

Amended and Restated Regulatory Agreement

between

██████████ HOUSING DEVELOPMENT FUND CORPORATION

and

THE CITY OF NEW YORK

Address: ██████████

Block: █████

Lot: █████

Borough: █████

County: █████

RECORD AND RETURN TO:

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

THIS AMENDED AND RESTATED REGULATORY AGREEMENT ("Agreement"), entered into as of the _____ day of _____, 2023, by and between [REDACTED] **HOUSING DEVELOPMENT FUND CORPORATION** (the "HDFC"), a corporation formed pursuant to the Business Corporation Law of the State of New York (the "BCL") and Article XI of the Private Housing Finance Law of the State of New York (the "PHFL"), having an address at [REDACTED] and **THE CITY OF NEW YORK** (the "City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT** ("HPD"), having an office at 100 Gold Street, New York, New York 10038.

RECITALS

WHEREAS, the HDFC is the fee owner of real property identified in Exhibit A attached hereto and made a part hereof (the "Property");

WHEREAS, the Property contains forty-one (41) building consisting of forty (40) residential dwelling units and one (1) superintendent's unit (the "Project");

WHEREAS, the HDFC expects that the Project will receive real property tax benefits pursuant to Section 577 of the PHFL (also known as an Article 11 tax exemption) (the "Real Property Tax Benefits");

WHEREAS, on the date hereof, the City is making a loan (the "New HPD Loan"), and providing other good and valuable consideration to the HDFC;

WHEREAS, on the date hereof, HDC (as hereinafter defined) is making one or more loans (the "HDC Reserve Loan") to the HDFC;

WHEREAS, the HDFC is entering into this Agreement as a condition to receiving the New HPD Loan, the HDC Reserve Loan, and the Real Property Tax Benefits;

WHEREAS, the Property is encumbered by that certain Regulatory Agreement dated as of March 3, 2003 between the HDFC and the City (the "Existing Regulatory Agreement") and recorded on [REDACTED] as CRFN [REDACTED] in the City Register (as hereinafter defined);

WHEREAS, the HDFC and HPD agree to amend and restate the Existing Regulatory Agreement, as set forth herein; and

WHEREAS, this Agreement sets forth the terms under which the Property shall be preserved and used as affordable housing providing cooperative homeownership opportunities for low-income households.

NOW THEREFORE, the parties hereto, on behalf of themselves and their successors and assigns, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree as follows:

1. Definitions

"Affordability Index" shall mean (i) Median, adjusted by family size, multiplied by (ii) one hundred percent (100%), multiplied by (iii) the applicable Household Factor for such size Apartment, multiplied by (iv) thirty-three percent (33%).

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

“Apartment” shall mean a dwelling unit within the Property.

“Asset Limit” shall mean one hundred seventy-five percent (175%) of Median for a family of four, calculated in accordance with the Marketing Handbook or as otherwise may be required by Law.

“Board” shall mean the board of directors of the HDFC.

“Books and Records” shall mean any physical or electronic books, records, accounts, reports, materials, documentation, and/or information of or relating to the HDFC and/or the management, operations, assets, liabilities, and activities of the HDFC, including, but not limited to, any Required Reports or other items specified in **Section 12** and any journals, ledgers, account statements, checkbooks, vouchers, contracts, correspondence, stock books, or minute books.

“By-Laws” shall mean the corporate by-laws of the HDFC.

“Carrying Cost” shall mean, with respect to any Apartment, the sum of (i) the monthly Maintenance for such Apartment, (ii) the monthly cost of any special assessment, other than a Prohibited Event Fee, with respect to such Apartment, (iii) the monthly amortization payment on any Cooperative Loan with respect to such Apartment, (iv) the actual or estimated monthly payment for homeowner property insurance covering the Apartment, and (v) the average monthly payment for electricity and/or gas during the preceding year, all as determined by the Monitor.

“Certificate of Incorporation” shall mean the certificate of incorporation of the HDFC.

“Charges” shall mean all taxes, assessments, water charges, sewer rents, vault charges, and other municipal charges now or hereafter levied or assessed against the Property.

“City” shall have the meaning first set forth above.

“City Register” shall mean the Office of the City Register of the City of New York in the county in which the Property is located.

“Closing Costs” shall mean amounts actually paid by the selling Shareholder in connection with any Sale of Shares for (i) reasonable attorney’s fees, (ii) Marketing Agent fee if paid for by Shareholder, (iii) recording or filing fees, (iv) transfer taxes and reasonable fees for the preparation and filing of any forms related to transfer taxes, (v) fees paid by the selling Shareholder to the HDFC in connection with the Sale of Shares, other than the Flip Tax; and (vi) only for a foreclosing Institutional Lender, the reasonable cost of foreclosure, including, to the extent not recovered by such Institutional Lender in such foreclosure proceeding, any arrears of principal, interest, or Maintenance. “Closing Costs” shall not include any amounts paid by the selling Shareholder on behalf of the purchasing Shareholder.

“Commencement Date” shall mean the date first written above.

“Conflict of Interest Policy” shall have the meaning set forth in **Section 18.c** of this Agreement.

“Conversion Date” shall mean the date upon which the HDFC acquired title to the Property.

“Cooperative Loan” shall mean, with respect to any Apartment, (i) a loan from an Institutional Lender to a Shareholder for the purchase of the Shares allocated to such Apartment, or (ii) any loan from an Institutional Lender to a Shareholder for the refinancing of such indebtedness.

“Council Resolution” shall mean that certain Resolution No. [____], dated [____], 20____, a copy of which is attached hereto as **Exhibit B** and made a part hereof, pursuant to which the City Council of the City of New York approved the Real Property Tax Benefits.

“Current Shareholder” shall mean (i) a person or persons who on the Commencement Date owns one or more Shares of stock in the HDFC, and (ii) only when used in this Agreement, the entire Household of such person or persons.

“Current Tenant” shall mean rental Tenants who are in legal occupancy of an Apartment on the Commencement Date, regardless of their Annual Household Income. Occupants such as squatters and licensees are not Current Tenants.

“Default” shall mean (i) any violation of any term of this Agreement, or (ii) any violation by the HDFC of any term of the Management Contract or of the Monitoring Contract.

“Director” shall mean a member of the Board.

“Election Monitoring” shall mean supervision of the process by which new Directors are elected, including, but not limited to, ensuring that all Shareholders eligible to vote receive a notice of the election containing appropriate information and that such notice is conspicuously posted in common areas of the building and distributed in accordance with the requirements of the By-Laws and the BCL, ensuring that Shareholders eligible to vote have the opportunity to vote, ensuring that persons who are not eligible to vote are not permitted to vote, ensuring notice is delivered to all Shareholders of the election results containing appropriate information, and informing HPD of election results and whether the election was conducted fairly and appropriately in accordance with the By-Laws.

“Eligible Household” shall mean a prospective Household (i) whose Annual Household Income does not exceed the Income Limit, (ii) whose Household Assets do not exceed a cumulative value equal to the Asset Limit, and (iii) who meets the requirements of the Marketing Handbook to occupy the Apartment.

“Expiration Date” shall mean the later of (i) the date which is forty (40) years from the Commencement Date and (ii) the date upon which (a) the Property is not receiving any form of abatement of or exemption from real property taxation, (b) the Property is not subject to any mortgage or lien held by or on behalf of the City, HDC, or any other governmental entity, and (c) the HDFC does not owe any indebtedness to the City, HDC, or any other governmental entity.

“Flip Tax” shall mean ten percent (10%) of the Sale Profit from any Sale of Shares by a Shareholder; provided, however, that, if such Shareholder acquired such Shares within three (3) years preceding the date of such Sale, and such acquisition was not through foreclosure or inheritance, “Flip Tax” shall mean one hundred percent (100%) of the Sale Profit from such Sale of Shares.

“HDC” shall mean the New York City Housing Development Corporation (or any successor).

“HDC Loan Documents” shall mean, collectively, the notes, mortgages, and other documents executed in connection with any HDC Reserve Loan.

“HDC Reserve Loan” shall have the meaning set forth in the Recitals.

“HDFC” shall have the meaning first set forth above.

“Household” shall mean all persons who reside, or will reside, in an Apartment.

“Household Assets” shall mean all monetary and non-monetary assets, other than monetary assets in any Retirement Plan, of all members of a Household.

“Household Factor” shall mean, with respect to any Apartment, the number specified below based on the number of bedrooms in such Apartment.

Bedroom Count	Household Factor
0 BR (Studio)	0.70
1 BR	0.75
2 BR	0.90
3 BR	1.04
4 BR	1.16
5 BR	1.28

“HPD” shall have the meaning first set forth above.

“HPD Loan” shall mean any loan made by, or assigned to, HPD with respect to the Property.

“HPD Loan Documents” shall mean, collectively, the notes, mortgages, and other documents executed in connection with any HPD Loan.

“HPD Mortgage” shall mean any mortgage held by HPD securing all or any portion of an HPD Loan.

“Income Limit” shall mean, except as otherwise provided in **Section 35**, one hundred twenty percent (120%) of Median calculated in accordance with the method for determining income eligibility specified in the Marketing Handbook or as otherwise may be required by Law.

“Institutional Lender” shall mean any entity (i) that provides a Cooperative Loan and

(ii) (a) that is a local, state, or federal agency, (b) that is a financial institution (including, but not limited to, a savings bank, commercial bank, credit union, savings and loan association, life insurance company, public real estate investment company, or pension fund) that is FDIC-insured or National Credit Union Administration-insured, or whose loans are subject to regulation by a federal or state agency, or (c) has been approved in writing by HPD.

“IRC” shall mean the Internal Revenue Code of 1986, as amended, and any rules or regulations promulgated pursuant thereto.

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

“Lease” shall mean an actual or proposed lease or other agreement between the HDFC and a Tenant or Nonpurchasing Tenant regarding the occupancy of an Apartment by such Tenant or Nonpurchasing Tenant, but shall not include a Proprietary Lease.

“Legal Rent” shall mean, for any Apartment, the initial legal regulated rent, as thereafter adjusted pursuant to Rent Stabilization.

“Maintenance” shall mean, with respect to any Shareholder’s Apartment, the monthly maintenance fee or carrying charges that the HDFC charges to the Shareholder with respect to such Apartment. Maintenance shall not include (i) the monthly cost of any special assessment or Prohibited Event Fee, with respect to such Apartment, (ii) the monthly amortization payment on any Cooperative Loan with respect to such Apartment, or (iii) the actual or estimated monthly payment for homeowner property insurance covering such Apartment.

“Manager” shall mean a professional management company approved by HPD and retained and paid by the HDFC to manage the Property.

“Management Contract” shall mean a contract between the HDFC and the Manager in form and substance approved by HPD.

“Marketing Agent” shall mean the agent or entity responsible for the marketing and resident selection for the Project in accordance with the Marketing Handbook. The Marketing Agent must be prequalified through an applicable request for qualifications issued by HPD and must also be approved by HPD to market the Project.

“Marketing Handbook” shall mean the HPD’s Marketing Handbook or any successor document designated in writing by HPD, as amended from time to time and available for review on HPD’s website at [the following link](#).

“Maximum Cooperative Loan Amount” shall mean (i) with respect to any Cooperative Loan made to finance a Shareholder’s purchase of Shares, ninety percent (90%) of the Maximum Sale Price, as determined for the year in which such Cooperative Loan is made, (ii) with respect to any refinancing of a Cooperative Loan, ninety percent (90%) of the Maximum Sale Price, as determined for the year in which such Cooperative Loan is made, minus the Flip Tax, as determined for the year in which such Cooperative Loan is made,

or (iii) an amount approved in writing by HPD.

“Maximum Month-to-Month Rent” shall mean, with respect to any Apartment being temporarily leased by the HDFC to a Shareholder in accordance with **Section 7**, the least of the (i) Carrying Cost for the Apartment being temporarily leased and (ii) the Carrying Cost for the Shareholder’s Apartment and (iii) the Maximum Rent

“Maximum Rent” shall mean, with respect to any Apartment, a rent which, on a monthly basis, would be equal to thirty percent (30%) of the Income Limit divided by 12.

“Maximum Sublease Rent” shall have the meaning set forth in **Section 8**.

“Median” shall mean the area median income for the primary metropolitan statistical area as determined by the United States Department of Housing and Urban Development or any successor agency from time to time for a family of four, as adjusted for family size.

“Monitor” shall mean an organization approved by HPD and retained and paid by the HDFC to monitor and enforce the terms of this Agreement regarding the Sale of Shares and the leasing, subleasing, and occupancy of Apartments. The Monitor shall ensure that Apartments are affordable to and occupied by Nonpurchasing Tenants, Initial Shareholders or Eligible Households, conduct Election Monitoring, and ensure that any Cooperative Loan does not violate the terms of this Agreement.

“Monitoring Contract” shall mean a contract between the HDFC and the Monitor in form and substance approved by HPD.

“Net Cash Flow” shall mean, all revenue generated from the Project, including, but not limited to, revenue from Maintenance, special assessments, Flip Taxes, Event Fees, and the leasing of non-residential spaces (if any), minus all Operating Expenses.

“New HPD Loan” shall have the meaning set forth in the Recitals.

“Nonpurchasing Tenant” shall mean person or persons, and the entire Household of such person or persons, that (i) was a leaseholding tenant of an Apartment on the Conversion Date, (ii) did not purchase Shares from the HDFC in connection with the conversion of the Property to cooperative ownership, and (iii) remained as a leaseholding tenant after the Conversion Date. “Nonpurchasing Tenant” shall also include any legal successor of such person or persons who is entitled to continued occupancy of an Apartment pursuant to Rent Stabilization.

“Operating Expenses” shall mean the ordinary expenses incurred in the operation of the Property and Project, including, but not limited to, payments of principal and interest on loans secured by all or any portion of the Property and any payments into the Reserves required by this Agreement. Operating Expenses shall not include non-cash expenses such as depreciation.

“Operating Reserve” shall have the meaning ascribed to such term in **Section 14** of this Agreement.

“Owner Occupancy Affidavit” shall mean the document annexed hereto as **Exhibit D** and

made a part hereof.

"Owner Occupancy Certification" shall mean the document annexed hereto as **Exhibit E** and made a part hereof.

"Owner Occupancy Requirements" shall mean, with respect to any Apartment, that, except as specifically authorized in **Section 8**, the Shareholder owning the Shares allocated to such Apartment shall (i) continuously occupy such Apartment as such Shareholder's sole primary residence, (ii) reside and sleep in such Apartment not less than two hundred seventy (270) days per year (if the Shareholder is on active military duty, or is hospitalized, undergoing rehabilitation in a licensed rehabilitation facility, incarcerated or enrolled in an accredited school of higher education, each day spent away from the dwelling unit for active military duty, such hospitalization, rehabilitation, incarceration, or attendance at such school shall be counted as a day spent in the Apartment for the purpose of this requirement), (iii) except as specifically authorized in this Agreement, not Lease or Sublease the Apartment or permit the Apartment to be used for transient occupancy or occupied by any Ineligible Household, (iv) identify the Apartment as the Shareholder's sole address/residence on any tax return, voter registration, driver's license or other permit to operate a motor vehicle, and other document or application stating Shareholder's address or residence, (v) not own, acquire, or lease any other residential property in, or within a one hundred (100) mile radius of, New York City (and if the Shareholder acquires any such residential property through inheritance, the Shareholder shall transfer or sell such Property or make best efforts to sell such property within one year from the date that the estate transfers title to the Shareholder), and (vi) annually complete and submit to the Monitor an Owner Occupancy Certification. Notwithstanding the foregoing, a Shareholder shall not be deemed to have violated clause (v) of the preceding sentence if such Shareholder leases or occupies other residential property in, or within a one hundred (100) mile radius of, New York City as a short-term or transient occupant for a period of less than [thirty (30) days], in each instance, and otherwise satisfies the requirements of clauses (i), (ii), (iii), (iv) and (vi) of the preceding sentence.

"Permanent Loan Conversion" shall mean, the date the New HPD Loan converts to permanent financing.

"Permitted Mortgage" shall mean any mortgage affecting the Property and (i) recorded against all or any portion of the Property before the date first written above or (ii) delivered on or after the date first written above with the prior written consent of HPD (including but not limited to any mortgage signed and delivered to secure any HPD or HDC financing with respect to the Project), and the financing secured by any such mortgage or other encumbrance.

"Prevailing Interest Rate" shall mean the rate published by The Wall Street Journal (or such successor publication as may be designated in writing by HPD) on the date upon which the Monitor determines the Projected Debt Service for a thirty (30) year self-amortizing mortgage loan with a fixed rate of interest.

"Primary Residency Requirements" shall for a person that is not a Shareholder mean that the person satisfied for itself the same requirements applicable to a Shareholder that are set forth in Clauses (i), (ii), (iv) and (v) of the Owner Occupancy Requirements.

"Prohibited Event" shall mean, with respect to any Apartment and the Shares allocated

thereto, (i) the Sale of the Shares to one or more members of an Ineligible Household, (ii) the Sale of the Shares for a Sale Price exceeding the Maximum Sale Price, (iii) except as specifically authorized in this Agreement, the Lease, Sublease, or occupancy of the Apartment by an Ineligible Household, (iv) the Lease, Sublease, or occupancy of the Apartment for more than the rent permitted under **Section 7** or **Section 8**, as applicable (v) the Lease or Sublease of an Apartment without the approval of both the Board and the Monitor, (vi) the Sublease of an Apartment for more than a cumulative total of fifteen (15) months in any five (5) year period, (vii) a violation of the Owner Occupancy Requirements by the Shareholder, or (viii) obtaining a Cooperative Loan with a principal amount exceeding the Maximum Cooperative Loan Amount. Notwithstanding the foregoing, the acquisition of Shares by an Ineligible Household through inheritance or as the result of Cooperative Loan enforcement proceedings shall not constitute a Prohibited Event until the earliest of (a) the date, if any, upon which such Ineligible Household commences occupancy of the Apartment to which such Shares are allocated, (b) the date of any of the events described in clauses (ii) through (viii) of the preceding sentence, and (c) one year from the date of such acquisition of Shares through inheritance or as the result of Cooperative Loan enforcement proceedings, or such longer period as shall be required to sell the Shares if the owner of the Shares is diligently marketing the Shares in accordance with the Marketing Handbook.

“Prohibited Event Cure Date” shall mean the first date upon which a Prohibited Event with respect to an Apartment has been entirely cured, so that no set of facts existing on such date concerning either the Apartment or the Shares allocated thereto would constitute a Prohibited Event, as determined by the Monitor.

“Prohibited Event Date” shall mean the date upon which a Prohibited Event occurs with respect to an Apartment, as determined by the Monitor.

“Prohibited Event Fee” shall mean, with respect to any Apartment:

1. for the Lease, Sublease, or occupancy of such Apartment for more than the rent permitted under **Section 7** or **Section 8**, as applicable, an amount equal to two hundred dollars (\$200.00) plus the amount by which the actual rent charged exceeds the rent permitted under **Section 7** or **Section 8**, as applicable;
2. for the Sale of Shares for a Sale Price exceeding the Maximum Sale Price, an amount equal to the total Sale Profit;
3. for the complete or partial loss, through revocation, suspension, or any other means, of any tax exemption on the Property, an amount that does not exceed the monthly value of such loss to the Property;
4. for obtaining a Cooperative Loan with a principal amount exceeding the Maximum Cooperative Loan Amount, an amount equal to the difference between the actual principal amount of the Cooperative Loan and the Maximum Cooperative Loan Amount; and
5. for any Prohibited Event (other than those described in clauses (1) through (3) above), an amount equal to the amount in **Exhibit F** corresponding to the calendar year in which the Prohibited Event occurred or is continuing.

“Projected Annual Housing Cost” shall mean, with respect to any proposed Sale of the Shares allocated to an Apartment, the Projected Monthly Housing Cost multiplied by twelve (12).

“Projected Debt Service” shall mean, with respect to any proposed Sale of the Shares allocated to an Apartment, the projected monthly payment on any Cooperative Loan with respect to such Apartment, assuming (i) a down payment in an amount equal to ten percent (10%) of the proposed Sale Price (regardless of the actual amount of any proposed down payment), (ii) a Cooperative Loan in an amount equal to ninety percent (90%) of the proposed Sale Price (regardless of the actual amount of any proposed Cooperative Loan), and (iii) a thirty (30) year self-amortizing Cooperative Loan bearing interest at the Prevailing Interest Rate, all as determined by the Monitor.

“Projected Monthly Housing Cost” shall mean, with respect to any proposed Sale of the Shares allocated to an Apartment, the sum of (i) the Maintenance for such Apartment, (ii) the Projected Debt Service with respect to such Apartment, (iii) the monthly cost of any special assessment, other than a Prohibited Event Fee, with respect to such Apartment, and (iv) the Utility Allowance for such Apartment.

“Property” shall have the meaning set forth in the Recitals.

“Property Transfer” shall have the meaning set forth in **Section 15** of this Agreement.

“Proprietary Lease” shall mean a lease or occupancy agreement from the HDFC to a Shareholder setting forth the terms upon which such Shareholder shall be entitled to occupy the Shareholder’s Apartment.

“Qualifying Spouse” shall mean a person to whom ownership of a Shareholders’ Shares is transferred through inheritance or in connection with a divorce who was the Shareholder’s spouse or domestic partner immediately prior to the time of the Shareholder’s death or divorce and who satisfied the Primary Residency Requirements with respect to the Shareholder’s Apartment for a period not less than two years, or, if shorter, the period from the date of the spouse’s marriage to or domestic partnership with the Shareholder, until the date of Shareholder’s death or divorce, regardless whether the Household of the Shareholder or such person is an Eligible Household at the time of the death, divorce or transfer of ownership.

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

“Related Party” shall mean (i) any Director or officer of the HDFC, (ii) any immediate family member of any Director or officer of the HDFC, or (iii) any entity in control of the HDFC.

“Related Party Transaction” shall mean any transaction, agreement or any other arrangement in which a Related Party has a financial interest, except that a transaction shall not be a Related Party Transaction if (i) the transaction or the Related Party’s financial interest in the transaction is de minimis, (ii) the transaction would not customarily be reviewed by the board of directors of other corporations formed pursuant to the BCL and Article XI of the PHFL in the ordinary course of business and is available to other corporations formed pursuant to the BCL and Article XI of the PHFL on the same or similar terms, or (iii) the transaction constitutes a benefit provided to a Related Party solely as a Shareholder.

"Renewal Lease Adjustment" shall mean the applicable rent adjustment pursuant to Rent Stabilization that has been approved by the New York City Rent Guidelines Board (or any successor) for a renewal lease of a dwelling unit.

"Rent Stabilization" shall mean, collectively, the Rent Stabilization Law of 1969, the Rent Stabilization Code, and the Emergency Tenant Protection Act of 1974, together with any successor statutes or regulations addressing substantially the same subject matter.

"Replacement Reserve" shall have the meaning ascribed to such term in **Section 14** of this Agreement.

"Reporting Date" shall mean (i) the June 1st following the first anniversary of the Commencement Date, and each June 1st thereafter during the Restriction Period or (ii) such other dates designated by HPD from time to time.

"Required Reports" shall mean, for each calendar year during the Restriction Period, the following documents, all in such form as shall be approved by HPD:

1. the annual budget of income and expenses approved by the Board for the current calendar year;
2. an annual certified financial statement any Maintenance increases, and the deposit of any Net Cash Flow and Prohibited Event Fees into the Reserves;
3. a certification by the Board that both the budget for the prior calendar year and the annual financial statement for the prior calendar year have been distributed to all Shareholders;
4. a list, certified by the Board, of all Shareholders as of the end of the prior calendar year;
5. a list, certified by the Board, of all persons and entities occupying any portion of the Property as of the end of the prior calendar year (including, but not limited to Shareholders, Nonpurchasing Tenants, Tenants, Subtenants, non-residential tenants, or occupants under any other license or occupancy agreement), the Apartments or other portions of the Property that they occupy, and the monthly Maintenance or rent that they pay;
6. a list, certified by the Board, of all Sales of Shares during the prior calendar year specifying, with respect to each such Sale, the Apartment to which such Shares are allocated, the name and Annual Household Income of the purchaser or transferee as of the date of Sale, the Sale Price, and the Flip Tax paid in connection with such Sale;
7. a list, certified by the Board, of all Leases or Subleases of Apartments approved, entered into, or renewed during the prior calendar year specifying, with respect to each such Lease or Sublease, (i) the Apartment number, (ii) the name of the Tenant or Nonpurchasing Tenant under such Lease or the Subtenant under such Sublease, (iii) the Annual Household Income of each Subtenant as of the commencement date of such

Sublease, (iv) the rent charged to the Tenant, Nonpurchasing Tenant, or Subtenant under such Lease or Sublease, and (v) the term of such Lease or Sublease;

8. a list, certified by the Board, of all deposits into and withdrawals from the Reserves during the prior calendar year and all Net Cash Flow for the prior calendar year;
9. a certification by the Board of the annual election held during the prior calendar year, with the names and addresses of board members and officers, and that such certification has been distributed to all Shareholders;
10. a certification by the Board that the annual Maintenance increase required by **Section 5.b** was implemented during the prior calendar year, which certification shall include copies of (i) the resolution of the Board authorizing such increase, and (ii) the notice informing Shareholders of such increase;
11. the Training Report for the prior calendar year;
12. the Training Plan for the current calendar year; and
13. such other documents and records as HPD, the Manager, or the Monitor shall deem necessary.

“Reserves” shall mean, collectively, the Operating Reserve and the Replacement Reserve.

“Restriction Period” shall mean the period commencing on the Commencement Date and expiring upon the Expiration Date.

“Retirement Plan” shall mean (i) a defined benefit pension plan, (ii) an Individual Retirement Account established pursuant to IRC §408, (iii) a Roth Individual Retirement Account established pursuant to IRC §408A, (iv) a qualified profit-sharing plan established pursuant to IRC §401(k), (v) a Roth qualified profit-sharing plan established pursuant to IRC §401(k) and §402A, (vi) a tax-sheltered annuity established pursuant to IRC §403(b), (vii) a Roth tax-sheltered annuity established pursuant to IRC §403(b) and §402A, (viii) a deferred compensation plan established pursuant to IRC §457, (ix) a Roth deferred compensation plan established pursuant to IRC §457 and §402A, (x) a governmental plan established pursuant to IRC §401(a), and/or (xi) any other retirement plan or pension plan established pursuant to the IRC and approved in writing by HPD.

“Sale” shall mean any transfer of ownership of Shares, with or [without consideration], whether by sale or by any other means, and any purported transfer or assignment of a Proprietary Lease. A resale by a Shareholder of its Shares shall be considered a Sale. When used as a verb, Sale shall not include a transfer of ownership of Shares from a Shareholder (a) through inheritance, or (b) in connection with a divorce to a Qualifying Spouse or (c) in connection with the addition of a Shareholder’s spouse or domestic partner as a co-owner of a Shareholder’s Shares and co-tenant with the Shareholder on the Proprietary Lease in accordance with Section 18.h hereof. “Sell” and “Sold” shall have correlative meanings.

Sale Price shall mean the value of all monetary and non-monetary consideration for any Sale of Shares.

Sale Profit shall mean the Sale Price received by a Shareholder for the Sale of Shares minus (i) the Sale Price that such Shareholder originally paid for such Shares and (ii) the Closing Costs paid by the selling Shareholder in connection with such Sale If Shares are transferred through inheritance, the Sale Price that the decedent Shareholder originally paid for such Shares shall be deemed to be the Sale Price, or, if the decedent Shareholder also acquired such Shares through inheritance, the Sale Price shall be the most recent amount paid for such Shares.

Senior Lender shall mean any lender to the Project holding a Permitted Mortgage whose security interest in the Project is superior to the HPD Mortgages.

Share shall mean a share of stock in the HDFC, each of which shall be allocated to a specific Apartment.

Shareholder shall mean (i) a person or persons who own one or more Shares, and (ii) only when used in this Agreement, the entire Household of such person or persons.

Shareholder's Apartment shall mean, with respect to any Shareholder, the Apartment appurtenant to the Shares owned by such Shareholder and for which such Shareholder holds a Proprietary Lease from the HDFC.

Sublease shall mean an actual or proposed lease or other agreement between a Shareholder and a Subtenant regarding the occupancy of the Shareholder's Apartment by such Subtenant or an actual or proposed lease or other agreement between a Nonpurchasing Tenant and a Subtenant regarding the occupancy of the Nonpurchasing Tenant's Apartment by such Subtenant.

Subtenant shall mean, collectively, (i) the person or persons occupying or seeking to occupy a Shareholder's Apartment pursuant to a Sublease from a Shareholder or Nonpurchasing Tenant, and (ii) only when used in this Agreement, the entire Household of such person or persons.

Tenant shall mean (i) the person or persons occupying or seeking to occupy an Apartment pursuant to a Lease from the HDFC, and (ii) the entire Household of such person or persons, but shall not include (a) a Shareholder occupying the Shareholder's Apartment pursuant to a Proprietary Lease, or (a) a Shareholder occupying the Shareholder's Apartment pursuant to a Proprietary Lease or (b) a Nonpurchasing Tenant, if any.

Training Plan shall mean a plan prepared by the HDFC and submitted to HPD or its designee, the Monitor, and the Manager each year detailing all training to be offered to Directors, existing Shareholders, and new Shareholders in the next twelve (12) months.

Training Report shall mean a report prepared by the HDFC and submitted to HPD or its designee, the Monitor, and the Manager each year detailing all training completed by each Director and each Shareholder in the preceding twelve (12) months.

“Unsold Shares” shall mean Shares issued to the Sponsor on the Conversion Date allocated to vacant Apartments or to Apartments that are subject to Interim Leases.

“Utility Allowance” shall mean the applicable monthly allowance for Shareholder-paid utilities in an HPD-maintained utility allowance schedule, which schedule is subject to change annually. No part of the Maintenance allocated to payment of utilities shall be considered when determining the Utility Allowance. Payments for the following utilities are not part of Shareholders’ Maintenance: electric and cooking gas.

2. **Term of Restrictions**

During the Restriction Period, the Property shall be used and operated in accordance with the terms of this Agreement and the requirements of Article XI of the PHFL and the Certificate of Incorporation of the HDFC. After the Restriction Period, the Property shall be used and operated in accordance with the requirements of Article XI of the PHFL and the Certificate of Incorporation of the HDFC.

3. **Sales**

a. The provisions of this **Section 3.a** shall apply to all Shares and Sales of Shares.

1. Share certificates shall be non-transferable. Upon any Sale of Shares in compliance with the requirements of this Agreement, the seller shall surrender the Share certificate to the HDFC and cause a copy of the surrendered Share certificate to be delivered to the Monitor, and the HDFC shall issue a new Share certificate to the purchaser or transferee and cause a copy of such new Share certificate to be delivered to the Monitor.

The front of each Share certificate shall contain the following statement: “See reverse side for important restrictions and requirements regarding income, price, transfer, and occupancy.” The back of each Share certificate shall contain, in not less than twelve (12) point type, the following statement:

“This certificate represents one or more shares in a cooperative housing development fund corporation that has entered into a regulatory agreement with the City of New York.

- Such share(s) may only be sold to purchasers who meet income restrictions specified both in the corporation’s certificate of incorporation and in the regulatory agreement.
- The price for any sale of share(s) may not exceed limits established in the regulatory agreement, and a portion of any profits must be paid to the corporation.
- Any sale of share(s) requires the approval of the corporation’s board of directors [and an independent monitor] retained by the corporation.
- This certificate is non-transferable. Upon any sale of shares, this certificate shall be surrendered to the corporation, which shall issue a new certificate.

- Any purchaser of share(s) shall be required to occupy the apartment to which such shares are allocated as such purchaser's sole primary residence."

2. All Sales (except for transfers of Shares through inheritance) shall comply with the Marketing Handbook. All such Sales shall be conducted through Housing Connect (as such term is defined in the Marketing Handbook) or such other platform adopted by HPD from time to time.
3. Shares shall not be sold (i) to any Ineligible Household, (ii) for a Sale Price that exceeds the applicable Maximum Sale Price, (iii) to any purchaser or transferee who fails to submit an Owner Occupancy Affidavit, or (iv) to any purchaser or transferee who owns or leases any other residential property in, or within a one hundred (100) mile radius of, New York City.
4. Every Sale of Shares shall require the prior written approval of the Board and the Monitor. In approving a Sale of Shares, the Board must comply with the Marketing Handbook.
 - a. The By-Laws, any amendment thereto, and all Proprietary Leases shall provide that any Sale of Shares requires the prior written approval of the Board and the Monitor and that in approving a Sale of Shares, the Board must comply with the Marketing Handbook.
 - b. No Sale of Shares shall be final or effective until the Board receives the written approval of the Monitor.
5. The By-Laws and all Proprietary Leases shall provide that the HDFC, all Shareholders[, Tenants,] and Subtenants, together with their respective successors and assigns, shall comply with all Laws prohibiting discrimination or segregation in housing accommodations, whether in the sale, financing, sublease or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

b. The provisions of this **Section 3.b** shall apply to all Sales of Shares by the HDFC.

1. The HDFC shall not Sell Shares (i) to any Ineligible Household, (ii) for a Sale Price that exceeds the applicable Maximum Sale Price, or (iii) to any purchaser who fails to submit an Owner Occupancy Affidavit.
2. In connection with any proposed Sale of Shares by the HDFC, the Board shall deliver to the Monitor the following documents:
 - a. A copy of any contract for such proposed Sale, which shall expressly provide that such contract shall be of no force or effect without the written approval of the Board and the Monitor or other documentation with respect to the transfer of the Shares;
 - b. An affidavit from the Board, in form and substance acceptable to the Monitor, stating that (i) the proposed purchaser or transferee is an Eligible Household, (ii) the Sale Price stated in the contract is

accurate, reflects the full value of all consideration to be received by the HDFC, and does not exceed the Maximum Sale Price, and (iii) the Board has approved the proposed Sale in accordance with this Agreement and the Marketing Handbook;

- c. An affidavit from the proposed purchaser or transferee of the Shares, in form and substance acceptable to the Monitor, stating that such proposed purchaser or transferee is an Eligible Household and that the Sale Price stated in the contract is accurate, reflects the full value of all consideration to be delivered to the HDFC, and does not exceed the Maximum Sale Price; and
- d. Such other documentation as the Monitor shall require.

3. The By-Laws and the Monitoring Contract shall provide that:
 - a. The Monitor shall evaluate and approve or disapprove each proposed Sale of Shares by the HDFC based on the information and documentation submitted by the Board and the requirements of this Agreement, the Certificate of Incorporation, and the By-Laws; and
 - b. The Monitor shall not approve any Sale of Shares (i) to any Ineligible Household, (ii) for a Sale Price that exceeds the applicable Maximum Sale Price, or (iii) to any purchaser or transferee who fails to submit an Owner Occupancy Affidavit.
4. Notwithstanding any provision of this Agreement to the contrary, if HPD determines, upon request by the HDFC, that a Sale of Shares by the HDFC in accordance with the requirements of this **Section 3.b** is not possible, HPD may approve, and may authorize the Board and the Monitor to approve, a Sale by the HDFC that does not comply with one or more of the terms of this **Section 3.b**.
5. If any Apartment becomes vacant while the Shares allocated to such Apartment are held by the HDFC, the HDFC shall promptly perform any necessary repairs or upgrades and market such Apartment in accordance with the Marketing Handbook, and sell such Shares to an Eligible Household in accordance with the terms of this Agreement.
6. After any Sale of Shares by the HDFC, the HDFC shall (i) use the proceeds of such Sale to pay reasonable attorney's fees, Marketing Agent fee, recording fees, and/or transfer taxes incurred by the HDFC in connection with such Sale reimbursement of costs incurred by the HDFC for repairs or other work approved by the Monitor incurred in preparing the apartment for Sale and (ii) unless HPD otherwise directs in writing, allocate the remainder of the proceeds as follows:
 - a. For so long as the HDC Reserve Loan or any HPD Loan remains outstanding, the HDFC shall:

- i. deposit 5% of the proceeds of the Sale into the Operating Reserve
- ii. deposit 5% of the proceeds of the sales into the Replacement Reserve and
- iii. apply 90% of the proceeds of the Sale to pay down the outstanding principal balance and interest on the HDC Reserve Loan and each HPD Loan in the order of such loans' lien priority.

- b. If neither the HDC Reserve Loan nor any HPD Loan remains outstanding, the HDFC shall deposit 50% of the proceeds of the Sale into the Operating Reserve and 50% of the proceeds of the Sale into the Replacement Reserve..

- c. The provisions of this **Section 3.c** shall apply to all Sales of Shares by Shareholders.
 - 1. The HDFC shall not permit a Sale of Shares by a Shareholder (i) to any Ineligible Household, (ii) for a Sale Price that exceeds the applicable Maximum Sale Price, or (iii) to any purchaser or transferee who fails to submit an Owner Occupancy Affidavit.
 - 2. In connection with any proposed Sale of Shares by a Shareholder, the Board shall deliver to the Monitor the following documents:
 - a. A copy of the contract for such proposed Sale, which shall expressly provide that such contract shall be of no force or effect without the written approval of the Board and the Monitor;
 - b. An affidavit from the Board, in form and substance acceptable to the Monitor, stating that (i) the proposed purchaser or transferee is an Eligible Household, (ii) the Sale Price stated in the contract does not exceed the Maximum Sale Price, and (iii) the Board has approved the proposed Sale in accordance with this Agreement and the Marketing Handbook;
 - c. An affidavit from the Shareholder, in form and substance acceptable to the Monitor, stating that the proposed purchaser is an Eligible Household and the Sale Price stated in the contract is accurate, reflects the full value of all consideration to be received by the Shareholder, and does not exceed the Maximum Sale Price;
 - d. An affidavit from the proposed purchaser or transferee of the Shares, in form and substance acceptable to the Monitor, stating that such proposed purchaser or transferee is an Eligible Household and the Sale Price stated in the contract is accurate, reflects the full value of all consideration to be delivered to the Shareholder, and does not exceed the Maximum Sale Price; and

- e. Such other documentation as the Monitor shall require.
3. The By-Laws, the Monitoring Contract, and all Proprietary Leases shall provide that the Monitor shall evaluate and approve or disapprove each proposed Sale of Shares by a Shareholder based on the information and documentation submitted by the Board and the requirements of this Agreement, the Certificate of Incorporation, and the By-Laws. The Monitor shall not approve any Sale of Shares (i) to any Ineligible Household, (ii) for a Sale Price that exceeds the applicable Maximum Sale Price, (iii) to any purchaser or transferee who fails to submit an Owner Occupancy Affidavit, or (iv) without Board approval, or (v) with respect to which the Flip Tax has not been paid.
4. Notwithstanding any provision of this Agreement to the contrary, if HPD determines, upon request by the HDFC, that a Sale of Shares by a Shareholder in accordance with the requirements of this **Section 3.c.** is not possible, HPD may approve, and may authorize the Board and the Monitor to approve, a Sale by such Shareholder that does not comply with one or more of the terms of this **Section 3.c.**
5. Upon any Sale of Shares by a Shareholder, the HDFC shall require the selling Shareholder to pay the Flip Tax to the HDFC. The By-Laws, any amendment thereto, and all Proprietary Leases shall provide for the Flip Tax. Notwithstanding the provisions of any previous agreement between the HDFC and HPD, no portion of the Sale Profit shall be payable to the City.
6. The HDFC shall allocate the proceeds of the Flip Tax collected from any Sale as follows:
 - a. For so long as the HDC Reserve Loan or any HPD Loan remains outstanding, the HDFC shall
 - i. deposit 50% of the proceeds of the Flip Tax into the Operating Reserve; and
 - ii. apply 50% of the proceeds of the Flip Tax to pay down the outstanding principal balance and interest on the HDC Reserve Loan and each HPD Loan in the order of such loans' lien priority.
 - b. If neither the HDC Reserve Loan nor any HPD Loan remains outstanding, the HDFC shall deposit 50% of the proceeds of the Flip Tax into the Operating Reserve and 50% of the proceeds of the Flip Tax into the Replacement Reserve.
7. Any Ineligible Household that succeeds to ownership of Shares by a last will and testament duly probated in a court having jurisdiction over such instrument, by intestacy after an administration hearing in a court having jurisdiction over the estate of the intestate decedent Shareholder, or through the enforcement of a Cooperative Loan, shall be required to

transfer or sell such Shares within [one (1) year] of the date such Ineligible Household succeeded to ownership of such Shares , or such longer period as shall be required to sell the Shares if the owner of the Shares is diligently marketing the Shares in accordance with the Marketing Handbook. Such sale shall constitute a Sale under this Agreement and shall be subject to all the requirements hereunder.

8. Shareholders shall market Apartments in accordance with the Marketing Handbook using Housing Connect or such other platform designated by HPD, and shall sell such Shares to an Eligible Household in accordance with the terms of this Agreement.

4. Cooperative Loans

- a. In connection with any proposed Cooperative Loan, the Board shall deliver to the Monitor the following documents:
 1. An affidavit from the Shareholder, in form and substance acceptable to the Monitor, stating the Shareholder's intent to obtain a Cooperative Loan and certifying that the proposed Cooperative Loan would not have a principal amount exceeding the Maximum Cooperative Loan Amount, along with the following information: (1) the Apartment number, (2) the size of the Apartment (including square footage and number of bedrooms), (3) the number of Shares appurtenant to the Apartment, (4) the date and the price at which the Shares were purchased by the Shareholder, and (5) the principal amount of the proposed Cooperative Loan;
 2. An affidavit from the Board stating that it has approved the terms of the proposed Cooperative Loan in accordance with this Agreement; and
 3. Such other documentation as the Monitor shall require.
- c. The By-Laws and the Monitoring Contract shall (1) require that each Shareholder obtain a consent from the Board and the Monitor prior to obtaining or refinancing a Cooperative Loan and (2) prohibit the refinancing of a Cooperative Loan if the principal amount would exceed the Maximum Cooperative Loan Amount.

5. Maintenance and Prohibited Event Fees

- a. The initial annual Maintenance charge with respect to each Apartment shall be equal to the amount set forth in **Exhibit C**.
- b. The HDFC shall increase the Maintenance charged to Shareholders by not less than two percent (2%) per year. Upon written request by the HDFC, HPD may, in its sole and absolute discretion, approve an increase to the Maintenance that is less than two percent (2%) per year or waive the foregoing requirement to increase the Maintenance; provided that if thereafter HPD determines that the reason(s) for such reduction or waiver have diminished or no longer exist, HPD shall have the right to re-impose the foregoing requirement as if such reduction or waiver had

never been granted. The By-Laws shall provide that each Shareholder will be responsible for paying the amount of the monthly Maintenance, as determined by the Board, regardless of whether increases to Maintenance result in a monthly payment of Maintenance that is higher than 30% of the Shareholder's Annual Household Income (adjusted on a monthly basis).

- c. Upon determining that a Prohibited Event has occurred with respect to a Shareholder's Apartment, the Monitor shall give written notice of such Prohibited Event to the Shareholder, with a copy to the HDFC and HPD. Such notice shall specify the Prohibited Event, the actions necessary to cure the Prohibited Event, and the Prohibited Event Fee.
- d. Following a Prohibited Event with respect to any Apartment, the HDFC and the Manager shall:
 - (i) charge, on a monthly basis, the applicable Prohibited Event Fee with respect to such Apartment, in addition to the monthly Maintenance and any other special assessments due with respect to such Apartment, from the Prohibited Event Date until the Prohibited Event Cure Date; provided, however, that for a Prohibited Event with respect to (1) the Sale of the Shares allocated to such Apartment for a Sale Price exceeding the Maximum Sale Price or (2) obtaining a Cooperative Loan with a principal amount exceeding the Maximum Cooperative Loan Amount, such Prohibited Event Fee shall be charged only once; and
 - (ii) take such additional actions as the Monitor or HPD determines are reasonably necessary to ensure that the Prohibited Event is cured in an expeditious manner.
- e. The Prohibited Event Fee with respect to any Apartment shall constitute additional rent under the Proprietary Lease.
- f. The HDFC and/or the Monitor shall collect Prohibited Event Fees, if any, and deposit such Prohibited Event Fees into the Operating Reserve, unless otherwise directed by HPD. HPD shall be an intended third-party beneficiary of any provisions in the By-Laws and Proprietary Leases regarding Prohibited Event Fees and shall have the right to collect the Prohibited Event Fee against an Apartment following the occurrence of a Prohibited Event and to enforce the collection of such Prohibited Event Fee directly against such Apartment.

6. **Proprietary Leases and Owner Occupancy**

- a. The HDFC shall issue to every Shareholder that meets the requirements of this Agreement a Proprietary Lease for such Shareholder's Apartment. The HDFC shall not cause or permit any Shareholder to occupy such Shareholder's Apartment without a Proprietary Lease for such Apartment.
 1. The HDFC shall not issue a Proprietary Lease for a Shareholder's Apartment to any Shareholder that is an Ineligible Household unless such Shareholder is a Current Shareholder who already occupied such Apartment on the Commencement Date.

2. The HDFC shall not permit any Shareholder that is an Ineligible Household to occupy such Shareholder's Apartment, unless such Shareholder is an a Current Shareholder who already occupied such Apartment on the Commencement Date.
- b. The HDFC shall include provisions in the Proprietary Lease for each Apartment requiring the Shareholder to (i) comply with the Owner Occupancy Requirements and Flip Tax requirements of this Agreement, and (ii) not use the Shareholder's Apartment for any purpose other than the residence of the Shareholder, except as provided in **Section 8**. The HDFC shall not cause or permit any violation of such requirements.
- c. Notwithstanding any provision of **Section 6.b** to the contrary, where two or more persons jointly own the Shares allocated to an Apartment, the HDFC shall require not less than one of such Shareholders to comply with the Owner Occupancy Requirements.
- d. The HDFC shall not cause or permit any Shareholder to (i) hold the Shares allocated to, or a Proprietary Lease for, more than one Apartment, or (ii) combine or otherwise join two or more Apartments. The HDFC shall not combine or otherwise join two or more Apartments.
- e. The HDFC shall not cause or permit any Shareholder to split or otherwise subdivide any Apartment. The HDFC shall not split or otherwise subdivide any Apartment.
- f. Each Proprietary Lease shall (i) refer to this Agreement, and (ii) contain a provision stating that "Notwithstanding any term of this Proprietary Lease to the contrary, each party to this Proprietary Lease shall comply with, and hereby waives any right to challenge or contest any of the terms of the Regulatory Agreement, including, but not limited to, the provisions of the Regulatory Agreement regarding Prohibited Event Fees and Flip Taxes, each as defined therein."

7. **Leasing By The HDFC**

- a. The HDFC shall not Lease any Apartment except:
 - (i) with the prior written consent of HPD, temporarily to a Shareholder on a month-to-month basis if, and only if, such Shareholder's Apartment is being repaired and then only for the period of time reasonably necessary to complete such repairs and at a rent not to exceed the Maximum Month-to-Month Rent; neither such temporarily relocated Shareholder nor any other person shall occupy the Shareholder's Apartment during the term of such temporary Lease;
 - (ii) to any Nonpurchasing Tenant entitled to a Lease, or a renewal thereof, pursuant to Rent Stabilization or other applicable Law, at a rent not exceeding the lesser of (1) such Nonpurchasing Tenant's rent as of the Commencement Date with annual rent increases not to exceed the Renewal Lease Adjustment and (2) the Legal Rent; or

- b. If any Apartment becomes vacant while the Shares allocated to such Apartment are held by the HDFC, the HDFC shall promptly perform any necessary repairs or upgrades, and (i) temporarily lease such Apartment as permitted under this **Section 7** or (ii) market such Apartment in accordance with the Marketing Handbook and sell such Shares to an Eligible Household in accordance with the terms of this Agreement.
- c. Every Lease of an Apartment from the HDFC to a Tenant or a Shareholder shall require the prior written approval of both the Board and the Monitor. The By-Laws and any amendment thereto shall provide that any Lease of an Apartment from the HDFC to [a Tenant] or a Shareholder requires the prior written approval of both the Board and the Monitor. No Lease shall be final or effective, and no [Tenant or] shall be permitted to commence occupancy of an Apartment, until the Board receives the written approval of the Monitor.
- d. In connection with any proposed Lease, the Board shall deliver to the Monitor the following documents:
 1. A copy of the Lease, which shall expressly provide that such Lease shall be of no force or effect without the written approval of the Monitor;
 2. An affidavit from the Board, in form and substance acceptable to the Monitor, stating (i) that the rent stated in the Lease is accurate, reflects the full value of all consideration to be received by the HDFC, and does not exceed the rent permitted under **Section 7.a** above, (ii) for a Shareholder that is temporarily leasing an Apartment from the HDFC while such Shareholder's Apartment is being repaired, the approximate number of months the Lease is anticipated to be in effect, and (iii) that the Board has approved the Lease;
 3. An affidavit from the proposed Tenant, in form and substance acceptable to the Monitor, stating (i) that the rent stated in the Lease is accurate, reflects the full value of all consideration to be received by the HDFC, and does not exceed the rent permitted under **Section 7.a** above and (ii) for a Shareholder that is temporarily leasing an Apartment from the HDFC while such Shareholder's Apartment is being repaired, the approximate number of months the Lease is anticipated to be in effect; and
- e. The Monitor shall evaluate and approve or disapprove each proposed Lease based on the information and documentation submitted by the Board and the requirements of this Agreement, the Certificate of Incorporation, and the By-Laws. The Monitor shall not approve any Lease unless it satisfies the provisions of **Section 7.a** above.

8. **Subletting By Shareholders and Nonpurchasing Tenants**

- a. The HDFC shall prohibit Shareholders and Nonpurchasing Tenants from (i) subletting an Apartment for more than the Maximum Sublease Rent, or (iii) subletting any Apartment for a cumulative total of more than fifteen (15) months in any five (5) year period. Any Sublease shall be to an Eligible Household at a rent not exceeding the Maximum Sublease Rent, for a term not exceeding fifteen (15) months, on a Sublease form approved by the Monitor. The HDFC shall prohibit any Shareholder that is temporarily leasing an Apartment from the HDFC in accordance with **Section 7** from subletting the Shareholder's Apartment and/or the temporarily leased Apartment. The "Maximum Sublease Rent" shall mean the Carrying Cost for such Apartment.
- b. Every Sublease shall require the prior written approval of both the Board and the Monitor. The By-Laws, any amendment thereto, and all Proprietary Leases shall provide that any Sublease requires the prior written approval of both the Board and the Monitor. No Sublease shall be final or effective, and no Subtenant shall be permitted to commence occupancy of an Apartment, until the Board receives the written approval of the Monitor.
- c. In connection with any proposed Sublease, the Board shall deliver to the Monitor the following documents:
 1. A copy of the Sublease, which shall expressly provide that such Sublease shall be of no force or effect without the written approval of the Board and the Monitor;
 2. An affidavit from the Board, in form and substance acceptable to the Monitor, stating that (i) the rent stated in the Sublease does not exceed the Carrying Cost, and (ii) the Board has approved the Sublease;
 3. An affidavit from the Shareholder [or Nonpurchasing Tenant], in form and substance acceptable to the Monitor, stating that the rent stated in the Sublease is accurate, reflects the full value of all consideration to be received by the Shareholder [or Nonpurchasing Tenant], and does not exceed the Carrying Cost;
 4. An affidavit from the proposed Subtenant, in form and substance acceptable to the Monitor, stating that the rent stated in the Sublease is accurate, reflects the full value of all consideration to be delivered to the Shareholder or Nonpurchasing Tenant, and does not exceed the Carrying Cost ; and
 5. Such other documentation as the Monitor shall require.
- d. The Monitor shall evaluate and approve or disapprove each proposed Sublease based on the information and documentation submitted by the Board and the requirements of this Agreement, the Certificate of Incorporation, and the By-Laws. The Monitor shall not approve any Sublease for a rent that exceeds the Carrying Cost.
- e. Notwithstanding any provision of this **Section 8** to the contrary, the Board may ban all subletting.

- f. The provisions of this **Section 8** shall only apply to Subleases to the extent permitted by applicable Law.

9. **Monitoring**

The HDFC shall enter into the Monitoring Contract with the Monitor. All changes to the Monitoring Contract, and all changes of the Monitor, shall require the prior written consent of HPD.

- a. The HDFC may submit a written request to HPD to enter into or renew a Monitoring Contract with a Monitor. The HDFC shall not execute or renew a Monitoring Contract unless HPD approves such request in writing.
- b. The HDFC may submit a written request to HPD to amend the Monitoring Contract, which request shall describe the nature of, and include a copy of, the proposed amendment. The HDFC shall not execute such amendment unless HPD approves such request in writing.
- c. The HDFC may submit a written request to HPD to end the Monitoring Contract, whether through termination, expiration, failure to exercise a renewal option, or any other method, which request shall state the cause for such action. The HDFC shall not end the Monitoring Contract unless HPD approves such request in writing.
- d. If the Monitoring Contract ends or is expected to end within sixty (60) days, or if the Monitor otherwise ceases to perform or is expected to cease to perform the functions of the Monitor as described in this Agreement, the HDFC shall promptly submit a written request to HPD to enter into a new Monitoring Contract with a new Monitor. The HDFC shall not execute the new Monitoring Contract unless HPD approves such request in writing.
- e. If the Monitoring Contract ends or is expected to end within sixty (60) days, or if the Monitor otherwise ceases to perform or is expected to cease to perform the functions of the Monitor as described in this Agreement, and the HDFC fails to promptly request HPD's consent to enter into a new Monitoring Contract with a new Monitor, or if HPD denies such request, HPD may, upon not less than ten (10) days' written notice to the HDFC and at the cost of the HDFC, (i) perform such functions of the Monitor as HPD deems necessary and appropriate, (ii) designate a third party to perform such functions, and/or (iii) terminate or require the HDFC to terminate the existing Monitoring Contract, appoint a new Monitor, and enter into a new Monitoring Contract upon such terms as HPD shall reasonably determine. Upon receipt of a written demand from HPD to terminate the Monitoring Contract, the HDFC shall do so immediately, and the Monitoring Contract shall be fully discontinued within a period of not more than ten (10) days from the HDFC's receipt of HPD's demand.
- f. If HPD determines at any time that there is no Monitor, or that the Monitor is not properly performing one or more functions of the Monitor specified in this Agreement, HPD may, upon not less than ten (10) days' written notice to the HDFC and at the cost of the HDFC, (i) perform such functions of the Monitor as HPD deems necessary and appropriate, (ii) designate a third party to perform such

functions, and/or (iii) terminate or require the HDFC to terminate the existing Monitoring Contract, appoint a new Monitor, and enter into a new Monitoring Contract upon such terms as HPD shall reasonably determine. Upon receipt of a written demand from HPD to terminate the Monitoring Contract, the HDFC shall do so immediately, and the Monitoring Contract shall be fully discontinued within a period of not more than ten (10) days from the HDFC's receipt of HPD's demand.

- g. The HDFC shall not, without the prior written consent of HPD, withhold from the Monitor or otherwise fail to pay to the Monitor any funds due under the Monitoring Contract.

10. **Management**

The HDFC shall manage and operate the Property in accordance with generally accepted management practices in New York City, including, but not limited to, the following:

- a. The HDFC shall cause the Property to be maintained and operated in a proper, safe, sanitary, and healthful condition in compliance with all Law, and shall promptly make or cause to be made all necessary repairs and replacements.
- b. The HDFC shall pay all Charges in a timely manner, prior to the date upon which any fine, penalty, interest, or cost may be added thereto or imposed by Law for the nonpayment thereof. The HDFC shall deliver to HPD, upon request, duly issued receipts or other evidence satisfactory to HPD evidencing payment of Charges.
- c. The HDFC shall keep the Property, the improvements thereon, and the property therein insured by procuring general liability and property policies providing sufficient coverage against fire, vandalism, malicious mischief, collapse, flood (if in a federally designated flood area), earthquakes, and other risks customarily insured against under extended coverage policies in New York City. The HDFC shall provide to HPD, on an annual basis, copies of insurance certificates in form satisfactory to HPD evidencing compliance with such requirements. The HDFC shall ensure that each liability insurance policy required by HPD names "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured. The HDFC shall ensure that each property insurance policy required by HPD (including any flood or builder's risk policy), at all times that an HPD Loan is outstanding, contains a standard mortgagee, loss payee, or additional insured clause, as applicable, naming "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured, mortgagee, and loss payee, as applicable. If required by a Senior Lender, the HDFC may name the Senior Lender or its servicing agent as the sole loss payee. If the HDFC requires any contractor to maintain insurance and requires the contractor to list the HDFC as an additional insured, the HDFC shall ensure that the policy also lists "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured.
- d. The HDFC shall retain a Manager approved by HPD to collect Maintenance, rent, special assessments, and Prohibited Event Fees and manage and operate the Property in accordance with the terms of this Agreement.

1. If the HDFC desires at any time to enter into or renew a Management Contract with a Manager, the HDFC shall submit a written request to HPD. The HDFC shall not execute or renew a Management Contract unless HPD approves such request in writing.
2. If the HDFC desires at any time to amend the Management Contract, the HDFC shall submit a written request to HPD, which request shall describe the nature of, and include a copy of, the proposed amendment. The HDFC shall not execute such amendment unless HPD approves such request in writing.
3. If the HDFC desires at any time to end the Management Contract, whether through termination, expiration, failure to exercise a renewal option, or any other method, the HDFC shall submit a written request to HPD, which request shall state the cause for such action. The HDFC shall not end the Management Contract unless HPD approves such request in writing.
4. If the Management Contract ends or is expected to end within sixty (60) days, or if the Manager otherwise ceases to perform or is expected to cease to perform the function of the Manager as described in this Agreement, the HDFC shall promptly submit a written request to HPD to enter into a new Management Contract with a new Manager. The HDFC shall not execute the new Management Contract unless HPD approves such request in writing.
5. If the Management Contract ends or is expected to end within sixty (60) days, or if the Manager otherwise ceases to perform or is expected to cease to perform the function of the Manager as described in this Agreement, and the HDFC fails to promptly request HPD's consent to enter into a new Management Contract with a new Manager, or if HPD denies such request, HPD may, upon not less than ten (10) days' written notice to the HDFC and at the cost of the HDFC, (i) perform such functions of the Manager as HPD deems necessary and appropriate, (ii) designate a third party to perform such functions, and/or (iii) require the HDFC to terminate the existing Management Contract, appoint a new Manager, and enter into a new Management Contract upon such terms as HPD shall reasonably determine. Upon receipt of a written demand from HPD to terminate the Management Contract, the HDFC shall do so immediately, and the existing Management Contract shall be fully discontinued within a period of not more than thirty (30) days from the HDFC's receipt of HPD's written demand.
6. If HPD determines at any time that there is no Manager, or that the Manager is not properly performing one or more functions of the Manager specified in this Agreement, HPD may, upon not less than ten (10) days' written notice to the HDFC and at the cost of the HDFC, (i) perform such functions of the Manager as HPD deems necessary and appropriate, (ii) designate a third party to perform such functions, and/or (iii) require the HDFC to terminate the existing Management Contract, appoint a new Manager, and enter into a new Management Contract upon such terms as

HPD shall reasonably determine. Upon receipt of a written demand from HPD to terminate the Management Contract, the HDFC shall do so immediately, and the existing Management Contract shall be fully discontinued within a period of not more than thirty (30) days from the HDFC's receipt of HPD's written demand.

7. The Management Contract shall provide that the HDFC may, with the prior written consent of HPD, terminate the Management Contract, with cause upon not less than ten (10) days' written notice to the Manager and without cause upon not less than thirty (30) days' written notice to the Manager. If either party serves such notice of termination, the HDFC shall take all actions necessary to retain a new Manager approved by HPD on or before the termination date.
8. The HDFC shall not, without the prior written consent of HPD, withhold from the Manager or otherwise fail to pay to the Manager any funds due under the Management Contract.
9. The Management Contract shall provide that the Manager shall monitor the Books and Records of the HDFC, including an annual physical inspection of the Books and Records and the Property, and receive and review such other documents and records as the Manager shall reasonably request in order to ensure compliance with this Agreement.

11. Non-Residential Apartments/Spaces

- a. The HDFC shall not sell non-residential space, but may lease such space with the approval of the Monitor. The Monitor may reject any lease for non-residential space if the Monitor, in its sole discretion, determines that such lease is not in the best interest of the HDFC.
- b. The HDFC shall not, without the prior written approval of HPD, lease non-residential space for a term, including any renewal and extension clauses, exceeding five (5) years.
- c. The HDFC shall not, without the prior written approval of HPD, lease non-residential space to (i) any Shareholder or any immediate family member of any Shareholder, (ii) any entity in which any of the legal or beneficial interest is held by a Shareholder or an immediate family member of a Shareholder, or (iii) any entity in which a Shareholder or an immediate family member of a Shareholder is a director, officer, or employee.
- d. The HDFC shall not, without the prior written approval of HPD, lease non-residential space to (i) the Manager or Monitor, any director, officer, or employee of the Manager or Monitor, or any of their respective immediate family members, (ii) any entity in which any of the legal or beneficial interest is held by the Manager or the Monitor, any director, officer, or employee of the Manager or Monitor, or any of their respective immediate family members, or (iii) any entity in which any director, officer, or employee of the Manager or Monitor, or any of their respective immediate family members is a director, officer, or employee.

12. Books and Records

- a. The HDFC shall keep and maintain, or cause the Manager to keep and maintain, full and accurate Books and Records regarding maintenance, operation, and management of the Property and shall comply with, or cause the Manager to comply with, customary financial and other reporting requirements.
- b. During the Restriction Period, the HDFC shall annually prepare, or cause to be prepared, the Required Reports.
- c. On or before each Reporting Date, the HDFC shall provide to the Monitor, the Manager, and HPD all Required Reports.
- d. The HDFC shall submit, or shall cause the Manager to submit, such reports and information regarding the management and operation of the Property and the affairs of the HDFC as HPD may at any time direct by written notice, within the time specified in such notice and to the Monitor and/or HPD as specified in such notice.
- e. The HDFC shall retain, and shall not dispose of, Books and Records for a minimum of six (6) years. With respect to any Books and Records created in the final six (6) years of the Restriction Period, this obligation shall continue after the expiration of the Restriction Period.
- f. The HDFC shall cooperate with the Monitor and shall, within not less than ten (10) days after receipt of a written request therefor from the Monitor, (i) provide the Monitor with full and unfettered access during normal business hours to such Books and Records related to the duties of the Monitor as may be specified in such request, (ii) provide the Monitor with copies of such Books and Records related to the duties of the Monitor as may be specified in such request, (iii) provide the Monitor with full and unfettered access during normal business hours to perform any inspection of the Property related to the duties of the Monitor, and (iv) respond to all other requests of the Monitor related to the duties of the Monitor. In the event of any dispute between the Monitor and the HDFC regarding whether any request is related to the duties of the Monitor, the determination of HPD shall be binding and conclusive.
- g. HPD may at any time perform such reviews, examinations, audits, and investigations of the management and operation of the Property and the finances of the HDFC as HPD deems necessary or appropriate. The HDFC shall cooperate fully with, and shall cause all Directors, officers, employees, or agents of the HDFC to cooperate fully with, such reviews, examinations, audits, and investigations. The HDFC shall furnish, and shall cause all Directors, officers, employees, or agents of the HDFC to furnish, such reports and information as HPD may require with respect to such reviews, examinations, audits, and investigations.
- h. Upon ten (10) days' written notice from HPD, the HDFC shall, as specified in such notice, (i) provide HPD with full and unfettered access during normal business hours to all Books and Records, or such Books and Records as may be specified in such notice, (ii) provide HPD with copies of all Books and Records, or such Books and Records as may be specified in such notice, or (iii) provide HPD with full and

unfettered access during normal business hours to inspect the Property.

- i. Upon ten (10) days' written notice from HPD specifying the time and place of examination, the HDFC and any of its Directors, officers, employees, or agents, shall submit under oath to an oral examination by authorized representatives of HPD concerning any or all matters relating to the Property, and shall produce for review, examination, and audit by HPD such Books and Records as may be specified in such notice.

13. **Training**

- a. The Monitor and HPD, in their sole discretion, may approve, modify, or reject the Training Plan. The HDFC shall submit the Training Plan to HPD on the Reporting Date, as part of the Required Reports. If the Monitor and/or HPD reject(s) the Training Plan, the HDFC shall modify such Training Plan in accordance with any direction provided by the Monitor and/or HPD and shall resubmit such modified Training Plan for approval by the Monitor and HPD within thirty (30) days.
- b. Each Director shall take not less than one (1) one training course in cooperative management within three (3) months of initial election to the Board and not less than one (1) one training course each year thereafter, for so long as such Director serves on the Board. The Monitor may specify the subject matter of the training courses that any individual Director, or all Directors, shall be required to take in any year.
- c. The HDFC shall require each new Shareholder to take a training course providing an orientation in cooperative ownership within three (3) months after becoming a Shareholder.

14. **Reserve Accounts**

- a. The HDFC shall establish and maintain an operating reserve account (the “Operating Reserve”) and a capital replacement reserve account (the “Replacement Reserve”) in accordance with this Section.
 1. On or before the Permanent Loan Conversion, the HDFC shall deposit into the Operating Reserve the greater of \$161,173 or such amount as may be required in the mortgage, note, or other documents executed by the HDFC in connection with any HPD Loan or Permitted Mortgage of a Senior Lender.
 2. Each year, on or before the anniversary of the Permanent Loan Conversion, the HDFC shall deposit the sum of \$250 per Apartment into the Replacement Reserve, increasing by three percent (3%) per year.
 3. Beginning on the first anniversary of the Permanent Loan Conversion, and on each anniversary thereafter until the Expiration Date, the HDFC shall deposit the greater of (a) twenty percent (20%) of the Net Cash Flow and (b) \$5,000 into the Project's operating account; any remaining Net Cash Flow shall be deposited into the Operating Reserve.

4. If all or any portion of the proceeds of any Sale of Shares is required to be paid into the Reserves pursuant to **Section 3.b.6**, or if all or any portion of the proceeds of any Flip Tax is required to be paid into the Reserves pursuant to **Section 3.c.6**, the HDFC shall deposit such funds into the Reserves in accordance with such Section[s].

- b. If required by HPD, the Manager, or any Senior Lender, the HDFC shall also escrow, and/or create pre-funded reserves for, any or all Charges in such amount and manner as may be prescribed by the party requiring such escrow or reserve.

- c. Subject to **Section 14.I** below, the HDFC shall not withdraw funds from the Reserves without the prior written consent of the Monitor and HPD.

- d. The HDFC may, from time to time, but no more frequently than monthly, request HPD approval of a withdrawal from the Operating Reserve to fund an operating shortfall for the Property. Such request shall be made on the form annexed hereto as **Exhibit H** and made a part hereof and shall be accompanied by the following documents:
 1. The most recent operating account bank statement and management report demonstrating a shortfall in meeting expenses for the Property.
 2. Copies of any invoices to be paid.
 3. A modified budget demonstrating the anticipated income and expenses for the period from the date of the request until the next following anniversary date of this Agreement.
 4. If HPD disapproves the request, HPD will provide a written explanation to the HDFC.

- e. The HDFC may, from time to time, request HPD approval of a withdrawal from the Replacement Reserve to fund a capital need for the Property.
 1. Such request shall be made on the form annexed hereto as **Exhibit H** and shall be accompanied by (i) a scope of work and a cost estimate, and (ii) if the request is for \$10,000 or more, three (3) bona fide bids.
 2. If HPD approves the request, HPD will authorize disbursements from the Replacement Reserve up to the approved amount, which disbursements may be made for completed work at such times and in such amounts as determined by HPD. All disbursements shall be subject to the work being performed to the satisfaction of HPD.
 3. If HPD disapproves the request, HPD will provide a written explanation to the HDFC.

- f. The Reserves shall be held in FDIC-insured checking accounts in the name of the HDFC in a bank or other financial institution located in New York City and acceptable to HPD. Upon demand by HPD, the HDFC shall establish the Reserves with an HPD-designated servicer in an account governed by a servicing

agreement, deposit account control agreement, or similar agreement restricting withdrawals from the account without the authorization of HPD, in each case on a form acceptable to HPD. The HDFC shall take such further actions as may be reasonably necessary to establish HPD control over the Reserves, including, but not limited to, the execution of a security agreement granting a security interest in the Reserves to HPD, if HPD does not already have such an interest.

- g. The HDFC shall make no claim against HPD for any loss that arises out of a breach by a servicer of a servicing or other agreement with respect to the Reserves. Neither HPD nor any servicer will have any liability for a loss of all or any portion of the funds in the Reserves by reason of the insolvency or failure of the institution with which the funds are held. Neither HPD nor any servicer will be liable with respect to any action taken or omitted to be taken by it in good faith in the performance or enforcement of servicing duties with respect to the Reserves. HPD and any servicer will be entitled to assume the genuineness of all signatures or other approvals believed by it to be genuine in complying with directions with respect to the Reserves.
- h. HPD may withdraw (or permit a servicer to withdraw) funds from the Reserves, at any time and on one or more occasions, to pay the reasonable fees of the servicer of the account, so long as the amount withdrawn each year does not exceed 1% of the average monthly balance of the account for the year. In addition, the HDFC shall pay all bank fees and investment breakage fees that are due to third parties and incurred by HPD or a servicer in connection with servicing the Reserves. HPD or any servicer may withdraw such fees from the account to which the fees relate.
- i. The HDFC shall annually inform all Shareholders of all contributions to and withdrawals from the Reserves during the preceding twelve (12) months.
- j. The HDFC shall ensure that the Reserves remain with the Project during the Restriction Period. Unless otherwise consented to in writing by HPD, upon a Property Transfer of all or substantially all of the Project, the HDFC shall not cause or permit the transfer of any funds in the Reserves to, or the retention of any funds in the Reserves by, any entity or individual that is not, after consummation of the Property Transfer, the HDFC.
- k. Upon the end of the Restriction Period, the HDFC shall use the entire outstanding balance in the Reserves in the following order of priority, unless reordered or waived by HPD in writing (to the extent permitted by Law): first, to pay any outstanding taxes, Charges, or other amounts owed to HPD or the City, other than any HPD Loan; second, to pay all accrued unpaid interest on, and the unpaid principal balance of, any HPD Loan, in that order; third, to perform necessary capital and maintenance work at the Project, as may be required by HPD; fourth, to pay into a new replacement, operating, or other reserve for the Project, as may be required by HPD; fifth, to repay HPD-approved loans, if any, that were made to the HDFC for the purpose of funding Project operating account deficits or for any other Project purposes; and sixth, to be disbursed to the HDFC for use in a manner consistent with its purposes or contractual obligations.
- l. Control of Senior Lender. Notwithstanding any contrary provision in this **Section 14**, if the HDFC, with the consent of HPD, has established and maintains the

Replacement Reserve and Operating Reserve in accordance with the requirements of a Senior Lender, and if any such Senior Lender requires exclusive control over withdrawals from the Replacement Reserve and Operating Reserve, then for so long as the Senior Lender's requirements remain in effect, HPD's consent is not required for any withdrawal from the Replacement. However, the HDFC shall continue to fund the Replacement Reserve and Operating Reserve at no less than the amount required by this Agreement.

15. Ownership and Financing

a. Property Transfers

1. Except as otherwise provided in this **Section 15.a**, the HDFC shall not cause or permit any Property Transfer without the prior written consent of HPD. "Property Transfer" means any sale, lease, sublease, license, conveyance, transfer, assignment, gift, encumbrance, or other disposition of all or any portion of the Property. A Property Transfer may involve, without limitation, a nominee legal ownership interest in the Property, a beneficial ownership interest in the Property, or a remainder or other future interest in the Property. The HDFC shall obtain HPD's consent to every Property Transfer, regardless of whether HPD has consented to a prior Property Transfer.
2. As a condition to HPD's consent to any Property Transfer, the transferee must assume the HDFC's obligations under this Agreement, beginning on the date of the Property Transfer, in an agreement satisfactory to HPD. The transferee must also provide such further assurances and documents as HPD may reasonably require in connection with the Property Transfer. The HDFC shall ensure that any assumption agreement is recorded against the Property promptly following the related Property Transfer, and shall pay all related fees and taxes. The transferee must also provide such further assurances and documents as HPD may reasonably require in connection with the Property Transfer, including, but not limited to, an assumption of any HPD Loan or other obligations of the HDFC with respect to the Project.
3. HPD's consent is not required for any leasing or subleasing of Apartments or leasing of any non-residential portions of the Property, on the condition that any such Leases and Subleases are consistent with and satisfy the requirements set forth in this Agreement, the HDFC's Certificate of Incorporation, the By-laws, and the Law, and do not contain an option to acquire all or any portion of the Property.
4. HPD's consent is not required for any Sale of Shares, on the condition that such Sale of Shares is consistent with and satisfies the requirements set forth in this Agreement, the HDFC's Certificate of Incorporation, the By-laws and the Law.
5. HPD's consent is not required for any Property Transfer that occurs in connection with the foreclosure of a Permitted Mortgage or the delivery of a deed-in-lieu of foreclosure of a Permitted Mortgage. This exception is

limited solely to the Property Transfer that occurs in connection with the foreclosure sale or deed in lieu of foreclosure of a Permitted Mortgage and does not apply to any subsequent Property Transfer.

b. **Financing**

1. Except as provided in this **Section 15.b**, the HDFC shall not incur, assume, or permit to exist any financing affecting all or any portion of the Property without the prior written consent of HPD, nor shall the HDFC extend, renew, or refinance any such financing without the prior written consent of HPD. The HDFC shall obtain the prior written consent of HPD before permitting any mortgage or other lien to encumber all or any portion of the Property. Further, the HDFC shall not permit the mortgage, pledge, assignment, transfer, encumbrance, grant of a participation interest in, or hypothecation of all or any portion of the Property, or of any direct or indirect ownership interest in the HDFC (or the income, proceeds, or other economic benefits of any such ownership interest) without the prior written consent of HPD.
2. HPD consents to the Permitted Mortgages.
3. Except as otherwise provided in this Agreement, HPD's consent is not required for any Cooperative Loan obtained by a Shareholder, on the condition that such Cooperative Loan is consistent with and satisfies the requirements set forth in this Agreement.

c. **Zoning; Development Rights**

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

16. Enforcement

- a. If any Default occurs and remains uncured or uncorrected for a period of thirty (30) days after written notice from HPD, the City may:
 1. Institute and prosecute, any proceeding at law or in equity to abate, prevent, or enjoin any such Default or to compel specific performance by the HDFC, its successors or assigns, of the obligations of the HDFC pursuant to this Agreement, any other agreement with the City, the Management Contract, the Monitoring Contract, the PHFL, the BCL, or any other applicable Law or agreement;
 2. Perform or order, or direct and authorize the Manager to perform or order, such repairs as HPD determines will preserve the health and safety of the occupants of the Property, and recover the cost of such repairs from the

HDFC;

3. Extend the term of this Agreement by a period equal to the period from the commencement of such Default to the cure of such Default by recording a document, executed solely by the City, against the Property. Unless the notice of such Default from HPD specifies another date, any such Default shall be presumed to have commenced on the date of this Agreement, which presumption may be rebutted by the HDFC;
4. Declare an event of default under any of the HPD Loan Documents, and pursue any applicable remedies thereunder, including commencing a foreclosure of any HPD Mortgage;
5. Pursue the suspension or revocation of the Real Property Tax Benefits in accordance with Law;
6. Seek appointment of HPD or a receiver to take possession of and operate the Property, collect all Maintenance, rent, special assessments, and Prohibited Event Fees, and pay all necessary costs of the Property in accordance with the terms of this Agreement until the HDFC has cured the violation and given satisfactory evidence that it can operate the Property in compliance with this Agreement; or
7. Seek any other relief that may be appropriate or desirable at law or in equity.

b. If any of the following Defaults occur and remain uncured or uncorrected for a period of thirty (30) days after written notice from HPD, the City may terminate the membership of the entire Board, or any one or more specific Directors, and appoint replacement Directors sufficient to constitute up to a two thirds (2/3) or more majority of such Board, notwithstanding any contrary provision in the Certificate of Incorporation or the By-Laws and notwithstanding the fact that some or all of such replacement Directors may not be Shareholders:

1. any violation of the terms of **Sections 3, 6, 7, and/or 8;**
2. any failure to comply with HPD's Marketing Handbook;
3. any failure to make payments required under the HPD Loan Documents or the HDC Loan Documents;
4. any violation of the terms of **Sections 10.a, 10.b, and 10.c;**
5. any violation of the terms of **Section 12;**
6. any violation of the terms of **Section 14;**
7. any violation of the terms of **Section 18.c, Section 18.e,** or any terms in the Certificate of Incorporation, By-laws, or Conflict of Interest Policy related thereto;

8. any failure by one or more Directors to perform his or her duties in good faith and with the degree of care which an ordinarily prudent person in a like position would use under similar circumstances in accordance Section 717 of the BCL or any successor statute addressing substantially the same subject matter, or any other duties of Directors recognized and required under New York State or City Law; and
9. the occurrence of any of the following events by one or more Directors, which events would permit an action to be brought against such Directors pursuant to Section 720 of the BCL or any successor statute addressing substantially the same subject matter, including but not limited to:
 - a. the neglect of, or failure to perform, or other violation of the Director's duties in the management and disposition of corporate assets committed to his or her charge; and
 - b. the acquisition by a Director by himself or herself, transfer to others, loss or waste of corporate assets due to any neglect of or failure to perform, or other violation of the Director's duties.

c. HPD shall not be limited exclusively to the rights, powers, and remedies provided by this Agreement, or in any other agreement between the City and the HDFC, but shall be entitled to every additional right, power, and remedy now or hereafter afforded by law or in equity.

1. Every right, power, or remedy of HPD provided for in this Agreement, or in any other agreement between the City and the HDFC, or to which HPD may otherwise be entitled, may be exercised, concurrently, cumulatively, independently, or successively, from time to time and as often as may be deemed expedient by HPD. HPD may pursue alternative or inconsistent remedies.
2. Exercise by HPD of any power or remedy hereunder shall not cure or waive any Default and shall not affect the right of HPD to exercise every other right and remedy provided for in this Agreement, or in any other agreement between the City and the HDFC, or at law or in equity.

d. No delay in enforcing, or failure to enforce, any provision of this Agreement as to any Default shall impair, damage, or waive the right of the City to enforce such provision of this Agreement in the event of a continuation of such Default, any repetition of such Default, or any similar Default at any later time.

e. Nothing herein shall prevent HPD from exercising any other authority provided by law or any agreement, including, but not limited to, the authority to revoke or suspend all or part of any tax exemption.

f. If HPD intends to terminate the Real Property Tax Benefits pursuant to the Council Resolution, HPD shall provide the notice and opportunity to cure that is set forth in the Council Resolution.

17. Notices

- a. All notices, approvals, requests, waivers, consents, or communications given or required to be sent pursuant to this Agreement shall be in writing and sent by certified or priority mail, postage prepaid, delivered in person or by a nationally recognized overnight courier, with receipt acknowledged, or sent by electronic means with notice of receipt from an authorized officer, official, or principal of the party. Notices shall be addressed as follows:
 - 1. When sent to the HDFC, at the address of the Property, to the attention of the Board. With a copy to _____.
 - 2. When sent to HPD, to: Department of Housing Preservation and Development, 100 Gold Street, Room 7S, New York, New York 10038, Attention: Asset Management with a copy to the Monitor .
- b. Each party shall notify the other in case of a change in address, which changed address shall thereafter be the address to which notices are sent.
- c. Any notice given hereunder shall be deemed to have been given when personally delivered if given in person, or on the third day after such notice has been deposited in the United States mail, postage prepaid, addressed as aforesaid, or on the second day after such notice has been deposited with an overnight carrier. Any notice of a change address shall only be deemed given when received by the other party.
- d. HPD's failure to send any copy of a notice to a non-party individual or entity to whom HPD has agreed in writing to provide such copies will not affect the effectiveness of the notice under this Agreement.

18. Corporate Governance and By-Laws

- a. The HDFC represents that the Certificate of Incorporation, the By-Laws and all Proprietary Leases are consistent with, and covenants that they shall remain consistent with, the provisions of this Agreement.
- b. The By-Laws shall (i) refer to this Agreement, and (ii) contain a provision stating that "Notwithstanding any term of these By-Laws to the contrary, the HDFC and all Shareholders shall comply with all terms of the Regulatory Agreement, including, but not limited to, the provisions of the Regulatory Agreement regarding Prohibited Event Fees and Flip Taxes."
- c. The By-Laws shall contain a provision prohibiting the HDFC from entering into any Related Party Transaction without the prior written approval of HPD. The Board shall adopt, and oversee the implementation of, and compliance with, a conflict of interest policy (the "Conflict of Interest Policy") to ensure that its Directors and officers act in the HDFC's best interest and comply with the requirements set forth in this **Section 18.c**. The Conflict of Interest Policy shall include the following:
 - 1. procedures for disclosing a conflict of interest or possible conflict of interest to the Board, and procedures for the Board to determine whether a conflict exists;

2. a provision prohibiting any Related Party from participating in deliberations or voting relating to a Related Party Transaction in which he or she has an interest; provided that nothing in this **Section 18.c** shall prohibit the Board from requesting that a Related Party present information as background or answer questions concerning a Related Party Transaction at a Board meeting prior to the commencement of deliberations or voting related thereto;
3. a provision prohibiting any Related Party from attempting to improperly influence the deliberation of or voting on a Related Party Transaction in which he or she has an interest;
4. a provision requiring that the existence and resolution of a Related Party Transaction be documented in the HDFC's records, including the minutes at which the Related Party Transaction was discussed or voted upon; and
5. a provision requiring that each Director complete, sign and annually submit to the secretary of the HDFC or a designated compliance officer a written statement identifying, to the best of the Director's knowledge, any entity of which such Director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the HDFC has a relationship, and any transaction in which the HDFC is a participant and in which the Director might have a conflicting interest.

If the Conflict of Interest Policy is adopted by the HDFC pursuant to federal, New York State, or City Laws that are substantially consistent with the provisions of this **Section 18.c**, such Conflict of Interest Policy shall be deemed in compliance with this **Section 18.c**.

Nothing in this **Section 18.c** shall be interpreted to require the HDFC to adopt any specific conflict of interest policy not otherwise required by this **Section 18.c** or any other Law, or to supersede or limit any requirement or duty of governing conflicts of interest required by Law.

- d. The HDFC shall distribute this Agreement to each Shareholder and shall attach this Agreement to each Proprietary Lease.
- e. The HDFC shall hold Board meetings and annual elections in accordance with the procedures specified in the Certificate of Incorporation and the By-Laws.
- f. The By-Laws shall provide that after the first Annual Meeting, the Sponsor shall receive a copy of notices of meetings of the Board and may have a representative attend meetings of the Board of Directors and participate in such meetings, without having the right to vote, until the earlier of (i) the date the Sponsor owns no Unsold Shares or (ii) the [second] anniversary of the Conversion Date.
- g. The By-Laws shall provide that the Board shall add the spouse or domestic partner of a Shareholder as a co-owner of the Shares appurtenant to the Shareholder's Apartment and

as a co-lessee of the Proprietary Lease appurtenant thereto upon the joint written application in such form as the Board shall prescribe, subject to the Monitor's approval, submitted by the Shareholder and such spouse or domestic partner subject to the following conditions at the time of the application:

- (1) the Shareholder is current in its payment of Maintenance;
- (2) the Shareholder satisfies the Primary Residency Requirements;
- (3) The spouse or domestic partner provides an affidavit in the form of **Exhibit I** that it intends to satisfy the Primary Residency Requirements; and
- (4) Such other reasonable requirements as the Board shall establish with the approval of the Monitor and HPD; provided that the Shareholder's and spouse or domestic partner's Household shall not be required to be an Eligible Household at the time the spouse or domestic partner becomes a co-owner of the Shares and co-tenant under the Proprietary Lease.

19. Recording; Binding Nature of Restrictions

The HDFC will cause this Agreement to be recorded in the City Register. During the Restriction Period, this Agreement shall run with the land and bind the HDFC and its successors, assigns, heirs, grantees, and lessees.

20. Subordination

HPD may subordinate this Agreement to the interest of a Senior Lender, but only in a form and in such manner as are satisfactory to HPD in its sole and absolute discretion.

21. Expiration

- a. Except as may be otherwise provided herein, upon expiration of the Restriction Period, this Agreement shall become null and void and of no further force and effect with respect to the Property and HPD shall execute and deliver to the HDFC any document in recordable form requested by the HDFC to reflect the expiration of this Agreement with respect to the Property, although none shall be required.
- b. Notwithstanding the expiration of the Restriction Period, the HDFC shall remain subject to all provisions of Article XI of the PHFL and shall continue to operate the Property as a housing project for persons and families of low income.

22. Investigations

The HDFC shall be bound by the provisions of the Investigation Clause annexed hereto as **Exhibit J** and made a part hereof.

23. Conflicts

- a. The HDFC shall not, without the prior written approval of HPD, enter into a Related Party Transaction, or any Management Contract, Monitoring Contract, or other contract or agreement with (i) any Shareholder or any immediate family member of any Shareholder, (ii) any entity in which any of the legal or beneficial interest is

held by a Shareholder or an immediate family member of a Shareholder, or (iii) any entity in which a Shareholder or an immediate family member of a Shareholder is a director, officer, or employee.

- b. The HDFC shall not, without the prior written approval of HPD, hire an employee who is a Shareholder or an immediate family member of any Shareholder.
- c. The Manager and Monitor shall be completely separate and unrelated entities. The HDFC shall not, without the prior written approval of HPD, retain a Manager and a Monitor that (i) share any of the same directors, officers, or employees, or (ii) are affiliated with, owned by, or controlled by one another or by any of the same individuals or entities.

24. Discretion

Every determination to be made by HPD, or by any of its designees, pursuant to this Agreement shall be made in the sole discretion of HPD or such designee unless this Agreement specifically states either that such determination shall be reasonable or that such determination shall be made in accordance with one or more specific standards.

25. Waiver or Suspension

Where HPD determines that a provision of this Agreement would cause extreme hardship to an owner of Shares or a Shareholder due to a personal or family emergency or other extraordinary circumstances, HPD may, with approval of the Board, waive or suspend such provision with respect to such owner or Shareholder or such owner's or Shareholder's Apartment to the extent necessary to avoid or ameliorate such hardship. Such owner of Shares or Shareholder shall apply for such waiver or suspension in advance where practicable or, in the case of an unforeseeable emergency, within thirty (30) days after such emergency. Any such waiver or suspension shall be for a term not exceeding six (6) months, but HPD may grant further waivers or suspensions if the emergency continues.

26. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

27. Compliance with Law

The HDFC shall comply, and shall cause the Project to be operated in compliance, with the Law. The HDFC shall also comply, and shall cause the Project to be operated in compliance with (a) any other agreement, entered into by the HDFC with HPD, HDC or any other government agency with respect to the Project, (b) any restrictive covenant, or permit with, entered into by the HDFC for the benefit of, HPD, HDC or any other government agency with respect to the Project, or (c) any permit issued by HPD or any other government agency with respect to the Project.

28. Most Restrictive Provisions Control.

If this Agreement conflicts with any other applicable agreement or Law, or if any provision

of this Agreement conflicts with any other provision of this Agreement, the most restrictive provision, as determined by the HPD, shall control.

29. Amendments

No amendment or other modification to this Agreement is valid unless it is in recordable form and signed by all parties to this Agreement. The HDFC shall record any such amendment in the City Register immediately following the date of the amendment.

30. Interpretation

- a. The recitals and all exhibits annexed to this Agreement are made a part of this Agreement for all purposes.
- b. Any reference in this Agreement to an agreement (including, but not limited to, this Agreement), document, law, regulation, requirement, or similar text means the text as may be amended, supplemented, replaced, or otherwise modified from time to time, unless the context expressly requires otherwise.
- c. References in this Agreement to sections, exhibits, or similar refer to provisions in this Agreement unless stated otherwise.
- d. The titles or headings of the sections of this Agreement are for reference only and are to be disregarded in construing or interpreting the provisions of this Agreement.
- e. All personal pronouns used herein whether of the masculine, feminine or neuter gender shall include all other genders; words in the singular shall include the plural and vice versa.

31. Compliance with Loan Documents

The HDFC shall comply with the HPD Loan Documents and the HDC Loan Documents. Any default under the HPD Loan Documents or the HDC Loan Documents shall be deemed a default hereunder.

32. Modifications to Proprietary Leases

This Agreement does not require the HDFC to amend or replace any Proprietary Leases executed prior to the Commencement Date unless otherwise required by Law, provided that (i) the By-Laws are in a form acceptable to HPD and (ii) promptly following the Commencement Date, the HDFC uses commercially reasonable efforts to enter into Proprietary Leases meeting the requirements of this Agreement with each Current Shareholder.

33. Building Benchmarking

The HDFC shall contract, at the HDFC's expense, with a qualified benchmarking software provider (the "Qualified Software Provider") from the Housing Development Corporation (HDC) Qualified Benchmarking Software Provider list (the "Approved Provider List") to collect monthly and annual data on the heating, electric and water usage (the "Utility Performance Information") on the Property in accordance with Section 2: Basic

Framework of the HPD Benchmarking Protocol, a copy of which has been provided to the HDFC. Not later than May 1 of each year of the Restriction Period, the Qualified Software Provider retained by the HDFC shall input the Utility Performance Information for the immediately preceding year into the United States Environmental Protection Agency ENERGY STAR Portfolio Manager (“Portfolio Manager”), or such other system as may be designated by HPD.

The HDFC agrees and acknowledges that (i) the Utility Performance Information will be made available to HPD through the “NYC Affordable Housing” account located on Portfolio Manager and (ii) HPD may receive the Utility Performance Information directly from the Qualified Software Provider. HPD reserves the right to replace the Qualified Software Provider in the event that such provider ceases to be included on the Approved Provider List. Throughout the Restriction Period, the HDFC shall at all times abide by the terms and conditions set forth in this **Section 33** and in the HPD Benchmarking Protocol, as may be amended from time to time.

34. Severability

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

35. Intentionally Omitted.

36. Compliance with Council Resolution

The HDFC shall comply with the obligations stated in the Council Resolution as a condition to the Real Property Tax Benefits.

37. Compliance with HireNYC

The HDFC shall, and shall cause the general contractor and all applicable subcontractors to, comply with the requirements of HireNYC as more particularly set forth in **Exhibit K** attached hereto and made part hereof, as may be modified by the City from time to time.

38. Intentionally Omitted.

39. HDC as Third-Party Beneficiary

HDC is a third-party beneficiary of this Agreement.

40. Intentionally Omitted.

APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
FOR USE UNTIL _____

By: /s/
Acting Corporation Counsel

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, HPD and the HDFC have duly executed this Agreement on the day and year first above written

THE CITY OF NEW YORK

By: Department of Housing Preservation and Development

By: _____
Name: Kerry LaBotz
Title: Assistant Commissioner

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

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public, in and for said State, personally appeared **KERRY LABOTZ**, personally known to me or proven to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

**██████████ HOUSING DEVELOPMENT
FUND CORPORATION**

By _____

Name:

Title:

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

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public, in and for said State, personally appeared _____, personally known to me or proven to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT A

Property

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

Address: [REDACTED]

Block: [REDACTED]

Lot: [REDACTED]

Borough: [REDACTED]

County: [REDACTED]

EXHIBIT B

Council Resolution

(begins on following page)

EXHIBIT C
FOR ASSET MANAGEMENT

Determining the Maximum Sales Price

The following is an example of how to determine the Maximum Sale Price for an Apartment. This Exhibit is for information only and may not reflect the actual Maximum Sale Price for a particular Apartment at the time of sale.

Small 1-bedroom (Studio)

Step Letter	Step Description	Example														
Step A	Determine Area Median Income (AMI) for a Family of Four <i>(Use the HUD Area Median Income for the New York Metropolitan Area from the HPD Website, HUD Website or HPD Asset Manager)</i>	AMI for a Family of Four in 2023 = \$141,200														
Step B	Obtain Maximum Sale Price AMI% <i>(From Regulatory Agreement)</i>	100% AMI														
Step C	Determine Household Factor based on bedroom count, using the table below:	In this example, the Apartment being sold is a 0-bedroom, so the Household Factor is 0.7 <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Bedroom Count</th><th>Household Factor</th></tr> </thead> <tbody> <tr> <td>0-BR (Studio)</td><td>0.70</td></tr> <tr> <td>1-BR</td><td>0.75</td></tr> <tr> <td>2-BR</td><td>0.90</td></tr> <tr> <td>3-BR</td><td>1.04</td></tr> <tr> <td>4-BR</td><td>1.16</td></tr> <tr> <td>5-BR</td><td>1.28</td></tr> </tbody> </table>	Bedroom Count	Household Factor	0-BR (Studio)	0.70	1-BR	0.75	2-BR	0.90	3-BR	1.04	4-BR	1.16	5-BR	1.28
Bedroom Count	Household Factor															
0-BR (Studio)	0.70															
1-BR	0.75															
2-BR	0.90															
3-BR	1.04															
4-BR	1.16															
5-BR	1.28															
Step D	Maximum Housing Cost as a Percentage of Income <i>(always 33%)</i>	33%														
Step E	Calculate the Maximum Projected Annual Housing Cost = Step A*Step B*Step C*Step D	\$141,200*100%*0.7*33% = \$32,617														
Step F	Prevailing Interest Rate <i>(From the Regulatory Agreement)</i>	For this example, the Prevailing Interest Rate is 7%														
Step G	Allowable Percentage <i>(From the Regulatory Agreement)</i>	For this example, assume an Allowable Percentage of 90%														
Step H	Monthly Maintenance & Utility Allowance for the Apartment for Sale	For this example, the Monthly Maintenance is \$414 (0BR) + a utility allowance of \$86 = \$500														
Step I	Calculate the Maximum Projected Monthly Housing Cost = (Step E/12) - Step H	(\$32,617/12)-\$500 = \$2,218														
Step J	Calculate the Maximum Projected Debt Service <i>Use Present Value Formula in Excel = -PV(Step F,30,Step I*12,0,0)</i> - <u>OR</u> - <u>(Step I*0.775638)</u> <u>(0.00416)</u>	-PV(7%,30,2218*12,0,0)= \$330,294														
Step K	Calculate the Maximum Sale Price = Step J/Step G	\$330,294/0.9 = \$366,993														

1-Bedroom

Step Letter	Step Description	Example														
Step A	Determine Area Median Income (AMI) for a Family of Four <i>(Use the HUD Area Median Income for the New York Metropolitan Area from the HPD Website, HUD Website or HPD Asset Manager)</i>	AMI for a Family of Four in 2023 = \$141,200														
Step B	Obtain Maximum Sale Price AMI% <i>(From Regulatory Agreement)</i>	100% AMI														
Step C	Determine Household Factor based on bedroom count, using the table below:	In this example, the Apartment being sold is a 1-bedroom, so the Household Factor is 0.75														
	<table border="1"> <thead> <tr> <th>Bedroom Count</th><th>Household Factor</th></tr> </thead> <tbody> <tr> <td>0-BR (Studio)</td><td>0.70</td></tr> <tr> <td>1-BR</td><td>0.75</td></tr> <tr> <td>2-BR</td><td>0.90</td></tr> <tr> <td>3-BR</td><td>1.04</td></tr> <tr> <td>4-BR</td><td>1.16</td></tr> <tr> <td>5-BR</td><td>1.28</td></tr> </tbody> </table>	Bedroom Count	Household Factor	0-BR (Studio)	0.70	1-BR	0.75	2-BR	0.90	3-BR	1.04	4-BR	1.16	5-BR	1.28	
Bedroom Count	Household Factor															
0-BR (Studio)	0.70															
1-BR	0.75															
2-BR	0.90															
3-BR	1.04															
4-BR	1.16															
5-BR	1.28															
Step D	Maximum Housing Cost as a Percentage of Income <i>(always 33%)</i>	33%														
Step E	Calculate the Maximum Projected Annual Housing Cost = Step A*Step B*Step C*Step D	\$141,200*100%*0.75*33% = \$34,947														
Step F	Prevailing Interest Rate <i>(From the Regulatory Agreement)</i>	For this example, the Prevailing Interest Rate is 7%														
Step G	Allowable Percentage <i>(From the Regulatory Agreement)</i>	For this example, assume an Allowable Percentage of 90%														
Step H	Monthly Maintenance & Utility Allowance for the Apartment for Sale	For this example, the Monthly Maintenance is \$580 (1BR) + a utility allowance of \$97 = \$677														
Step I	Calculate the Maximum Projected Monthly Housing Cost = (Step E/12) - Step H	(\$34,947/12)-\$677 = \$2,235														
Step J	Calculate the Maximum Projected Debt Service <i>Use Present Value Formula in Excel =</i> -PV(Step F,30,Step I*12,0,0) - <u>OR</u> - <u>(Step I*0.775638)</u> <u>(0.00416)</u>	-PV(7%,30,2235*12,0,0)= \$332,848														
Step K	Calculate the Maximum Sale Price = Step J/Step G	\$332,848/0.9 = \$369,831														

2-Bedroom

Step Letter	Step Description	Example														
Step A	Determine Area Median Income (AMI) for a Family of Four (Use the <i>HUD Area Median Income for the New York Metropolitan Area from the HPD Website, HUD Website or HPD Asset Manager</i>)	AMI for a Family of Four in 2023 = \$141,200														
Step B	Obtain Maximum Sale Price AMI% (From Regulatory Agreement)	100% AMI														
Step C	Determine Household Factor based on bedroom count, using the table below:	In this example, the Apartment being sold is a 2-bedroom, so the Household Factor is 0.90														
	<table border="1"> <thead> <tr> <th>Bedroom Count</th><th>Household Factor</th></tr> </thead> <tbody> <tr> <td>0-BR (Studio)</td><td>0.70</td></tr> <tr> <td>1-BR</td><td>0.75</td></tr> <tr> <td>2-BR</td><td>0.90</td></tr> <tr> <td>3-BR</td><td>1.04</td></tr> <tr> <td>4-BR</td><td>1.16</td></tr> <tr> <td>5-BR</td><td>1.28</td></tr> </tbody> </table>	Bedroom Count	Household Factor	0-BR (Studio)	0.70	1-BR	0.75	2-BR	0.90	3-BR	1.04	4-BR	1.16	5-BR	1.28	
Bedroom Count	Household Factor															
0-BR (Studio)	0.70															
1-BR	0.75															
2-BR	0.90															
3-BR	1.04															
4-BR	1.16															
5-BR	1.28															
Step D	Maximum Housing Cost as a Percentage of Income (always 33%)	33%														
Step E	Calculate the Maximum Projected Annual Housing Cost = Step A*Step B*Step C*Step D	\$141,200*100%*0.90*33% = \$41,936														
Step F	Prevailing Interest Rate (From the Regulatory Agreement)	For this example, the Prevailing Interest Rate is 7%														
Step G	Allowable Percentage (From the Regulatory Agreement)	For this example, assume an Allowable Percentage of 90%														
Step H	Monthly Maintenance & Utility Allowance for the Apartment for Sale	For this example, the Monthly Maintenance is \$745 (2BR) + a utility allowance of \$139 = \$884														
Step I	Calculate the Maximum Projected Monthly Housing Cost = (Step E/12) - Step H	(\$41,936/12)-\$884= \$2,611														
Step J	Calculate the Maximum Projected Debt Service <i>Use Present Value Formula in Excel =</i> -PV(Step F,30,Step I*12,0,0) - OR - <u>(Step I*0.775638)</u> <u>(0.00416)</u>	-PV(7%,30,2611*12,0,0)= \$388,755														
Step K	Calculate the Maximum Sale Price = Step J/Step G	\$388,755/0.9 = \$431,950														

3-Bedroom

Step Letter	Step Description	Example														
Step A	Determine Area Median Income (AMI) for a Family of Four <i>(Use the HUD Area Median Income for the New York Metropolitan Area from the HPD Website, HUD Website or HPD Asset Manager)</i>	AMI for a Family of Four in 2023 = \$141,200														
Step B	Obtain Maximum Sale Price AMI% <i>(From Regulatory Agreement)</i>	100% AMI														
Step C	Determine Household Factor based on bedroom count, using the table below: <table border="1"> <thead> <tr> <th>Bedroom Count</th> <th>Household Factor</th> </tr> </thead> <tbody> <tr> <td>0-BR (Studio)</td> <td>0.70</td> </tr> <tr> <td>1-BR</td> <td>0.75</td> </tr> <tr> <td>2-BR</td> <td>0.90</td> </tr> <tr> <td>3-BR</td> <td>1.04</td> </tr> <tr> <td>4-BR</td> <td>1.16</td> </tr> <tr> <td>5-BR</td> <td>1.28</td> </tr> </tbody> </table>	Bedroom Count	Household Factor	0-BR (Studio)	0.70	1-BR	0.75	2-BR	0.90	3-BR	1.04	4-BR	1.16	5-BR	1.28	In this example, the Apartment being sold is a 3-bedroom, so the Household Factor is 1.04
Bedroom Count	Household Factor															
0-BR (Studio)	0.70															
1-BR	0.75															
2-BR	0.90															
3-BR	1.04															
4-BR	1.16															
5-BR	1.28															
Step D	Maximum Housing Cost as a Percentage of Income (always 33%)	33%														
Step E	Calculate the Maximum Projected Annual Housing Cost = Step A*Step B*Step C*Step D	\$141,200*100%*1.04*33% = \$48,460														
Step F	Prevailing Interest Rate <i>(From the Regulatory Agreement)</i>	For this example, the Prevailing Interest Rate is 7%														
Step G	Allowable Percentage <i>(From the Regulatory Agreement)</i>	For this example, assume an Allowable Percentage of 90%														
Step H	Monthly Maintenance & Utility Allowance for the Apartment for Sale	For this example, the Monthly Maintenance is \$911 (3BR) + a utility allowance of \$169 = \$1,080														
Step I	Calculate the Maximum Projected Monthly Housing Cost = (Step E/12) - Step H	(\$48,460/12)-\$1,080 = \$2,958														
Step J	Calculate the Maximum Projected Debt Service <i>Use Present Value Formula in Excel =</i> $-PV(Step\ F, 30, Step\ I*12, 0, 0)$ <p style="text-align: center;"><u>OR</u></p> $(Step\ I*0.775638)$ (0.00416)	$-PV(7\%, 30, 2,2958*12, 0, 0) = \$440,519$														
Step K	Calculate the Maximum Sale Price = Step J/Step G	\$440,519/0.9 = \$489,466														

Apartment Size**	
Size	Specific Apartments
0 Bedroom Apartments	1E, 2E, 3E, 4E, 5E, 6E
1 Bedroom Apartments	1B, 1D, 2B-M, 2D, 2G, 3B, 3D, 3G, 4B-M, 4D, 4G, 5B-M, 5D, 5G, 5D, 5G, 6B-M, 6D, 6G
2 Bedroom Apartments	1A, 1F, 2A, 2F, 3F, 4A, 4F, 5A, 5F, 6A, 6F
3 Bedroom Apartments	1C, 2C, 3A, 3C, 4C, 5C, 6C

The Apartment sizes listed in this Exhibit shall be binding on the HDFC and all Shareholders. In accordance with **Section 6.d and **Section 6.e** of this Agreement, Apartments shall not be combined, joined, split, or subdivided during the Restriction Period.

EXHIBIT D

Owner Occupancy Affidavit

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

_____, being duly sworn, under penalty of perjury, deposes and says:

1. As of the date hereof, I am purchasing shares allocated to a cooperative dwelling unit ("Apartment") in the building known by the street address [_____] ("Property").
2. I have never owned (or held shares in a cooperative corporation that owned) any other residential property that was developed or assisted through a local, state, or federal homeownership program.
3. I intend to occupy the Apartment as my primary residence.
4. In connection with my purchase of the shares allocated to the Apartment, I will be signing legal documents in which I promise to continuously occupy the Apartment as my sole primary residence ("Owner Occupancy Requirements"). Among other things, the Owner Occupancy Requirements:
 - (i) require me to reside and sleep at the Apartment not less than 270 calendar days per year (unless I am on active military duty, hospitalized, undergoing rehabilitation in a licensed rehabilitation facility, incarcerated or enrolled in an accredited school of higher education in which case each night I spend away from the Apartment for this purpose will be counted as a night spent in the Apartment, or enter into an authorized sublease as described below),
 - (ii) prohibit me from subleasing the Apartment for more than a cumulative total of 15 months in any 5 year period, prohibit me from subleasing the Apartment to anyone whose income exceeds a specified limit, limit the rent that I may charge for any sublease, and prohibit me from allowing the Apartment to be used for transient occupancy or occupied by household that would not be eligible to purchase the shares allocated to the Apartment,
 - (iii) require me to indicate the Apartment as my sole address/residence on any tax return, voter registration, driver's license or other permit to operate a motor vehicle, and any other document or application stating my address or residence, and
 - (iv) prohibit me from acquiring or leasing any other residential property in, or within a 100 mile radius of, New York City (and require me to sell or transfer, or use best efforts to sell, any such residential property that I acquire through inheritance within one year from the date that the estate transfers title to me).
5. I give this affidavit in order to induce the City of New York, acting by and through its

Department of Housing Preservation and Development ("HPD") to (i) permit my purchase of shares in the cooperative housing development fund corporation that owns the Property ("HDFC"), and (ii) provide certain subsidies to the HDFC. I understand that HPD is relying upon my representation that I will comply with the Owner Occupancy Requirements.

6. I understand that HPD may require me to provide an annual certification or affidavit regarding my compliance with the Owner Occupancy Requirements and that HPD may use any lawful means to investigate my compliance with the Owner Occupancy Requirements.
7. I understand that a misstatement or misrepresentation in this Affidavit may result in civil or criminal penalties and that any violation of the Owner Occupancy Requirements may result in legal action against me or the imposition of additional fees, charges, or special assessments in connection with the Apartment.
8. I am eighteen (18) or more years of age and have the legal capacity to deliver this Affidavit.

Name:

Sworn to before me on
the ____ day of ___, 20__

Notary Public

EXHIBIT E

Owner Occupancy Certification

I, _____, certify, represent, and warrant the following to the Department of Housing Preservation and Development ("HPD") of the City of New York ("City"):

1. Reference is made to that certain Regulatory Agreement, dated as of [_____, 20_____] (the "Commencement Date"), by and between [_____] Housing Development Fund [Company, Inc.] [Corporation] ("HDFC"), and the City (the "Regulatory Agreement").
2. I am a tenant-shareholder of cooperative unit _____ in the building known by the street address [_____] ("Apartment").
3. I am bound by agreements with the City that require me to occupy the Apartment.
4. In the year preceding execution of this certification:
 - a. The Apartment has been my sole primary residence, except as set forth in Section 3.b below.
 - b. Check the applicable statement:
 - I have not subleased the Apartment or permitted the Apartment to be used for transient occupancy or occupied by an Ineligible Household, as such term is defined in the Regulatory Agreement.
 - I have subleased the Apartment, but (i) I did so with the approval of the cooperative's board of directors and monitor, (ii) the subtenant was an Eligible Household, as such term is defined in the Regulatory Agreement, (iii) the rent charged to the subtenant was less than or equal to the Carrying Cost, as such term is defined in the Regulatory Agreement, and (iv) I have not subleased the Apartment for a cumulative total of more than 15 months out of the past five years.
 - c. Check the applicable statement:
 - I resided and slept in the Apartment not less than 270 days.
 - I spent part or all of the year on active military duty, or hospitalized, or undergoing rehabilitation in a licensed rehabilitation facility, or incarcerated or enrolled in an accredited school of higher education and spent _____ days away from the Apartment for these purposes. The total of the number of days that I spent away from the Apartment on active military duty or hospitalized, or undergoing rehabilitation in a licensed rehabilitation facility, or incarcerated or enrolled in an accredited school of higher education and the number of days that I resided and slept in the Apartment is not less than 270 days.

— I resided and slept in the Apartment for approximately _____ days and subleased the Apartment for approximately _____ days.

- d. I have not permitted the Apartment to be used for transient occupancy or occupied by an Ineligible Household, as such term is defined in the Regulatory Agreement.
- e. Any personal tax returns that I filed with any governmental entity identified the Apartment as my only address/residence.
- f. If I am registered to vote, the Apartment is the only address/residence listed on my voter registration form.
- g. If I have a driver's license or other permit to operate a motor vehicle, the Apartment is the only address/residence indicated on that license or permit.
- h. If I filled out and/or filed any other document or application stating my address or residence, such document or application identified the Apartment as my only address/residence.
- i. Check the applicable statement:
 - I have not acquired or leased any other residential property in, or within a 100 mile radius of, New York City.
 - I acquired residential property in, or within a 100 mile radius of, New York City through inheritance and have sold or transferred or I am using best effort to sell such property within one year from the date that the estate transferred title to me. Aside from the property that I acquired through inheritance, I have not acquired or leased any other residential property in, or within a 100 mile radius of, New York City.

5. I understand that this certification is a written instrument that will be filed with, and become part of the official business records of, HPD.
6. I am eighteen (18) or more years of age and have the legal capacity to deliver this certification.

Shareholder

Date

EXHIBIT F

Prohibited Event Fees

Calendar Year	Prohibited Event Fee
2023	\$700
2024	\$721
2025	\$743
2026	\$765
2027	\$788
2028	\$811
2029	\$836
2030	\$861
2031	\$887
2032	\$913
2033	\$941
2034	\$969
2035	\$998
2036	\$1,028
2037	\$1,059
2038	\$1,091
2039	\$1,123
2040	\$1,157
2041	\$1,192
2042	\$1,227
2043	\$1,264
2044	\$1,302
2045	\$1,341
2046	\$1,382
2047	\$1,423
2048	\$1,466
2049	\$1,510
2050	\$1,555
2051	\$1,602
2052	\$1,650

EXHIBIT G

Scheduled Apartments

EXHIBIT H

Request for Withdrawal from Reserve Account

Owner: _____

Project: _____

Date: _____

Reference is made to that certain Regulatory Agreement, dated as of _____, 20____, by and between [REDACTED] Housing Development Corporation ("HDFC"), and the City of New York ("City"), acting by and through its Department of Housing Preservation and Development ("HPD"). All capitalized terms used herein shall have the meanings ascribed to such terms in the Regulatory Agreement except as otherwise defined herein.

This request is made pursuant to Section 14 of the Regulatory Agreement.

Amount Requested: \$_____

Purpose:

- These funds are intended to fund an operating shortfall for the Property which is described in the supporting documentation submitted herewith.
- These funds are intended to pay for capital needs for the Property described in the supporting documentation submitted herewith, which include one or more contractor's bids (three or more bids for requests of \$10,000 or more).

[REDACTED] **HOUSING DEVELOPMENT
FUND CORPORATION**

By: _____
Name: _____
Title: _____

EXHIBIT I

Owner Occupancy Affidavit

(Spouse or Domestic Partner)

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

_____, being duly sworn, under penalty of perjury, deposes and says:

1. I am the spouse or domestic partner of _____ (the "Shareholder"), the owner of the shares (the "Shares") allocated to a cooperative dwelling unit ("Apartment") in the building known by the street address [REDACTED] ("Property").and the tenant under the Proprietary Lease (the "Proprietary Lease") for the Apartment.
2. As of the date hereof, in accordance with the request of the Shareholder and the undersigned I am being added as a shareholder to the share certificate for the Shares and as a tenant to the Proprietary Lease).
3. I intend to occupy the Apartment as my primary residence.
4. In connection with my purchase of the Shares , I will be signing legal documents in which I promise to continuously occupy the Apartment as my sole primary residence ("Owner Occupancy Requirements"). Among other things, the Owner Occupancy Requirements:
 - (i) require me to reside and sleep at the Apartment not less than 270 calendar days per year (unless I am on active military duty, hospitalized, undergoing rehabilitation in a licensed rehabilitation facility, incarcerated or enrolled in an accredited school of higher education in which case each night I spend away from the Apartment for this purpose will be counted as a night spent in the Apartment, or enter into an authorized sublease as described below),
 - (ii) prohibit me from subleasing the Apartment for more than a cumulative total of 15 months in any 5 year period, prohibit me from subleasing the Apartment to anyone whose income exceeds a specified limit, limit the rent that I may charge for any sublease, and prohibit me from allowing the Apartment to be used for transient occupancy or occupied by household that would not be eligible to purchase the shares allocated to the Apartment,
 - (iii) require me to indicate the Apartment as my sole address/residence on any tax return, voter registration, driver's license or other permit to operate a motor vehicle, and any other document or application stating my address or residence, and
 - (iv) prohibit me from acquiring, owning, or leasing any other residential property in, or within a 100 mile radius of, New York City (and require me to sell or transfer, or use best efforts to sell, any such residential property that I acquire through

inheritance within one year from the date that the estate transfers title to me).

5. I give this affidavit in order to induce the City of New York, acting by and through its Department of Housing Preservation and Development ("HPD") to (i) permit my acquisition of shares in the cooperative housing development fund corporation that owns the Property ("HDFC"), and (ii) provide certain subsidies to the HDFC. I understand that HPD is relying upon my representation that I will comply with the Owner Occupancy Requirements.
6. I understand that HPD may require me to provide an annual certification or affidavit regarding my compliance with the Owner Occupancy Requirements and that HPD may use any lawful means to investigate my compliance with the Owner Occupancy Requirements.
7. I understand that a misstatement or misrepresentation in this Affidavit may result in civil or criminal penalties and that any violation of the Owner Occupancy Requirements may result in legal action against me or the imposition of additional fees, charges, or special assessments in connection with the Apartment.
8. I am eighteen (18) or more years of age and have the legal capacity to deliver this Affidavit.

Name:

Sworn to before me on
the ____ day of ___, 20__

Notary Public

EXHIBIT J

Investigation Clause.

(a) Definitions.

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

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

(c) **Refusal to Testify.**

If (1) any person who has been advised that a statement made by the person, and any information from such statement, will not be used against the person in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or (2) any person refuses to testify for a reason other than the assertion of a privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by

designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony governing the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision of the City or State or any local development corporation within the City, then the commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing upon not less than five (5) days' written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

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

(e) **Penalties.** The penalties that may attach after a final determination by the commissioner or agency head may include but shall not exceed:

1. **Disqualification.** The disqualification for a period not to exceed five (5) years from the date of an adverse determination of any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or
2. **Cancellation.** The cancellation or termination of any and all existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(f) **Factors.** The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Paragraphs f(1) and f(2) hereof. The commissioner or agency head may also consider, if relevant and appropriate, the criteria established in Paragraphs (f)(3) and (f)(4) hereof in addition to any other information that may be relevant and appropriate.

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

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

(g) Warranties and Enforcement.

- (1) City Employees. The parties to this Agreement represent and warrant that to the best of their knowledge, (i) no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this Agreement or in connection with the performance of this Agreement, and (ii) no officer, agent, employee, or representative of the City has any interest, directly or indirectly, in this Agreement or the proceeds of this Agreement. The parties to this Agreement shall not hereafter make or pay any consideration as aforesaid and shall cooperate fully with the Commissioner of Investigation of the City and shall promptly report in writing any solicitation of money, goods, requests for future employment, or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation, or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the parties or affecting the performance of this Agreement.
- (2) Enforcement. In the event of any violation of Paragraph (g)(1) hereof,, the Commissioner of HPD may convene a hearing pursuant Paragraph c) of this Exhibit and, upon such hearing, make a determination, in accordance with the considerations set forth in Paragraph (f), of this Exhibit, as to whether or not a violation has occurred. The penalties imposed may include but are not permitted to exceed the penalties set forth in Paragraph (e) on this Exhibit.

EXHIBIT K

HireNYC

The following HireNYC Rider applies to the HDFC, the general contractor, and all subcontractors for the project with contracts of \$500,000 or more and shall be included in the construction contract with the general contractor and all such subcontracts. All references to "Covered Party(ies)" shall be deemed to apply to the HDFC, the general contractor, and all such subcontractors responsible for job posting during the project, as described below.

HIRING AND EMPLOYMENT RIDER

Introduction

This Rider addresses the HireNYC process, including reporting obligations under the HireNYC process, and certain other reporting requirements imposed by law. In general, the HireNYC process under this Rider requires Covered Parties to enroll with the HireNYC portal for the City of New York (the "City") found within the Department of Small Business Services' ("SBS") website, to disclose all new entry to mid-level job opportunities (as defined below) that are created by the project and located in New York City, ("Covered Jobs") and to evaluate or interview qualified candidates from HireNYC for Covered Jobs. Entry to mid-level jobs shall mean jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see Column F of <https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls>).

A. Enrollment

Each Covered Party must be enrolled with the HireNYC system, found at nyc.gov/hirenyc. The HDFC and general contractor shall each enroll within thirty (30) days after the date of construction closing. Subcontractors must be enrolled by the earlier of (i) fifteen (15) days after the full execution of its subcontract or (ii) the start of work under such subcontract

The HDFC or general contractor shall engage with SBS to create a project work plan that details the planned subcontracting engagements and any expected hiring needs. The work plan should include information such as projected start dates for subcontractors, the anticipated schedule of initiating the hiring process for any positions they might hire for, and contact information for all Covered Parties.

The HDFC and general contractor may designate a project coordinator to act as the main contact for the Covered Parties with regard to the matters contained in this Rider. The role of the project coordinator will be to manage the administrative enrollment requirements of subcontractors and to facilitate communication between the Covered Parties and SBS.

B. Recruitment Requirements

Once enrolled in HireNYC, the Covered Parties shall update the HireNYC portal with a list of all Covered Jobs as they become known. The Covered Parties or project coordinator must request candidates through the HireNYC portal to fill any Covered Jobs no less than three weeks prior to the intended first day of employment for each new position, or as otherwise negotiated with SBS, whose consent will not be unreasonably withheld, and must also update the HireNYC

portal as set forth below. If an employee is needed in an unexpected situation to keep a project on schedule, the Covered Party must notify SBS of this need and if SBS is not able to refer a candidate within three (3) business days, the Covered Party may proceed without further consideration.

After enrollment and submission of relevant information through the HireNYC portal by Covered Parties or the project coordinator, SBS will work directly with the hiring manager for each Covered Party to develop a recruitment strategy for Covered Jobs. HireNYC will screen applicants based on employer requirements and refer qualified applicants to the appropriate Covered Party for evaluation or interviews. The Covered Parties must evaluate or interview referred applicants whom it believes are qualified. These requirements do not limit the Covered Party's ability to work with community partners who may also refer candidates for job opportunities, to assess the qualifications of prospective workers, or to make final hiring and retention decisions. No provision of this Rider shall be interpreted so as to require a Covered Party to employ any particular worker or to limit consideration to the prospective employees referred by HireNYC.

In addition, this Rider shall not apply to positions that a Covered Party intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York or to positions covered by Collective Bargaining Agreements or Project Labor Agreements. Covered Parties shall not be required to report such openings with HireNYC. However, Covered Parties shall enroll with the HireNYC system pursuant to Section A, above, and, if such positions subsequently become open, then the remaining provisions of this Rider will apply.

C. Reporting Requirements

After completing an evaluation or interview of a candidate referred by HireNYC, the Covered Party or project coordinator must provide feedback via the portal to indicate which candidates were evaluated or interviewed and hired, if any. For any individual hired through HireNYC, the Covered Party or project coordinator shall provide the expected start date, wage, and hours expected to work. The Covered Party or project coordinator shall provide such information on a monthly basis through the HireNYC portal for any candidates referred by HireNYC that are evaluated, interviewed and/or hired in a particular month.

In the event a Covered Party does not have any Covered Jobs in any given year, the Covered Party or project coordinator shall be required to provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of the registration of the contract and each anniversary date.

Covered Parties or the project coordinator shall report to the City all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule. In addition, Covered Parties shall comply with all reporting requirements imposed by law or rule, or as otherwise requested by the City.

D. Audit Compliance

Covered Parties shall permit the New York City Department of Housing Preservation and Development ("HPD") to inspect any and all records concerning or relating to job openings or the hiring of individuals for Covered Jobs. Covered Parties shall retain all such records for one (1) year from the date of contract completion and shall permit an inspection by HPD within seven (7) business days of the request.

E. Other Hiring Requirements

Covered Parties shall comply with all federal, state, and/or local hiring requirements as may be set forth elsewhere in this Agreement or other project documents.

EXHIBIT L

LIVING WAGE LAW CONTRACT PROVISIONS

Section 6-134 of title 6 of the Administrative Code of the City of New York (“Section 6-134”) and the Mayor’s Executive Order No. 7 dated September 30, 2014 (the “EO No. 7”) regulate the wages of employees employed by Covered Employers (as such term as is defined under Section 6-134) and Additional Covered Employers (as such term is defined under EO No. 7) (Covered Employers and Additional Covered Employers, other than those entities exempted under Section 6-134 as modified by EO No. 7, shall collectively be referred to herein as “Covered Employers”). Therefore, in accordance with Section 6-134 and EO No. 67, the Covered Employers agree:

A. The Covered Employer shall comply with the requirements of Section 6-134 and EO No. 7 and any rules promulgated thereunder (collectively, the “LW Laws”), including but not limited to, the payment of no less than a Living Wage (as defined in EO No. 7).

B. This Exhibit shall remain in full force and effect for the term of the Financial Assistance (as such term is defined in Section 6-134) from The City of New York (the “City”) or a City economic development entity (as such term is defined under Section 6-134 and EO No. 7), or ten (10) years, whichever period is longer.

C. (1) The Covered Employer shall ensure that any (i) tenant, subtenant, leaseholder or subleaseholder of the Covered Employer that occupies property improved or developed with Financial Assistance, (ii) concessionaire that operates on the property improved or developed with Financial Assistance, and (iii) any person or entity that contracts or subcontracts with the Covered Employer to perform work for a period of more than 90 days on the premises of the property improved or developed with Financial Assistance, including temporary services or staffing agencies, food service contractors and other on-site service contractors, but (iv) excluding those persons or entities excluded from the definition of “Additional Covered Employer” in EO No. 7 (all such persons or entities shall be collectively referred to herein as “covered occupants”) pays employees no less than a Living Wage, and otherwise complies with the requirements of the LW Laws. The Covered Employer shall include in any contract or agreement with the covered occupant the attached covered occupants’ rider (“Rider”) to this Section, and take such additional steps as are reasonably necessary to ensure covered occupants are in compliance with the LW Laws, including inspecting the books and records of the covered occupant and confirming delivery of all required notices.

(2) If a covered occupant fails to comply with the LW Laws, the Covered Employer may be subject to imposition of a Compliance Fee as provided for in Paragraph H below.

D. The Covered Employer shall not retaliate, discharge, demote, suspend or take any adverse employment action in the terms and conditions of employment against employee for reporting or asserting a violation of this Agreement or of the LW Laws, for seeking or communicating information regarding rights conferred by the LW Laws, for exercising any rights protected under LW Laws, or for participating in any investigatory, administrative or court proceeding related thereto. The foregoing protections shall also apply to any employee or his or her representative who in good faith alleges a violation of the LW Laws, or who seeks or communicates information regarding rights conferred by the LW Laws in circumstances where he or she in good faith believes it applies. The Covered Employer acknowledges and agrees that taking adverse employment action against an employee or his or her representative within sixty

(60) days of the employee engaging in any of the aforementioned activities shall raise a rebuttable presumption of the Covered Employer having done so in retaliation for those activities.

E. The Covered Employer shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects or assignments that are subject to the requirements of Section 6-134, the wages paid and benefits provided for such hours worked, and the delivery of required employee notices. The Covered Employer shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of six (6) years after the later of completion of this Agreement or the project is completed. The Covered Employer acknowledges and agrees that failure to so retain such payroll records shall create a rebuttable presumption that the Covered Employer did not pay its employees the wages and benefits required under Section 6-134 and EO No. 7. Upon request, the Covered Employer shall provide a certified original payroll record to the City or City economic development entity.

F. The Covered Employer shall maintain a current list of all its covered occupants and provide that list to the City or City economic development entity upon request.

G. No later than the day on which an employee begins work at a site subject to the requirements of Section 6-134 and/or EO No. 7, the Covered Employer shall post in a prominent and accessible place at every such work site and provide each employee with a copy of a written notice, in a form provided by the City or City economic development entity, detailing the wages, benefits, and other protections to which covered employees are entitled under Section 6-134 and EO No. 7, providing the name, address and phone number of the Comptroller, and advising employees that if they have been paid less than the Living Wage they may notify the Comptroller and request an investigation. The Covered Employer shall promptly replace any posted notice that is damaged, defaced, illegible or removed for any reason. Such notices shall be provided in English, Spanish and any other language deemed appropriate in the area of the project site. The Covered Employer shall provide the aforementioned written notices to its covered occupants, and require each covered occupant to comply with this Paragraph G in the same manner as the Covered Employer.

H. The Covered Employer agrees that failure to comply with any of the requirements of the LW Laws shall constitute a material breach by the Covered Employer of the terms of this Agreement. The Covered Employer acknowledges and agrees that the City or City economic development entity shall have the right, subject to any cure provisions provided for under Section 6-134, to pursue any rights or remedies available under this Agreement, Section 6-134 and EO No. 7 or under applicable law, including (i) termination of this Agreement, (ii) recovering from the Covered Employer the financial assistance disbursed or provided to the Covered Employer, including requiring repayment of any taxes abated or deferred, (iii) withholding of any payment due from the City or City economic development entity to the financial assistance recipient in order to safeguard the rights of employees in a manner consistent with the withholding procedures established by subdivision 2 of section 235 of the New York Labor Law, and (iv) imposing any of the remedies provided for in subsection (g)(2) and (7) of Section 6-134, including payment of wages and benefits, interest, civil penalties and sums withheld at the commencement of an investigation, and directing reinstatement and/or filing and disclosure. No provision in this Agreement is intended to limit any right of any employee to seek legal and/or equitable relief from a court of competent jurisdiction as provided for in subsection (g) of Section 6-134.

In addition, if the Covered Employer fails to perform in accordance with any of the requirements of Section 6-134 and EO No. 7 and fails to cure such failure, and there is a continued need for the service, the City may obtain from another source the required service as specified in

the original Agreement, or any part thereof, and may charge (including any administrative charge established by the City or City economic development entity), the Covered Employer for any difference in price resulting from the alternative arrangements, and may, as appropriate, invoke such other sanctions as are available under the Agreement and Applicable law.

For purposes of Section C of this Agreement, in the event that a covered occupant fails to pay a Living Wage or otherwise comply with Section 6-134 and/or EO No. 7, the City or City economic development entity may provide written notice of its intent to impose a Compliance Fee (defined below) on the Covered Employer unless, within 60 days of delivery of the notice, the Covered Employer provides sufficient evidence to the City of the Covered Employer's diligent efforts to enforce the requirement that covered occupants comply with the LW Laws. For purposes of this subsection H, diligent efforts shall mean that (i) the Covered Employer has attached the Rider or included similar living wage language in any contract or agreement with a covered occupant; (ii) the Covered Employer has provided each covered occupant with written notices as set forth in subsection G herein; (iii) the Covered Employer shall obtain and maintain all certifications from the covered occupants certifying that it has paid its employees a Living Wage; (iv) The Covered Employer shall obtain an Employee Certification log in the form attached hereto and made a part hereof as Attachment B; (v) The Covered Employer shall retain such documentation as is reasonably necessary to prove that it used diligent efforts to enforce the requirement that the covered occupant comply with the LW Laws, which may consist of signed copies of the notices, default letters, email receipts and/or logs; and (vi) the Covered Employer diligently pursues such action to remove the covered occupant and/or otherwise cure the violation.

In the event that the Covered Employer fails to timely deliver such evidence, the City or City development agency shall be entitled to collect liquidated damages in the amount of \$500 per instance (the "Compliance Fee") from the Covered Employer.

I. On August 1st of each year during the Term of this Agreement, the Covered Employer shall submit to the City or City economic development entity an annual certification (in the form attached hereto and made a part hereof as Attachment A), in a form provided by the City or City economic development entity, executed under penalty of perjury, stating that all of its employees are paid no less than the Living Wage and are otherwise treated in accordance with the LW Laws, providing the names, addresses and telephone numbers of such employees and affirming the obligation of the Covered Employer to assist the City or City economic development entity to remedy any non-compliance by the Covered Employer. All such statements shall be certified by the chief executive or chief financial officer of the Covered Employer, or the designee of any such person.

J. The Covered Employer shall pay to the City or City economic development entity all fees, costs expenses, (including, without limitation, attorneys' fees and disbursements) incurred in connection with the enforcement of the terms of this Section by the City or City economic development entity, or any investigation related thereto, within 30 days after demand therefor.

K. The Covered Employer shall cooperate with the Comptroller, Department of Consumer Affairs ("DCA"), the City in connection with their monitoring, investigation, inspection and enforcement efforts related to compliance with the LW Laws, and provide the Comptroller, the City with any and all records and information reasonably requested by such entities in connection with such efforts. In connection with any such activities, the Covered Employer shall permit the Comptroller, the City to observe work being performed at the job site, interview employees during and after work hours and examine the books and records related to the payrolls being investigated and the delivery of required notices. If the Covered Employer fails to comply with this subsection

K, such failure to comply shall be deemed a default under this contract or agreement and the Covered Employer shall be subject to any and all remedies set forth in this Section. The Covered Employer acknowledges and agrees that the Comptroller, DCA, the City are each intended to be third party beneficiaries of the terms and provisions of this section.

L. Training provided by DCA in connection with LW Laws.

M. The provisions of this Section shall survive the expiration of the Restriction Period and/or the termination of this Agreement.

COVERED OCCUPANTS' RIDER

All agreements between Covered Employer and covered occupants (as defined above) shall include the following provisions:

The Covered Occupant hereby agrees to:

1. comply with the requirements of Section 6-134 and EO No. 7, including but not limited to, the payment of no less than a living wage to each of its employees (as such term is defined under Section 6-134).
2. pay all employees a living wage for the term of the financial assistance (as such term is defined under Section 6-134) or ten (10) years, whichever period is longer.
3. maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects or assignments that are subject to the requirements of Section 6-134 and EO No. 7, and the wages paid and benefits provided for such hours worked. The Covered Occupant shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of six (6) years after the later of completion of this Agreement or the project is completed. The Covered Occupant acknowledges and agrees that failure to so retain such payroll records shall create a rebuttable presumption that the Covered Occupant did not pay its employees the wages and benefits required under Section 6-134 and EO No. 7. Upon request, the Covered Occupant shall provide a certified original payroll record to Landlord, the City and/or City economic development entity within ten (10) Business Days.
4. cooperate with the Comptroller, Department of Consumer Affairs ("DCA") and the City in connection with their monitoring, investigation, inspection and enforcement efforts related to compliance with the LW Laws, and provide the Comptroller and the City or City economic development entity with any and all records and information reasonably requested by such entities in connection with such efforts. In connection with any such activities, the Covered Occupant shall permit the Comptroller and the City to observe work being performed at the job site, interview employees during and after work hours and examine the books and records related to the payrolls being investigated and the delivery of required notices. The Covered Occupant acknowledges and agrees that the Comptroller, DCA, and the City are each intended to be third party beneficiaries of the terms and provisions of this Section.
5. post in prominent and accessible place at every such work site and provide each employee with a copy of a written notice, in a form provided by the (applicable Covered Employer), detailing the wages, benefit, and other protections to which covered employees are entitled under Section 6-134 and EO No. 7, providing the name, address and phone number of the Comptroller, and advising employees that if they have been paid less than the Living Wage they may notify the Comptroller and request an investigation. The Covered Occupant shall promptly replace any posted notice that is damaged, defaced, illegible for removed for any reason. Such notices shall be provided in English, Spanish and any other language deemed appropriate in the area of the project site.

6. not retaliate, discharge, demote, suspend or take any adverse employment action in terms and conditions of employment against any employee for reporting or asserting a violation of this Agreement or of the LW Laws, for seeking or communicating information regarding rights conferred by the LW Laws, for exercising any rights protected under LW Laws, or for participating in any investigatory, administrative or court proceeding related thereto. The foregoing protections shall also apply to any employee or his or her representative who in good faith alleges a violation of the LW Laws, or who seeks or communicates information regarding rights conferred by the LW Laws in circumstances where he or she in good faith believes it applies. The Covered Occupant acknowledges and agrees that taking adverse employment action against an employee or his or her representative within sixty (60) days of the employee engaging in any of the aforementioned activities shall raise a rebuttable presumption of the Covered Occupant having done so in retaliation for these activities.
7. provide a written list of all other Covered Occupants at the project site to Covered Employer within ten (10) business days of Covered Occupants receipt of a request therefor.
8. be subject to any rights or remedies against the Covered Employer and available under this Agreement, Section 6-134 and EO No. 7 or under applicable law for Covered Occupant's failure to comply with the requirements set forth in this Agreement, Section 6-134 and EO No. 7.
9. pay to the City or City economic development entity all fees, costs and expenses (including, without limitation, attorneys' fees and disbursements) incurred in connection with the enforcement of the terms herein, Section 6-134 and EO No. 7 within 30 days after demand therefor.
10. The provisions set forth herein shall survive the expiration of the Restriction Period and/or the termination of this Agreement.

Attachment A

CERTIFICATION

Reference is hereby made to that certain _____ dated as of _____ ("Project Agreement"), by and between _____ ("Certifying Entity") and _____ ("Agency").

Pursuant to New York City Administrative Code Section 6-134, also known as the Fair Wages for New Yorkers Act (the "Act"), the undersigned certifies under the penalties of perjury, that the following information is true:

- 1 I am the chief executive officer or the chief financial officer of the Certifying Entity, or the designee of either of them.
- 2 The undersigned, on behalf of _____ ("Certifying Entity") agrees to comply with the requirements of Section 6-134 of the Administrative Code of the City of New York, and with all applicable federal, state and local laws.
- 3 [Certifying Entity, as of the _____ day of _____, qualifies for the exemption pursuant to the Act and Executive Order No. 7 because (state reason for exemption)]

- 4 All of the "employees" of the Certifying Entity at the project site are paid no less than a "living wage" (as such terms are defined in the Act).
- 5 The Certifying Entity has notified all other "covered employers" operating at the project site that they must pay their "employees" not less than a "living wage" and must comply with all other requirements of the Act (as such terms are defined in the Act).
- 6 The Certifying Entity hereby affirms its obligation to assist the Comptroller and the City of New York to investigate, monitor and enforce and remedy non-compliance of all "covered employers" (as such term is defined in the Act) with the Act.
- 7 The Certifying Entity provides the following information. Attach additional sheets if necessary.

Full Name of Certifying Entity _____
Address _____
City _____ State _____ Zip Code _____
Telephone Number _____

The names, addresses and telephone numbers of all "covered employers" at the project site (whether or not such "covered employers" are exempt) are:

Company's Name: _____
Company's Address: _____
Company's Phone Number: _____

Other Covered Employer's Name: _____

Other Covered Employer's Address: _____

Other Covered Employers Phone Number: _____

Other Covered Employer's Name _____

Other Covered Employer's Address: _____

Other Covered Employer's Phone Number _____

Other Covered Employer's Name _____

Other Covered Employer's Address: _____

Other Covered Employer's Phone Number _____

Other Covered Employer's Name _____

Other Covered Employer's Address: _____

Other Covered Employer's Phone Number _____

IN WITNESS WHEREOF, on this _____ day of _____, _____, I hereby certify
under penalty of perjury that the foregoing statements and information are true and correct.

[NAME OF CERTIFYING ENTITY]

By: _____

Name: _____

Title: _____

Attachment B

EMPLOYEE LOG CERTIFICATION

I, _____, hereby certify under penalty of perjury, that the following information is true and correct:

1. I am an employee of _____ (the "Company").
2. My position is _____.
3. The Company provided me with a written notice explaining my rights as an employee and the Company's obligation under the Fair Wages for New Yorkers Act, constituting New York City Administrative Code Section 6-134, as expanded by the Executive Order No. 7, dated September 30, 2014 (the "Act").
4. The Company pays me no less than a living wage pursuant to the Act.

By: _____
Name: _____
Date: _____