immediately before such damage or destruction occurred to the extent of such available proceeds.

12.1.2. Subject to the provisions of Sections 7.7, 12.1.1 and 12.4 hereof, all insurance proceeds (other than any proceeds which are separately paid on account of any damage to or destruction of Tenant's personal property, inventory or work-in-process, all of which shall be paid to Tenant) payable as a result of such casualty under policies of insurance held by or for the account of Tenant pursuant to Section 7 against such casualty and received by Tenant or the Depository, as the case may be (less such reasonable attorneys' fees or other expenses as are incurred by the Depository, Landlord or Tenant in the collection thereof, which shall be paid out of such proceeds), shall be paid to the most senior Permitted Leasehold Mortgagee or a trustee it designates, to be used in accordance with the applicable Loan Documents. Any remainder shall be disbursed to the Tenant. In the case of a casualty, this Lease shall continue.

12.2. Application of Proceeds on Termination. Anything in this Lease to the contrary notwithstanding, upon the expiration or earlier termination of this Lease before such restoration is completed free and clear of any such liens, any insurance proceeds not theretofore applied to the cost of such restoration or disbursed to Permitted Leasehold Mortgagees (the most senior Permitted Leasehold Mortgagee being entitled to proceeds first) shall be paid to Tenant to the extent permitted by the Loan Documents.

12.3. No Termination. Subject to Section 12.6, no total or partial damage to or destruction of any or all of the Property shall entitle Tenant or Landlord to surrender or terminate this Lease, or shall relieve Tenant from its liability hereunder to pay in full the Annual Rent, any Additional Rent and all other sums and charges which are otherwise payable by Tenant hereunder, or from any of its other obligations hereunder, and Tenant hereby waives any right now or hereafter conferred upon it by statute or otherwise, on account of any such damage or destruction, to surrender this Lease, to quit or surrender any or all of the Property, or to have any suspension, diminution, abatement or reduction of the Annual Rent or any Additional Rent or other sum payable by Tenant hereunder (except that, if and to the extent that Landlord has, on account of any such Rent or other sum, received, for its own account, the proceeds of any rent insurance pursuant to the provisions of this Lease, Tenant shall be entitled to a credit therefor against its obligations hereunder to pay such Rent and other sums, by applying such credit toward the unpaid installments of Annual Rent in the order in which they fall due hereunder).

12.4. Rights of the Parties Under the Loan Documents. Notwithstanding anything herein to the contrary, for so long as the Permitted Leasehold Mortgage is in effect, the related Loan Documents evidencing the Permitted Leasehold Mortgage shall control the use and application of all casualty proceeds relating to the Property. In any event, the Tenant and Permitted Leasehold Mortgagee will participate in any proposed settlement with the applicable insurer.

12.5. Notice. The Landlord will provide reasonable prior notice to Permitted Leasehold Mortgagees and Tenant of any proceeding for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit the Permitted Leasehold Mortgagees and Tenant to participate therein as interested parties.

12.6. Termination Upon Non-Restoration. Following a casualty, the Lease may be terminated by Tenant, with the prior written consent of the Permitted Leasehold Mortgagee and the Investor Limited Partner (such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion), if such casualty prevents the use and operation of Improvements as a low income or moderate income development under Section 42 of the Code, or if the insurance proceeds made available to Tenant are insufficient to restore the Improvements to a condition substantially similar to the conditions existing prior to such casualty, with the prior written consent of the Permitted Leasehold Mortgagee and the Investor Limited Partner (such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion).

SECTION 13. CONDEMNATION.

13.1. Notice of Taking. Forthwith upon receipt by either Landlord or Tenant of notice of the institution of any proceedings for the taking or condemnation of all or a portion of the Property or Improvements by the government of the United States, State of Texas, County of Travis or City of Austin, or any other governmental authority, or any corporation under the right of eminent domain (a "**Taking**"), the party receiving such notice shall promptly give notice thereof to the other, and such other party may also appear in such proceeding and be represented by counsel, who may be counsel for the party receiving such notice.

13.2. Condemnation Awards. Subject to the provisions of Section 13.9 hereof, Tenant's share of any condemnation award shall be no less than the total condemnation award less the value of Landlord's remainder interest in the Premises, considered as if unimproved but encumbered by the Ground Lease. To the extent that Tenant is entitled to any condemnation award, it shall be paid to the most senior Permitted Leasehold Mortgagee to be used first to restore the Improvements or otherwise in accordance with the applicable Loan Documents.

13.3. Total Taking. Subject to the provisions of Section 13.8 hereof, in the event of a permanent Taking of the Fee Estate or of control of the Premises or of the entire Leasehold Estate hereunder (a "**Total Taking**"), this Lease shall thereupon terminate as of the effective date of such Total Taking, without liability or further recourse to the parties, provided that any Rent payable or obligations owed by the Tenant to the Landlord as of the date of said Total Taking shall be paid or otherwise carried out in full with due credit given for any pre-payment of Rent.

13.4. Partial Taking. Subject to the provisions of Section 13.9 hereof, in the event of a partial condemnation, this Lease shall continue. Any condemnation award shall be paid to the most senior Permitted Leasehold Mortgagee or a trustee it designates, to be used in accordance with the applicable Loan Documents. Any remainder shall be disbursed to the Tenant.

13.5 Notice. The Landlord will provide reasonable prior notice to each Permitted Leasehold Mortgagee and Tenant of any proceeding for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Permitted Leasehold Mortgagee and Tenant to participate therein as interested parties.

13.6. Intentionally Omitted

13.7. Termination Upon Non-Restoration. Following a partial Taking, the Lease may be terminated by Tenant, with the prior written consent of the Permitted Leasehold Mortgagee and the Investor Limited Partner (such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion), if such partial Taking prevents the use and operation of Improvements as a low income or moderate income development under Section 42 of the Code, or if the proceeds made available to Tenant are insufficient to restore the Improvements to a condition substantially similar to the conditions existing prior to the occurrence of such partial Taking.

13.8. No Waiver. No provisions in this Lease shall limit the rights of either Landlord or Tenant to seek compensation from a condemning authority as provided by statute, common law, the State of Texas or the United States Constitution.

13.9. Rights of the Parties Under the Loan Documents. Notwithstanding anything herein to the contrary, for so long as the Permitted Leasehold Mortgage is in effect, the related Loan Documents shall control the use and application of all condemnation proceeds relating to the Property and, as applicable, the Lease termination provisions hereunder. In any event, the Tenant and the Permitted Leasehold Mortgagee shall participate in all settlements with the condemning authority.

SECTION 14. ASSIGNMENT AND SUBLETTING.

14.1.

14.1.1. Assignments. Subject to the provisions of Section 9.1.10 and the other terms and provisions herein to the contrary, Tenant hereby acknowledges that Landlord has entered into this Lease because of Tenant's financial strength, goodwill, ability and expertise and that, accordingly, this Lease is one which is personal to Tenant, and Tenant agrees for itself and its successors and assigns in interest hereunder that it will not, other than by Permitted Leasehold Mortgage and rentals made in accordance with Section 19.18 hereof (a) assign this Lease or any of its rights under this Lease as to all or any portion of the Premises, the Units, the rest of the Improvements, the Equipment or the Property generally, or (b) make or permit any voluntary or involuntary total or partial sale, lease, assignment, conveyance, mortgage, pledge, encumbrance or other transfer of any or all of the Premises, the Units, the rest of the Improvements, the Equipment or the Property or the occupancy or use thereof (each of which is hereinafter referred to as a "Transfer"), other than in accordance with LIHTC/Bond Housing Requirements and the terms of this Lease or pursuant to a foreclosure or deed-in-lieu thereof of a Permitted Leasehold Mortgagee, (each of which is hereinafter referred to as a "**Permitted Transfer**"), without first obtaining Landlord's express written consent thereto (which consent will not be unreasonably withheld, delayed or conditioned). Further notwithstanding anything to the contrary herein, during the term of this Lease, the Landlord shall not transfer, encumber or otherwise dispose of the Premises or any interest therein without the consent of the Tenant and the Permitted Leasehold Mortgagee.

14.2. Permitted Transfers. Notwithstanding anything to the contrary set forth elsewhere in this Section 14, any transfer of a general partner or limited partner interest in Tenant in accordance with the terms of the Partnership Agreement shall be a Permitted Transfer hereunder and shall not require Landlord's consent, and any transfer, in whole or in part, of the Property or the Leasehold Estate in accordance with the Partnership Agreement, each Permitted Leasehold Mortgage, Regulatory Agreement, any transfer in the ordinary course of business including, without limitation, any residential lease and any utility and access easement, any transfer required by LIHTC/Bond Housing Requirements, and any right of first refusal under Section

42(i)(7) of the Code or otherwise given to the Landlord shall be a Permitted Transfer hereunder and shall not require Landlord's consent. Further, notwithstanding anything to the contrary herein, during the term of this Lease, the Landlord shall not transfer, encumber or otherwise dispose of the Premises or any interest therein without the consent of the Tenant, Investor Limited Partner, and the Permitted Leasehold Mortgagee. Such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion.

14.3. Effect on Obligations. Except as set forth in Section 19.21, no such Transfer shall alter or impair the obligations hereunder of Tenant or any other person constituting Tenant or holding any interest hereunder before any such Transfer.

14.4. Benefit and Burden. Subject to the foregoing provisions of this Section, this Lease shall be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns in interest hereunder.

SECTION 15. DEFAULT.

15.1. Definition. As used in this Lease, each of the following events shall constitute an "**Event of Default**": if Tenant fails (a) to pay any Annual Rent, Additional Rent or other sum which it is obligated to pay under this Lease, when and as it is due and payable hereunder and without demand therefor, or (b) to perform any of its obligations under this Lease, including, but not limited to, an obligation to construct the Improvements in the manner and within the time frame contemplated hereunder; or (c) if Tenant fails to abide by LIHTC/Bond Housing Requirements (unless Tenant is a New Tenant hereunder acquiring the Leasehold Estate by foreclosure or deed-in-lieu thereof).

15.2. Notice to Tenant; Grace Period. Anything in this Section to the contrary notwithstanding, if an Event of Default occurs Landlord shall not exercise any right or remedy on account thereof which it holds under this Lease or applicable law unless and until Landlord provides notice and an opportunity to cure as follows:

15.2.1. Notice and Opportunity to Cure. (a) Landlord shall so notify Tenant, Investor Limited Partner and each Permitted Leasehold Mortgagee, each of whom shall have the right to cure such Event of Default, and (b) Landlord shall not terminate this Lease for Tenant's default unless and until Landlord has given each Permitted Leasehold Mortgagee and Investor Limited Partner notice of such Event of Default and 90 days in addition to any applicable cure period given Tenant in which to cure such Event of Default. If such Event of Default cannot be reasonably cured within 90 days, then the Investor Limited Partner and each Permitted Leasehold Mortgagee shall have such additional time as it shall reasonably require, so long as the Investor Limited Partner and/or Permitted Leasehold Mortgagee is proceeding with reasonable diligence.

During the continuance of an Event of Default, Investor Limited Partner and Permitted Leasehold Mortgagee may enter on the Premises (subject to the Tenancy Agreements) if either party deems it necessary to do so in order to cure such Event of Default.

15.2.2. Subject to Section 15.2.1 (Notice and Opportunity to Cure), Tenant shall cure an Event of Default within the cure period specified, as follows: (a) if such Event of Default consists of a failure to pay money, within sixty (60) days after Landlord gives such written notice to Tenant, Investor Limited Partner, and Permitted Leasehold Mortgagee or (b) if such Event of Default consists of something other than a failure to pay money, within ninety (90) days after Landlord gives such written notice to Tenant, Investor Limited Partner, and Permitted Leasehold Mortgagee or if longer, the period allowed by TDHCA to cure such Event of Default.

15.2.3 Notwithstanding any provision of this Lease to the contrary, Landlord shall take no action with respect to a particular Event of Default if (i) Landlord or any of its affiliates is the general partner of Tenant, and (ii) Tenant's Partnership Agreement obligates Tenant's general partners to either prevent or cure such Event of Default.

15.2.4. Intentionally Omitted.

15.3. Landlord's Rights on Event of Default.

15.3.1. If an Event of Default occurs and continues beyond all applicable notice and cure periods provided for herein, Landlord may (subject to the provisions of subsection 15.2) take any or all of the following actions:

(a) reenter and repossess any or all of the Premises and any or all Improvements thereon and additions thereto; and/or

(b) declare the entire balance of the Annual Rent for the remainder of the Term to be due and payable immediately, and collect such balance in any manner not inconsistent with applicable law; provided that if Landlord elects to relet any or all of the Premises following such acceleration of Annual Rent, the provisions of subsection 15.3.1(d) shall be applicable to the rights of Landlord and Tenant. Accelerated payments payable hereunder shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of Annual Rent in advance; provided, however, if, following a Permitted Leasehold Mortgagee's receipt of notice of such acceleration, a Permitted Leasehold Mortgagee commences foreclosure proceedings within forty-five (45) days and forecloses as soon as reasonably possible thereafter, Landlord, without the necessity of any reservation of rights against the Tenant, agrees to waive such acceleration and this Lease shall be reinstated to the same extent as if no default had occurred hereunder; and/or

(c) terminate this Lease by giving written notice of such termination to Tenant, which termination shall be effective as of the date of such notice or any later date therefor specified by Landlord therein (provided, that without limiting the generality of the foregoing provisions of this subsection 15.3.1(c), Landlord shall not be deemed to have accepted any abandonment or surrender by Tenant of any or all of the Premises or Tenant's Leasehold Estate under this Lease unless Landlord has so advised Tenant expressly and in writing, regardless of whether Landlord has reentered or relet any or all of the Premises or exercised any or all of Landlord's other rights under this Section or applicable law); and, on the date specified in such notice, Tenant's right to possession of the Property will cease and the Leasehold Estate conveyed

by this Lease upon Tenant shall revest in Landlord, provided, however, such reversion of the Leasehold Estate and the reentry by Landlord shall be subject to and limited by and shall not defeat, render invalid or limit in any way the lien of any Leasehold Mortgage or any provision of LIHTC/Bond Housing Requirements provided, however, if, following a Permitted Leasehold Mortgagee's receipt of notice of such termination, a Permitted Leasehold Mortgagee commences foreclosure proceedings within forty-five (45) days and forecloses as soon as reasonably possible thereafter, Landlord, without the necessity of any reservation of rights against the Tenant, agrees to waive such termination and this Lease shall be reinstated to the same extent as if no default had occurred hereunder ; and/or

(d) in Landlord's own name (but either (i) as agent for Tenant, if this Lease has not then been terminated, or (ii) for the benefit of Tenant, if this Lease has then been terminated), relet any or all of the Premises, with or without any additional premises, for any or all of the remainder of the Term (or, if this Lease has then been terminated, for any or all of the period which would, but for such termination, have constituted the remainder of the Term) or for a period exceeding such remainder, on such terms and subject to such conditions as are acceptable to Landlord in its sole discretion (including but not limited to the alteration of any or all of the Premises in any manner which, in Landlord's judgment, is necessary or desirable as a condition to or otherwise in connection with such reletting, and the allowance of one or more concessions or "**free-rent**" or reduced-rent periods), and collect and receive the rents therefor. Anything in this Lease or applicable law to the contrary notwithstanding, (i) Landlord shall not have any duty or obligation to relet any or all of the Premises as the result of any Event of Default, or any liability to Tenant or any other person for any failure to do so or to collect any rent or other sum due from any such reletting; (ii) Tenant shall have no right in or to any surplus which may be derived by Landlord from any such reletting, if the proceeds of such reletting exceed any Rent, installment thereof or other sum owed by Tenant to Landlord hereunder; and (iii) Tenant's liability hereunder shall not be diminished or affected by any such failure to relet or the giving of any such initial or other concessions or "**free-rent**" or reduced rent periods in the event of any such reletting. In the event of any such reletting, Tenant shall pay to Landlord, at the times and in the manner specified by Section 4 (unless Landlord has elected to accelerate Rent as provided in subsection 15.3.1(b), in which event Tenant shall be obligated to pay such accelerated amount as provided in such subsection), both (i) the installments of the Annual Rent and any Additional Rent accruing during such remainder (or, if this Lease has then been terminated, damages equaling the respective amounts of such installments of the Annual Rent and any Additional Rent which would have accrued during such remainder, had this Lease not been terminated), less any monies received by Landlord with respect to such remainder from such reletting of any or all of the Premises, plus (ii) the cost to Landlord of any such reletting (including but not limited to any reasonable attorneys' fees, leasing or brokerage commissions, repair or improvement expenses and the expense of any other actions taken in connection with such reletting), plus (iii) any other sums for which Tenant is liable under subsection 15.3.4 (and Tenant hereby waives any and all rights which it may have under applicable law, the exercise of which would be inconsistent with this subsection 15.3.1(d)) and or enforce any one or more of the LIHTC/Bond Housing Requirements; and/or

(e) pursue any combination of such remedies and/or any other right or remedy available to Landlord on account of such Event of Default under this Lease and/or at law or in equity. Nothing herein shall limit or prejudice Landlord's right to prove for and obtain as damages, by reason of such termination, an amount equal to the maximum allowed by any statute

or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved.

15.3.2. No such expiration or termination of this Lease, or summary dispossession proceedings, abandonment, reletting, bankruptcy, re-entry by Landlord or vacancy, shall relieve Tenant of any of its liabilities and obligations under this Lease (whether or not any or all of the Premises are relet), and Tenant shall remain liable to Landlord for all damages resulting from any Event of Default, including but not limited to any damage resulting from the breach by Tenant of any of its obligations under this Lease to pay Rent and any other sums which Tenant is obligated to pay hereunder.

15.3.3. If any or all of the Premises are relet by Landlord for any or all of the unexpired Term of this Lease, the amount of rent reserved upon such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

15.3.4. If an Event of Default occurs, Tenant shall, immediately on its receipt of a written demand therefor from Landlord, reimburse Landlord for (a) all expenses (including but not limited to any and all reasonable repossession costs, management expenses, operating expenses, legal expenses and reasonable attorneys' fees) incurred by Landlord (i) in curing or seeking to cure any Event of Default and/or (ii) in exercising or seeking to exercise any of Landlord's rights and remedies under this Lease and/or at law or in equity on account of any Event of Default, plus (b) interest on all such expenses, at the lesser of eight percent (8%) or the highest rate then permitted on account thereof by applicable law, all of which expenses and interest shall be Additional Rent and shall be payable by Tenant immediately on demand therefor by Landlord.

15.3.5. Notwithstanding anything contained in this Lease to the contrary, Landlord agrees that at any time during the period in which a Permitted Leasehold Mortgage encumbers any portion of the Premises and during the period between the Commencement Date and the date that is the later of (i) the expiration of the applicable fifteen (15) year tax credit compliance period and extended use period as set forth in Section 42 of the Code, and (ii) the date the Investor Limited Partner is no longer the Investor Limited Partner in Tenant, Landlord shall not exercise any of its remedies under the Lease, other than to specifically enforce the Tenant's obligation to comply with Section 5 and Section 7.5 hereof and the Lease shall not be terminated without the prior written consent of Investor Limited Partner and each Permitted Leasehold Mortgagee (such consent may be withheld in each of the foregoing parties' respective sole and absolute discretion).

15.4. Intentionally Omitted.

15.5 Landlord Event of Default. Landlord shall be deemed in default of its obligations under this Lease if Landlord shall fail to perform, in a timely manner in accordance with the terms of this Lease, any obligation under this Lease required to be performed by Landlord, or if any Landlord representation made herein is false in any material respect, (each a "**Landlord Event of Default**"). If such Landlord Event of Default shall continue for thirty (30) days after written notice of such failure from Tenant or such additional period as may be reasonably required to cure such failure, if the same may not be reasonably cured within thirty (30) days so long as Landlord commences such cure within ten (10) days after notice thereof and thereafter diligently prosecutes the same to completion, but in any event such cure must be completed to Tenant's reasonable satisfaction within ninety (90) days of Tenant's notice to Landlord subject to the parties' mutual

agreement to extend such time periods and subject to delays caused directly by Force Majeure, and matters outside the reasonable control of Landlord so long as Landlord has acted diligently, with dispatch, and in good faith to prevent or shorten any such delays. In no event shall Landlord be entitled to any cure period for any failure to repay the Rent under the terms and conditions set forth in Section 4.1.1 herein. If Landlord fails to complete such cure as provided above, then subject to the provisions of any Permitted Leasehold Mortgage, Tenant shall thereupon be entitled to exercise any and all remedies available to Tenant for such default under this Lease or at law or in equity. Without waiving or limiting any other remedies available to Tenant, upon such default by Landlord (and subject to the notice and cure rights of Landlord), Tenant shall be entitled (but not obligated) to perform or cause such obligations to be so performed on behalf of Landlord, and Landlord shall reimburse Tenant for its reasonable third-party out of pocket costs and expenses incurred by Tenant in doing so, which amount shall be due within thirty (30) days of Landlord's receipt of a written statement of the costs and expenses so incurred by Tenant. In the event Landlord or a creditor thereof files a petition for relief naming Landlord as a debtor under Title 11 of the United States Code, Landlord hereby acknowledges and agrees that Tenant's possessory interest under this Lease and ownership of the Improvements are a unique interest and cannot be converted into a cash claim under Section 363 of Title 11 of the United States Code unless Tenant expressly consents to the same.

SECTION 16. ESTOPPEL CERTIFICATE: SHORT FORM.

16.1. Estoppel Certificate. Each party hereto shall, at any time and from time to time within ten (10) days after being requested to do so by the other party and/or any Permitted Leasehold Mortgagee, in writing, execute, acknowledge, and address and deliver to the requesting party (or, at the latter's request, deliver to any existing or prospective Mortgagee, transferee or other assignee of the requesting party's interest in the Property which acquires such interest in accordance with this Lease) a certificate in recordable form:

16.1.1. certifying (a) that this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modification); (b) that Tenant has accepted possession of the Premises and the date on which the Term commenced; (c) as to the dates on which Annual Rent and any Additional Rent and other charges arising hereunder have been paid; (d) as to the amount of any prepaid Rent or any credit due to Tenant hereunder; (e) as to whether or not, to the best of such party's knowledge, information and belief, Tenant or Landlord (as the case may be) is then in default in performing any of its obligations hereunder (and, if so, specifying the nature of each such default); and (f) as to any other fact or condition reasonably requested by the requesting party; and

16.1.2. acknowledging and agreeing that any statement contained in such certificate may be relied upon by the requesting party and any such other addressee.

16.2. Recordation. A Memorandum of this Lease shall be recorded in the Land Records for Travis County, Texas.

16.3. Estoppel Certificates (Permitted Leasehold Mortgagees). Landlord shall promptly, upon request by any Permitted Leasehold Mortgagee, certify in writing that this Lease is in full force and effect, whether or not this Lease has been amended, that to Landlord's knowledge, Tenant is not in default, and the date through which Rent has been paid, or any other item reasonably requested.

SECTION 17. CONDITION OF TITLE AND PREMISES.

17.1. Limited Warranties. Tenant hereby acknowledges that it has examined the Premises, the title thereto, zoning which may be applicable thereto, if any, the municipal parking ordinance, the streets, sidewalks, parking areas, curbs and access ways adjoining them, any surface and subsurface conditions thereof, and the present uses and nonuses thereof, if any, and that it accepts each of them in its present condition or state, without restriction, representation, covenant or (except as is set forth in subsection 17.2) warranty, express or implied, in fact or at law, by Landlord or any other person, and, without recourse to Landlord as to any appurtenances thereto, the nature, condition or usability thereof, or the uses to which any or all of the Property may be put.

17.2. Quiet Enjoyment. Landlord hereby

17.2.1. represents, warrants, covenants and agrees that, at the time of the execution and delivery of this Lease by the parties hereto, it (a) is the owner of the Fee Estate in and to the Premises, subject to the operation and effect of and only of the Permitted Encumbrances, and that it has no knowledge of any claim or demand contesting or impairing its interests in the Fee Estate; and (b) has the full right, power and authority to enter into this Lease and thereby to lease the Premises; and

17.2.2. warrants that Tenant will have quiet and peaceful possession of the Premises during the Term so long as all of Tenant's obligations hereunder are timely performed, except if and to the extent that such possession is terminated pursuant to Sections 12, 13 or 15.3 or any other express provision of this Lease.

17.3. Limitation on Liability. Nothing in this Lease shall be deemed to impose on Landlord any liability on account of any act or failure to act by any person other than Landlord (or, where expressly so provided herein, Landlord's agents and employees). Notwithstanding anything to the contrary contained in this Lease, Tenant shall not be liable under this Lease except to the extent of its ownership interest in the Property.

SECTION 18. NOTICES. Any notice, demand, consent, approval, request or other communication or document to be provided hereunder to Landlord or Tenant (a) shall be in writing, and (b) shall be deemed to have been provided on the earlier of (i) (1) five (5) business days after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested, or (2) the next business day after having been deposited (in time for delivery by such service on such business day) with Federal Express or another national courier service, or (3) (if such party's receipt thereof is acknowledged in writing) upon having been sent by telefax or another means of immediate electronic communication, in each case to the address of such party as such party may designate from time to time by notice to each other party hereto, or (ii) (if such party's receipt thereof is acknowledged in writing) its having been given by hand or other actual delivery to such party. Notices shall be sent to the following:

To Landlord:	Austin Housing Finance Corporation
	1000 East 11th Street
	Austin, Texas 78702
	Attn: David Potter
	Telephone: (512) 974-3100

To Tenant: Timbers Clayton 104 Apartments, L.P.
c/o Cesar Chavez Foundation
29700 Woodford-Tehachapi Road
Keene, California 93531
Attn: Paul S. Park

With a copy to: Coats, Rose, Yale, Ryman & Lee, P.C.
901 South Mopac Boulevard
Building 1, Suite 500
Austin, Texas 78746
Attention: Scott A. Marks
Fax#: (713) 890-3911

Landlord shall forward any notices demands, consents, approvals, requests and other communication and documents (other than rent and other periodic billing notices) sent to Tenant shall also be sent to each Permitted Leasehold Mortgagee (the Permitted Leasehold Mortgagee as of the Commencement Date may be provided with notice hereunder at the address noted, below) and Investor Limited Partner.

Investor Limited Partner: [FILL IN]

With a copy to: [FILL IN]

Permitted Leasehold Mortgagees:

Dougherty Mortgage LLC
90 South 7th Street, Suite 4300
Minneapolis, Minnesota 55402-4108
Attn: FHA Servicing
Phone: 612-317-2124

With copies to:

[FILL IN]

Any notice required or permitted to be given under this Lease shall be deemed given if provided in accordance with the foregoing subsection of this Section 18; provided, however, that any party may change its address for notice purposes by timely notice to the other party delivered in accordance with the terms and conditions of this Section 18.

SECTION 19. GENERAL.

19.1. Effectiveness. This Lease shall become effective on and only on its execution and delivery by each party hereto.

19.2. Complete Understanding. This Lease represents the complete understanding between the parties hereto as to the subject matter hereof, the Premises, the Units, the rest of the Improvements, the Equipment, or the rest of the Property, and the rights and obligations of the parties hereto as to the same, and supersedes all prior negotiations, representations, guaranties,

warranties, promises, statements or agreements, either written or oral, between the parties hereto as to the same. No inducements, representations, understandings or agreements have been made or relied upon in the making of this Lease, except those specifically set forth in this Lease. Neither party hereto has any right to rely on any other prior or contemporaneous representation made by anyone concerning this Lease which is not set forth herein.

19.3. Amendment. This Lease may be amended, modified, restated, or supplemented by and only by an instrument executed and delivered by each party hereto, and only with the prior written consent of each Permitted Leasehold Mortgagee and the Investor Limited Partner.

19.4. Waiver. No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and, without limiting the generality of the foregoing, no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made in any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right. Without limiting the generality of the foregoing, no action taken or not taken by Landlord under this Section or any other provision of this Lease (including but not limited to Landlord's acceptance of the payment of Rent after an Event of Default occurs) shall operate as a waiver of any right to be paid a late charge or of any other right or remedy which Landlord would otherwise have against Tenant on account of such Event of Default under this Lease or applicable law.

19.5. Applicable Law. This Lease shall be given effect and construed by application of the law of the State of Texas without regard to its conflicts of laws or principles, and any action or proceeding arising hereunder shall be brought in the courts of Travis County, Texas.

19.6. Intentionally Omitted.

19.7. Time of Essence. Time shall be of the essence of this Lease, except that, whenever the last day for the exercise of any right or the discharge of any obligation hereunder falls on a Saturday, Sunday or statutory holiday, the party having such right or obligation shall have until 5:00 p.m. on the next succeeding day which is not a Saturday, Sunday or statutory holiday to exercise such right or discharge such obligation.

19.8. Headings. The headings of the Sections and subsections, hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents.

19.9. Construction. As used herein, all references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, and (c) to any Section or subsection shall be deemed, unless otherwise expressly indicated, to have been made to such Section or subsection of this Lease. Landlord agrees that, when interpreting this Lease, there shall be no presumption against the Tenant on account of the fact that Tenant is the party that caused the drafting of this Lease.

19.10. Exhibits. Each writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof.

19.11. Severability. No determination by any court, governmental or administrative body or agency or otherwise that any provision of this Lease or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall remain valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

19.12. Disclaimer of Partnership Status. Nothing in this Lease shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

19.13. Commissions. Each party hereto hereby represents and warrants to the other that, in connection with the leasing of the Premises hereunder, the party so representing and warranting has not dealt with any real estate broker, agent or finder, and there is no commission, charge or other compensation due on account thereof. Each party hereto shall defend, indemnify and hold harmless the other against and from any liability, claim of liability or expense arising out of any inaccuracy in such party's representation.

19.14. Prevailing Party. In the event either party hereunder initiates judicial action against the other in order to enforce the terms, covenants and provisions of this Lease, the non-prevailing party in such judicial action shall reimburse the prevailing party in such judicial action for all reasonable expenses, fees, costs, including attorneys' fees incurred by the prevailing party in connection with such judicial action.

19.15. Intentionally Omitted.

19.16. Limited Third Party Rights. Notwithstanding anything to the contrary set forth elsewhere in this Lease, the Investor Limited Partner and each Permitted Leasehold Mortgagee shall be deemed a third-party beneficiary as contemplated herein of the following provisions (not being an exhaustive listing thereof) of the Lease: Section 6 (Taxes and Operating Expenses), Section 7 (Insurance and Indemnification), Section 8 (Leasehold Mortgage Requirements), Section 9.1.10 (Permitted Leasehold Mortgages), Section 12 (Fire and Other Casualties), Section 13 (Condemnation), Section 14.2 (Permitted Transfers), Section 15 (Default), Section 16 (Estoppel Certificate, Short Form) Section 18 (Notices), Section 19.3 (Amendment), Section 19.17 (New Lease), Section 19.18 (Subleases), and Section 19.19 (Preservation of Lease), Section 19.20 (Tenant's Rights, Generally), and Section 19.21 (No Personal Liability), and Investor Limited Partner and each Permitted Leasehold Mortgagee shall have rights to enforce such terms (as applicable). The foregoing rights of the Investor Limited Partner and each Permitted Leasehold Mortgagee to be a third-party beneficiary under this Lease shall be the only rights of Investor Limited Partner (express or implied) and each Permitted Leasehold Mortgagee, to be a third-party beneficiary under this Lease.

19.17. New Lease. If this Lease terminates because of an Event of Default of Tenant, or if Tenant rejects it in bankruptcy or similar proceedings or any other reason other than expiration of the Term, then Landlord shall, upon request, enter into a new lease with the most senior Permitted Leasehold Mortgagee or its nominee on the same terms and with the same priority as this Lease.

19.18. Subleases. Tenant may, without Landlord's consent, sublease the Premises. Landlord shall not disturb the possession, interest, or quiet enjoyment of any subtenant. Any

sublease is subordinate to the Ground Lease, each Permitted Leasehold Mortgage and any new lease entered into between the Landlord and each Permitted Leasehold Mortgagee. The Landlord agrees to enter into a reasonable non-disturbance agreement with the sub-tenants. In connection with any subletting right, the subtenant will be required to attorn to each Permitted Leasehold Mortgagee if any Permitted Leasehold Mortgagee forecloses and becomes the owner of the Leasehold Estate.

19.19 Preservation of Lease. This Lease may not be amended, modified, changed, cancelled, waived or terminated without the prior written consent of each Permitted Leasehold Mortgagee and the Investor Limited Partner. Landlord shall not accept a voluntary surrender of the Lease without consent by each Permitted Leasehold Mortgagee and the consent of the Investor Limited Partner. Such consent may be withheld in each Permitted Leasehold Mortgagee's sole and absolute discretion. Any such amendment, modification, change, cancellation, waiver or termination shall not bind Permitted Leasehold Mortgagees or the Investor Limited Partner and their respective successors and assigns unless made with such Permitted Leasehold Mortgagee's and Investor Limited Partner's consent in their sole and absolute discretion.

19.20. Tenant's Rights, Generally. Upon and during the continuation of an event of default under, and subject to, any documents relating to the financing of the Property, any Permitted Leasehold Mortgagee may exercise all of Tenant's rights under this Lease subject to the terms hereof.

19.21. No Personal Liability. Permitted Leasehold Mortgagee or its designee or affiliate shall not have any liability under this Lease for acts or omissions taking place prior to the date it acquires record title to Tenant's interest in the Leasehold Estate and becomes Tenant (or "New Tenant") under this Lease. Any liability to Landlord or Landlord's successors and assigns shall be limited to the value of each Permitted Leasehold Mortgagee's or its designee's or affiliate's respective interest in the Leasehold Estate created hereunder. If a Permitted Leasehold Mortgagee or its designee or affiliate shall succeed to the interest of the Tenant under the Lease, whether as a purchaser at a foreclosure sale or by the acceptance of a deed-in-lieu of foreclosure, such Permitted Leasehold Mortgagee, designee or affiliate, shall (a) not be liable for any act or omission of Tenant and (b) be released from all liability prior to the date such Permitted Leasehold Mortgagee or its designee or affiliate succeeds to the interest of Tenant hereunder.

SECTION 20. CONTINUING RIGHT TO COMPEL TITLE

20.1 Tenant hereby grants Landlord a present and continuing exclusive right to compel transfer of legal title through a purchase of all of the Property owned by the Tenant at the time of purchase, including without limitation Tenant's Leasehold Estate in the Premises, (i) on any date that is thirty (30) days after Landlord delivers written notice (the "**Option Exercise Notice**") to Tenant and to Investor Limited Partner of Landlord's intent to exercise this purchase option, and (ii) upon the Tenant's receipt of the Purchase Price (as defined below). The "**Purchase Price**" for the Tenant's Property pursuant to the option shall be the greater of the following amounts, subject to the provisions set forth hereinbelow:

(a) Price Formula. An amount, determined by the Tenant's accountants, which is sufficient (i) to pay all outstanding indebtedness evidenced by each promissory note secured by each Permitted Leasehold Mortgagee, (ii) to distribute to the Tenant's partners cash proceeds sufficient to enable the partners to pay any and all taxes imposed on the amounts paid by Landlord

to Tenant as the Purchase Price, the taxes projected to be imposed on the partners as a result of the sale pursuant to the option; and (iii) to pay an amount, on an after- tax basis equal to the diminution of economic value to the Investor Limited Partner as a result of the purchase (the “**ILP Diminution**”), which shall include without limitation (A) all capital contributions of the Investor Limited Partner which have not previously been returned to the Partners in the form of distributions from the Partnership, (B) the outstanding balance of all loans (and any accrued interest thereon) made to the Partnership by the Investor Limited Partner or its affiliates, which will not otherwise be repaid at the time of the purchase, (C) the amount of any projected tax credits, as defined in the Tenant’s partnership agreement, which, as a result of the purchase will not be available to the Investor Limited Partner and the amount of any tax credits which will be recaptured from the Investor Limited Partner as a result of the purchase, (D) all costs and penalties incurred by the Investor Limited Partner with respect to the Credits already received (including the costs of any recapture bonds), and (E) the present value of the anticipated cash flow payable to the Investor Limited Partner using a 10% discount factor and (F) all costs and expenses incurred by or on behalf of the Investor Limited Partner with respect to (1) its admission to the Tenant and (2) its activities with respect to the Tenant prior to the purchase. The calculation of any ILP Diminution shall be determined by the accountants to the Tenant, shall be approved by the Investor Limited Partner in its reasonable discretion and shall include the value of the special limited partner interest using the formulas above. All payments of ILP Diminution shall be paid directly by Landlord to the Investor Limited Partner; or

(b) Fair Market Value. One hundred percent (100%) of the fair market value of the Tenant’s Property, appraised as low-income housing to the extent continuation of such use is required under any document of record, and taking into consideration any third-party liens on the Tenant’s Property, any such appraisal to be made by an independent appraiser. Landlord shall be responsible for all costs of the appraisers and the appraisal.

20.2 Upon determination of the Purchase Price, Tenant and Landlord, shall transfer title of the Tenant’s Property by an Assignment of Ground Lease (the “**Lease Assignment**”) and a blanket conveyance bill of sale and assignment agreement (the “**Bill of Sale**”) and together with the Lease Assignment, the “**Conveyance Documents**”) and enter into a declaration of surrender of this Ground Lease with the closing to occur no later than the date specified in the notice of intent to compel title or thirty (30) days after the purchase price has been determined, whichever is later. This provision of the Ground Lease shall be subject to specific performance by a court of law. The purchase and sale hereunder shall be closed through a deed-and-money escrow with the title insurer for the Tenant’s Property or another mutually acceptable title company. Upon closing, the Tenant shall deliver to Landlord, along with the Conveyance Documents, a Texas form Owner’s Title Policy dated as of the close of escrow, in the amount of the purchase price, subject to the liens, encumbrances and other exceptions then affecting the title. Landlord shall be responsible for all closing costs including, but not limited to, transfer taxes, title policy premiums and recording costs. Rents, insurance, taxes, debt service then due and payable and other costs and revenues then prepaid or accrued, as the case may be, shall be apportioned as of midnight of the day preceding the closing of title, except that rents shall be apportioned as of the date of actual collection thereof (which obligation shall survive the closing).

20.3 In consideration of the right to compel title granted hereunder at the price specified herein, Landlord hereby agrees that the Conveyance Documents to Landlord shall contain a covenant running with the land, restricting the use of the Tenant’s Property to low- income

housing to the extent required by any document of record. Such deed covenant shall include a provision requiring Landlord to pay any and all costs, including attorneys' fees, incurred by the Investor Limited Partner in enforcing or attempting to enforce such use restrictions, and to pay any and all damages incurred by the Investor Limited Partner from any delay in or lack of enforceability of the same. All provisions relating to such use restrictions contained in such Conveyance Documents and in this Ground Lease shall be subject and subordinate to any third-party liens encumbering the Tenant's Property.

20.4 In the absence of Conveyance Documents conforming to the requirements of this Ground Lease, the provisions of this Ground Lease shall run with the land.

20.5 Notwithstanding any term to the contrary contained herein, the rights granted in this Section 20 shall be subordinate, in all respects, to each Permitted Leasehold Mortgage.

SECTION 21. HUD REQUIREMENTS

SEE MODIFIED RIDER ATTACHED HERETO AS LEASE ADDENDUM.

IN WITNESS WHEREOF, each party hereto has executed this Lease by its duly authorized representatives, to be effective as of the above written day and year.

AUSTIN HOUSING FINANCE CORPORATION,
a Texas housing finance corporation

By: _____
Name: _____
Title: _____

- Landlord -

TIMBERS CLAYTON 104 APARTMENTS, L.P.
a Texas limited
partnership

By: AHFC 1034 Clayton Lane Non-Profit
Corporation, a Texas nonprofit corporation,
its general partner

By: _____
Name: _____
Title: _____

- Tenant -

State of Texas: COUNTY OF _____: TO WIT:

I HEREBY CERTIFY that on or about this ____ day of _____, 2015, before me, a Notary Public for the state aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Ground Lease, who acknowledged that she is the _____ of the Austin Housing Finance Corporation a housing finance corporation organized under the laws of the State of Texas, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth; and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Notary Public

My commission expires on _____.

State of Texas: COUNTY OF _____: TO WIT:

I HEREBY CERTIFY that on or about this ____ day of _____, 2015, before me, a Notary Public for the state aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Ground Lease, who acknowledged that he is the _____ of the AHFC 1034 Clayton Non-Profit Corporation, a Texas nonprofit corporation, the general partner of Timbers Clayton 104 Apartments, L.P., a Texas limited partnership, and that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth; and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Notary Public

My commission expires on _____.

GROUND LEASE

EXHIBIT A

Description of Land

Lot 1, Block A., The Timbers, According to the Map or Plat Thereof Recorded in Book 99, Pages 296-297 of the Plat Records of Travis County, Texas.

GROUND LEASE

EXHIBIT B

Schedule of Permitted Encumbrances

GROUND LEASE

EXHIBIT C

Insurance Requirements

A. General Requirements

All policies or documents evidencing the required insurance shall:

1. Be provided at least ten (10) days prior to equity closing to ensure adequate lead time for Tenant to engage its consultant and receive its Final Insurance Due Diligence Report prior to closing; updates must be provided as required for each capital contribution.
2. Be maintained throughout the term of the loan(s) and the term of ownership for all borrowers/owners/investment partners.
3. Clearly identify the property location or description on each certificate.
4. Be provided in the following form, with all forms and endorsements noted:
 - Accord 25 - Ink-signed Certificate of Liability Insurance
 - Accord 28 (2003/10 edition) - Ink-signed Evidence of Property Insurance
 - A full copy of the policy when available
5. Name the Operating Partnership as the Named Insured on each policy provided by the Owner, or on behalf of the Owner, and name the following entities as Additional Insureds on all policies required of any party under these guidelines (with the exception of auto liability, professional liability (E&O) and Workers' Compensation:
 - ILPs and their successors and assigns,
 - SLPs and their successors and assigns and
 - All Additional Investors (the equity providers)
6. All liability insurance policies provided by parties other than the Owner shall name the Partnership and/or the entities that comprise it as Additional Insureds. Professional liability coverage shall indicate the Partnership as certificate holder
7. Binders may be accepted for a 30-day period only.
 - Continuous binders are acceptable if issued by the insurance company's underwriter. Continuous binders must be replaced with certificates or policies within 30 days of receipt.
 - Facsimile copies are acceptable as temporary evidence of coverage. Hard copies must be promptly delivered to confirm evidence.
8. Be issued/written by insurance carrier or carriers acceptable to the lender and investor and having:
 - A rating of A: Class VII or better (a couple of investors require A-/X or better) by A.M. Best's Key Rating guide (*note: the insurance company's NAIC number is needed in addition to their name*), **or**
 - A rating of "A" or higher from Standard & Poor's.
9. Be written on a per occurrence basis (, professional liability coverage and Environmental Impairment Liability including contractor's pollution legal liability insurance coverage, which may be written on a claims-made basis).
10. Have a cancellation provision requiring the carrier to notify the parties (Partnerships, GP, ILP, SLP, Lenders and equity providers) at least thirty (30) days in advance ,(10) days for nonpayment of premium, of any policy reduction, cancellation, premiums due, any lapse

expiration, material change, amendment or non-renewal intent. Notice should be advance *written* notice via certified mail return receipt requested.

11. Be written for a term of not less than one year, with premiums prepaid and evidence of premium payment accompanying the binders and policies.

The following requirements apply to Property policies:

12. Name the Lender and its successors and assigns (collectively, the Lender) as Mortgagee and Loss Payee..
13. Name the SLP and its successors and assigns as Loss Payee
14. Contain a deductible or self insured retention (SIR) not greater than \$10,000 (except when a separate wind-loss deductible applies, then the amount must not exceed 3% of the face amount of the policy).
15. Builders Risk policies must be on a non-reporting basis.
16. Not contain any effective co-insurance provisions.
17. Not use a blanket or package policy unless it provides the same or better coverage as a single property insurance policy, **and**:
 - All other projects must be listed and identifiable in the policy and associated schedules. Note: The Declaration page listing each appropriate Endorsement /Form and copies of each Form will be accepted as evidence.
 - Total coverage must be based on 100% replacement value of all properties covered , Coverage limits other than replacement cost are generally not acceptable and any variations from an amount less than replacement cost must be pre approved by the SLP.

B. Insurance to be Maintained During Construction

The following coverages must be maintained on all properties, on a per project basis, during construction and until permanent insurance is placed, and are required by all investors (unless noted) though amounts may vary.

1. **Owner's Commercial General Liability and Excess/Umbrella Liability Insurance:**
General Partner shall carry, for the benefit of the Partnership and General Partner, covering the premises and operations by independent contractors, Commercial General Liability Insurance of the real estate development class against claims for bodily injury, personal injury and products and completed operations..
 -
 - Form should remain silent on assault & battery, sexual assault and punitive damages (no exclusions or limitations).
 - Environmental Liability Insurance will be required for existing Apartment Complexes that are being substantially rehabilitated.
 - The minimum amount of primary coverage is \$1 million per occurrence / \$2 million general aggregate and contain a deductible no greater than \$10,000.
 - The minimum Umbrella/Excess Liability Insurance ranges from \$4 million per occurrence and \$4 million general aggregate to \$30 million per occurrence and \$30 million general aggregate (depending on investor and the guidelines shown below):

Garden Apts 1-3 stories, SF, & other non-elevator buildings:

< 50 Units: \$4 million as noted above
51 - 300 Units: \$5 million

> 300 Units: \$5 -\$10 million, depending on location/conditions

Mid-rise Apartment Building (4-10 stories):

< 50 Units: \$5 million as noted above

51 - 300 Units: \$5 -\$10 million , depending on location/etc.

> 300 Units: \$10 -\$20 million, depending on location/conditions

High-rise Apartment Building (11-40 stories):

1 - 300 Units: \$10 -\$30 million , depending on location/conditions

> 300 Units: \$30 million and above, depending on location/etc.

2. **All-Risk Builder's Risk Insurance:** Insurance providing 100% replacement cost coverage (including a 5% contingency), in an amount equal to the completed construction value plus personal property and shall include coverage for Soft Costs including 12 months Business Interruption (Loss of Rents) or actual loss sustained, loan interest, real estate taxes, architect's & engineer's fees, legal & accounting fees, insurance premiums, and advertising and promotional expenses. Additional coverage requirements are as follows:
 - If any of the units will be turned over and occupied prior to completion, policy shall include a Permission for Partial Occupancy Endorsement.
 - No coinsurance or coinsurance offset by an Agreed Amount Endorsement
 - Ordinance & Law Coverage (See **Section C.** for coverage requirements).
 - The maximum deductible is \$10,000 per occurrence.
 - Windstorm, earthquake, and flood exclusions are generally acceptable exclusions provided that a separate policy is obtained for these risks. See **Section C.** for details regarding coverage requirements for these separate perils.
3. **General Contractor's General Liability and Excess/Umbrella Liability Insurance:** The General Contractor shall provide the following insurance coverages:
 - A) **Commercial General Liability Insurance:** The General Contractor (and each prime contractor having a direct contract with the Partnership) shall provide Commercial General Liability Insurance covering claims for bodily injury, property damage and personal injury arising out of the Contractor' operations, independent contractors, and products/completed operations.
 - Coverage limits of the construction exposure class shall be in an amount not less than \$5 million combined single limits (per occurrence / per project aggregate). This requirement can be met through any combination of primary and excess insurance, such as the standard \$1 million/ \$2 million primary with \$4 million/ \$4 million umbrella. If the primary coverage applies to other locations or activities, then the primary aggregate must apply to each insured location separately.
 - \$1 million per occurrence /\$2 million general aggregate shall be required for prime contractors other than the GC. If the primary coverage applies to other locations or activities, then the primary general aggregate must apply to each insured project separately.
 - B) **Pollution/Environmental Coverage Insurance:** Providing defense and indemnity coverage for bodily injury, property damage and environmental investigation and clean-up costs for pollution conditions. Coverage limits of the construction exposure class shall be in an amount not less than \$1 million combined single limits (per occurrence/per location and in the aggregate).

C) **Automobile Liability Insurance**: Commercial Automobile Liability with coverage for owned, hired, and non-owned autos with no less than \$1 million combined single limit per occurrence.

D) **Workers' compensation and Employers' Liability Insurance**: Coverage shall be in statutory amounts with Employers Liability limits of \$1 million bodily injury by accident for each accident, bodily injury by disease for each employee and policy limit for bodily injury by disease (\$500,000 fallback).

E) **Payment and Performance Bonds**: The Construction Contract must be secured by one of the following:

- A letter of credit in an amount not less than fifteen (15%) of the Construction Contract amount, or
- 100% payment and performance bonds in a form and substance acceptable to the SLP, or
- Each major subcontractor, as identified by the SLP, being bonded in a form and substance acceptable to the SLP.

4. **Construction Manager's Commercial General Liability Insurance (If applicable)**: If a construction manager is utilized, Commercial General Liability Insurance is to be and the amount of coverage shall be no less than \$500,000 combined single limits. \$500,000 combined single limits Automobile Liability (including coverage for liability assumed under contract), statutory Workers' Compensation and \$500,000 Employers' Liability shall also be maintained.

5. **Architect's & Engineer's Professional Liability / Errors & Omissions Insurance**: Professional Liability (E & O) Insurance shall be provided covering each professional entity for the greater of \$500,000 or 10% of the construction contract amount each claim and in the aggregate (\$1 million or 10% for high-rises), in a form satisfactory to the Investor. Coverage shall remain in effect for three years from acceptance of the Project by Owner.

- Comprehensive General Liability insurance with a minimum of \$500,000 in combined single limits shall be provided.

C. Insurance to be Obtained Upon Completion (or on Existing Buildings) & Maintained Thereafter

Commencing from the earliest of (i) Receipt of final Certificates of Occupancy for all buildings in the Property, (ii) Final Construction Completion or (iii) the lapse in Builders Risk Coverage; and continuing until no longer required by the SLP, the Partnership shall maintain the following insurance coverage:

1. **General Contractor's Commercial General Liability Insurance**: General Contractor must continue to carry Products and Completed Operations insurance for a minimum of three (3) years following completion of construction.
2. **Architect's & Engineer's Professional Liability / Errors & Omissions Insurance**: Each entity must continue to carry the same Professional Liability insurance coverage as required in B.6 for a minimum of three (3) years following completion of construction.
3. **Owner's Commercial General Liability Insurance**: The General Partner shall cause the Partnership to continue to carry the same insurance coverages as required in B.1. with the following additional loss control requirement to be implemented:
 - Contains a deductible of no greater than \$10,000.
4. **Property (Special Cause of Loss Form) Insurance**: Insurance on the project covering risks of direct physical loss.

- Such insurance shall be in an amount equal to 100% replacement value of the property.
 - The policy shall provide Replacement Cost coverage.
 - The policy shall include an Agreed Amount Clause or Waiver of Coinsurance.
 - The maximum deductible is \$10,000 per occurrence (except when a separate wind-loss deductible applies, then the amount must not exceed 5% of the face amount of the policy).
5. **Business Interruption Insurance** - Loss of income insurance shall be carried in an amount equal to 12 months anticipated gross rental income from tenant occupancy (including any commercial portion) of the property plus Tax Credit..
 6. **Windstorm Coverage** - If the Special Causes of Loss Form property damage insurance excludes wind-related events, a separate windstorm insurance policy shall be obtained for 100% replacement cost of the property. The policy must include business interruption. The maximum deductible is 3%.
 7. **Flood** - PNC Real Estate requires flood insurance if any property is, or planned to be located, in a Special Flood Hazard Area designated by FEMA as Zone A or V in an amount equal to the full replacement cost and 12 months Business Income coverage . The maximum deductible is 2% of the total insured value per building. If this coverage amount is more than the maximum amount of insurance available under the National Flood Insurance Program, an excess flood or difference in conditions policy may be required for the difference.
 8. **Earthquake** - Where the Property is located in an area prone to seismic activity (zones 3 & 4) and has a PML greater than 20%, earthquake insurance is required for the life of the investment. Coverage must equal 100% of the full replacement cost, include Business Interruption, and have a maximum deductible of 5%-10% of the total insured value.
 9. **Ordinance and Law Coverage** - Where the Property represents a non-conforming use under current building, zoning, or land use laws or ordinances, insurance shall be obtained in the following amounts: * Loss of Undamaged Portion of the Building - Full replacement cost of the structure minus the local threshold; * Demolition Cost - Minimum of 10% of replacement cost; and * Increased Cost of construction - Minimum of 10% of the replacement cost.
 10. **Extended Period of Indemnity** - Business Interruption (Loss of Rents) coverage shall be extended for a minimum of three months after property is ready for occupancy following a casualty.
 11. **Owner's Boiler & Machinery Insurance**: Required where any centralized HVAC equipment is in operation at the Property or where the Property contains boilers or other pressure-fired vessels that are required to be regulated by the State as follows:
 - Boiler and Machinery Insurance shall be required for the full replacement cost of the building that houses the equipment.
 - Coverage against loss or damage from steam boiler explosion, electrical breakdown or mechanical breakdown which can include refrigeration equipment, air conditioning equipment, various types of piping, turbines, engine's pumps, compressors, electric motors, transformers and other assorted types of apparatus now or hereafter installed on the Property.
 - Coverage shall be extended to include Business Income.
 - Deductibles must be equal or lower than the deductibles on the Property Insurance Policy

GROUND LEASE

EXHIBIT D

Final Plans and Specifications

As previously submitted to and approved by Landlord.

LEASE ADDENDUM

Notwithstanding any other provisions of this ground lease, if and so long as this leasehold is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the security instrument, the following provisions of this Lease Addendum shall be in effect:

a) The tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by a security instrument on this leasehold estate and the Improvements. The tenant is further authorized to execute all documents necessary as determined by HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.

b) In the event that HUD acquires title to this leasehold estate or otherwise acquires title to the tenant's interest herein, HUD shall have the option to purchase good and marketable fee simple title to the Property and the landlord's interest, if any, in the Improvements, free of all liens and encumbrances except such as may be waived or accepted by HUD. Such option shall be exercised within twelve (12) months after HUD so acquires such leasehold estate or the tenant's interest. The purchase price shall be the sum of _____ Dollars (\$_____), payable in cash, by check drawn on the U.S. Treasury, by electronic funds transfer or by wire transfer, provided all rents are paid to date of transfer of title. HUD shall, within said twelve months, give written notice to the landlord of its election to exercise said option to purchase. The landlord shall, within thirty (30) days after HUD gives such notice, execute and deliver to HUD a warranty deed of conveyance to HUD as grantee conveying the said fee and interest and containing a covenant against the grantor's acts, but excepting therefrom acts of the tenant and those claiming by, through or under the tenant. Nothing in this option shall require the landlord to pay any taxes or assessments that were due and payable by the tenant.

c) If approved by HUD, Investor Limited Partner and each Permitted Leasehold Mortgagee, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property and its interest in the Improvements without the need for approval or consent by any other person or entity.

d) (i) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved by lender and HUD.

(ii) The landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the tenant to lender. The landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the tenant to lender.

e) (i) If all or any part of the Property or the Improvements or the leasehold estate shall be taken or damaged by condemnation, that portion of any award attributable to the Improvements or the tenant's interest in the leasehold estate or damage to the Improvements or the to tenant's interest in the leasehold estate shall be paid to lender or otherwise disposed of as

may be provided in the security instrument. Any portion of the award attributable solely to the underlying fee estate (exclusive of any Improvements) shall be paid to the landlord. After the date of taking, the annual ground rent shall be reduced ratably by the proportion which the award paid to the landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in paragraph (b) of this Lease Addendum.

(ii) In the event of a negotiated sale of all or a portion of the Property or the Improvements, in lieu of condemnation, the proceeds shall be distributed and annual ground rent reduced as provided in cases of condemnation, but the approval of HUD and lender shall be required as to the amount and division of the payments to be received.

f) Except as provided in Section 8.4 and Section 15.3.5 of the Lease, the landlord may terminate the ground lease prior to the expiration day of the full term of this ground lease (**"Expiration Date"**) after a tenant default under this ground lease (**"Ground Lease Event of Default"**), but only under the following circumstances and procedures. If any Ground Lease Event of Default shall occur, then and in any such event, the landlord shall at any time thereafter during the continuance of such Ground Lease Event of Default and prior to any cure, give written notice of such default(s) (**"Notice of Default"**) to the tenant, lender, HUD and Investor Limited Partner, specifying the Ground Lease Event of Default and the methods of cure, or declaring that a Ground Lease Event of Default is incurable. If the Ground Lease Event of Default is a failure to pay money, the landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Ground Lease Event of Default. Within sixty (60) days from the date of giving the Notice of Default to the tenant, the tenant must cure a monetary default by paying the landlord all amounts specified in the Notice of Default and must cure any specified Ground Lease Event of Default that is capable of being cured within such period. During the period of 180 days commencing upon the date Notice of Default was given to lender, HUD and Investor Limited Partner, lender, HUD or Investor Limited Partner may: (a) cure any Ground Lease Event of Default; and (b) commence foreclosure proceedings or institute other state or federal procedures to enforce lender's or HUD's rights with respect to the leasehold or the tenant Improvements. If the tenant, lender, HUD or Investor Limited Partner reasonably undertake to cure any Ground Lease Event of Default during the applicable cure period and diligently pursues such cure, the landlord shall grant such further reasonable time as is necessary to complete such cure. If HUD, lender or Investor Limited Partner commences foreclosure or other enforcement action within such 180 days, then its cure period shall be extended during the period of the foreclosure or other action and for 90 days after the ownership of the tenant's rights under the lease is established in or assigned to HUD, Investor Limited Partner or such lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the tenant's rights under the lease to lender, HUD, Investor Limited Partner or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Ground Lease Event of Default and such terminated Ground Lease Event of Default shall not give the landlord any right to terminate the lease. Such purchaser may cure a curable Ground Lease Event of Default within said 90 days. Except as provided in Section 8.4 and Section 15.3.5 of the Lease, if after the expiration of all of the foregoing cure periods, no cure or termination of an existing Ground Lease Event of Default has been achieved as aforesaid, then and in that event, this lease shall terminate, and, on such date, the term of this lease shall expire and terminate and all rights of the tenant under the lease

shall cease and the Improvements, subject to the security instrument and the rights of lender thereunder, shall be and become the property of the landlord. All costs and expenses incurred by or on behalf of the landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the tenant under this ground lease shall constitute additional rent hereunder. The landlord shall have no right to terminate this ground lease except as provided in this paragraph (f).

g) Upon termination of this ground lease pursuant to paragraph (f) above, the landlord shall immediately seek to obtain possession of the Property and Improvements. Upon acquiring such possession, the landlord shall notify HUD and lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as tenant, a new ground lease on the Property and on the Improvements. Such new ground lease shall have a term equal to the unexpired portion of the term of this ground lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this ground lease, including without limitation, the option to purchase set forth under paragraph (b) above, except that lender's or HUD's liability for ground rent shall not extend beyond their occupancy under such ground lease. The landlord shall tender such new ground lease to lender or HUD within thirty (30) days after a request for such ground lease and shall deliver possession of the Property and Improvements immediately upon execution of the new ground lease. Upon executing a new ground lease, lender or HUD shall pay to the landlord any unpaid ground rent due or that would have become due under this ground lease to the date of the execution of the new ground lease, including any taxes which were liens on the Property or the Improvements and which were paid by the landlord, less any net rentals or other income which the landlord may have received on account of the Property and Improvements since the date of default under this ground lease.

h) The landlord agrees that within ten (10) days after receipt of written request from the tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority³ in connection with any work which the tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property or of any Improvements and if, at the expiration of such ten (10) day period, the landlord shall not have joined in any such application, or grants for easements, the tenant shall have the right to execute such application and grants in the name of the landlord, and for that purpose, the landlord hereby irrevocably appoints the tenant as its attorney-in-fact to execute such papers on behalf of the landlord, only to the extent that a public body as landlord may do so within the exercise of its municipal powers and responsibilities.

i) Nothing in this ground lease shall require the tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the tenant under this ground lease.

j) All notices, demands and requests which are required to be given by the landlord, the tenant, lender or HUD in connection with this Ground Lease shall be in writing and shall be

sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices to lender or HUD shall be addressed as follows:

If to Lender:

If to HUD: :

Landlord:

Tenant:

If to either, with a copy to:

Scott A. Marks
Coats | Rose
901 South MoPac Expressway
Building 1, Suite 500
Austin, Texas 78746

Investor Limited Partner:

With a copy to:

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k) This ground lease shall not be modified without the written consent of HUD, lender and Investor Limited Partner.

l) The provisions of this Lease Addendum benefit lender and HUD and are specifically declared to be enforceable against the parties to this lease and all other persons by lender, HUD and Investor Limited Partner.

m) In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of this ground lease, the provisions of this Lease Addendum shall prevail and control.

Warning

Any person who knowingly presents a false, fictitious or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability and administrative sanctions.

³ “**Governmental Authority**” means any board, commission, department or body of any municipal, county, state, tribal or federal governmental unit, including any U.S. territorial government, and any public or quasi-public authority, or any subdivision of any of them, that has or acquires jurisdiction over the mortgaged property, including the use, operation or improvement of the mortgaged property.

² “**Improvements**” means the buildings, structures, and alterations now constructed or at any time in the future constructed or placed upon the land, including any future replacements and additions.