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Klamath County, Oregon

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Oregon Housing & Community Services Department
725 Summer Street NE, Suite B
Salem, Oregon 97301-1266
Attn: Affordable Rental Housing Division

SPACE ABOVE FOR RECORDER'S USE

**OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT
PASS-THROUGH REVENUE BOND PROGRAM, LOCAL INNOVATION AND FAST
TRACK & LOW-INCOME HOUSING TAX CREDIT PROGRAM**

**OPERATING AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS OPERATING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this “**Operating Agreement**” or “**Agreement**”) is made and entered into as of this 1st day of May 2024 (the “**Effective Date**”) by and between the State of Oregon, acting by and through its Housing and Community Services Department (together with its successors and assigns, “**OHCS,**” or “**Governmental Lender**”), and **Mountainview Townhomes Limited Partnership**, an Oregon limited partnership (“**Owner**”).

RECITALS

A. Owner has applied to OHCS for financial assistance from multiple OHCS programs to partially finance the new construction of an affordable, multifamily, rental-housing development comprised of a total of seventy-two (72) units (including zero (0) manager unit(s)), of which seventy-two (72) residential units will be income and rent-restricted for low-income persons as further described below (the “**Qualified Units**”) in twelve (12) residential building(s) and one (1) community building(s) (collectively, and including related common areas and other improvements, the “**Improvements**”) that are owned or will be owned by Owner. The Improvements are situated on certain real property leased by Owner and located in the city of Klamath Falls (the “**City**”), Klamath County (the “**County**”), Oregon and further described in Exhibit A, attached hereto (the “**Property**”). The Property and the Improvements are collectively referred to herein as the “**Project**” and known as “**Mountainview Townhomes.**”

B. The Governmental Lender, U.S. Bank, National Association, a national banking association, as initial funding lender (the “**Funding Lender**”), the Fiscal Agent (as hereinafter defined), and Owner will execute and deliver a Funding Loan Agreement, dated as of the Effective Date (the “**Funding Loan Agreement**”) pertaining to the loan made to the Governmental Lender

by the Funding Lender (the “**Funding Loan**”), the proceeds of which will be loaned to Owner (the “**Project Loan**” and together with the Funding Loan, the “**Loans**”) pursuant to a Borrower Loan Agreement, dated as of the Effective Date by and among the Governmental Lender, Owner and the Fiscal Agent (the “**Project Loan Agreement**”), in connection with the Project.

C. The Funding Loan is evidenced by that certain Oregon Housing and Community Services Department Housing Development Revenue Note (Mountainview Townhomes Project), 2024 Series F, dated as of May 8, 2024 (the “**Governmental Note**”) in a maximum aggregate principal amount of **FIFTEEN MILLION DOLLARS (\$15,000,000)** delivered by the Governmental Lender to the Funding Lender. Owner’s repayment obligations for the Project Loan are evidenced by a Promissory Note, dated as of May 1, 2024 (the “**Project Note**”) in a maximum aggregate principal amount of **FIFTEEN MILLION DOLLARS (\$15,000,000)**, delivered to the Governmental Lender by Owner, which Project Note will be assigned by the Governmental Lender to the Fiscal Agent, for the benefit of the holder of the Governmental Note, as security for the Funding Loan.

D. OHCS has: (i) approved the conditional Loans; (ii) approved a conditional reservation (“**Credits Reservation**”) of federal 4% Low-Income Housing Tax Credit (“**LIHTC**”) Program tax credits up to an aggregate amount not to exceed **FOURTEEN MILLION THREE HUNDRED SEVENTY-NINE THOUSAND TWO HUNDRED DOLLARS (\$14,379,200)**, and available in yearly increments with each increment not to exceed **ONE MILLION FOUR HUNDRED THIRTY-SEVEN THOUSAND NINE HUNDRED TWENTY DOLLARS (\$1,437,920)** (the “**Credits**”); (iii) approved a conditional loan of Local Innovation And Fast Track Housing Program (“**LIFT Program**”) funds in an amount not to exceed **ELEVEN MILLION, THREE HUNDRED FORTY-EIGHT THOUSAND ONE HUNDRED ONE DOLLARS (\$11,348,101)** (the “**LIFT Loan**”); and approved a conditional award of Oregon Affordable Housing Tax Credits (“**OAHTC**”) in an amount not to exceed **THREE MILLION DOLLARS (\$3,000,000)**.

E. The Governmental Lender, Owner, and Fiscal Agent have or will execute, deliver, and record in the official records of the County, a Regulatory Agreement, dated as of the Effective Date (the “**Regulatory Agreement**”). The Regulatory Agreement will restrict the use of the Project so as to preserve the exemption from federal income taxation of interest on the Governmental Note including by, but not limited to, imposing covenants, restrictions, charges and easements, that shall run with the land and be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein or hereafter for the duration of the Regulatory Agreement. The Funding Loan Agreement, the Project Loan Agreement and the Regulatory Agreement, together with all other documents related to the Governmental Note (including as further described below), are collectively referred to herein as the “**Note Documents**.”

F. Through the LIHTC Program, OHCS will potentially allocate the Credits for the Project. The Credits will be evidenced, among other things, by a 4% Low-Income Housing Tax Credit Reservation and Extended Use Agreement, dated as of the Effective Date (the “**REUA**”) between

Owner and OHCS, and a 4% Tax Credit Allocation Indemnity and Hold Harmless Agreement, dated as of the Effective Date (the "**LIHTC Indemnity**").

G. Owner and OHCS will subsequently execute and record in the official records of the County a 4% Low-Income Housing Tax Credit Declaration of Land Use Restrictive Covenants (the "**Declaration**") to comply with the requirements of Section 42 of the Internal Revenue Code of 1986, as amended, by, but not limited to, imposing covenants, restrictions, charges and easements consistent with the terms of the REUA, that shall run with the land and be binding and a burden upon the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein or hereafter for the duration of the Declaration. The documents referenced in Recitals F and G, together with all other documents related to the Credits are collectively referred to herein as the "**LIHTC Documents**."

H. Through the LIFT Program, OHCS will provide the conditional LIFT Loan for the Project. The LIFT Loan will be evidenced, among other things, by: (i) a Promissory Note in the aggregate principal amount of the LIFT Loan dated as of the Effective Date (the "**LIFT Note**") delivered to OHCS by Owner; (ii) a Line of Credit Trust Deed, Security Agreement, Fixture Filing and Assignment of Leases and Rents, dated as of the Effective Date (the "**LIFT Fee Trust Deed**") executed by Owner, as Grantor, in favor of OHCS, as beneficiary, to be recorded in the official records of the County; (iii) a Loan Agreement, dated as of the Effective Date (the "**LIFT Loan Agreement**") entered into by and between Owner and OHCS; (iv) a Repayment and Completion Guaranty Agreement, dated as of the Effective Date (the "**Guaranty**") entered into between OHCS and **Stewardship Development LLC**, an Oregon limited liability company ("**Guarantor**"); (v) a Project Management Agreement to be executed by OHCS, Owner, and the Management Agent prior to the Completion Date and in substantially the form attached hereto as Exhibit B (the "**Project Management Agreement**"); (vi) this Operating Agreement; and (vii) any ancillary documents related to the documents previously identified in this Recital. The documents referenced in this Recital, together with all other documents related to the LIFT Loan, including as amended from time to time, are hereinafter, collectively, referred to as the "**LIFT Documents**."

I. Through the OAHTC Program, OHCS will provide the contingent award on the loan for the Project from Owner's senior mortgage lender as evidenced, among other things, by an Oregon Affordable Housing Tax Credit Program Declaration of Land Use Restrictive Covenants (the "**OAHTC Declaration**"), which will subsequently be entered into by and between Owner and OHCS and recorded in the official records of the County. The documents referenced in this Recital, together with all other documents related to the OAHTC award, are collectively referred to herein as the "**OAHTC Documents**."

J. The LIHTC Documents, LIFT Documents, and OAHTC Documents are collectively referred to herein as the "**Financing Documents**."

K. Owner and OHCS are executing and recording this Operating Agreement in the official records of the County to restrict the use and control the operation of the Project so as to comply with the requirements of the Code and the Act by, but not limited to, imposing covenants, restrictions, charges and easements, that shall run with the land and be binding and a burden upon

the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein or hereafter for the duration of this Operating Agreement.

AGREEMENT

NOW, THEREFORE, for good and sufficient consideration, including the terms, conditions, covenants, warranties, and undertakings set forth herein, the parties hereto hereby agree as follows:

1. INCORPORATIONS; DEFINITIONS.

1.1. Incorporation. The foregoing Recitals and referenced documents are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein, provided, however, that nothing in the Recitals or in the incorporated documents will be deemed to modify the express provisions hereinafter set forth.

1.2. Construction. The parties agree that they and their legal counsel have participated in the preparation of this Agreement. Accordingly, the interpretation of ambiguous terms, if any, shall not be construed against OHCS or the State of Oregon.

1.3. Priority of Terms; No Limitation of Remedies. To the degree, if any, that the transfer provisions of Section 13 hereof, or the notice, remedy, and right to cure provisions of Section 21 hereof are in conflict with similar provisions in any of the other Financing Documents, the referenced provisions of this Operating Agreement will prevail. This provision does not limit available remedies hereunder or available remedies under any of the other Financing Documents or Note Documents.

1.4. Definitions. Capitalized terms used herein without definition or not otherwise defined below, have the meaning ascribed to such term in the Financing Documents and the Project Requirements unless the context clearly requires otherwise.

“Act” means Oregon Revised Statutes (“ORS”) chapter 286A and ORS 456.515 to 456.725, and 458 inclusive, all as may be amended from time to time.

“Adjusted Income” means adjusted income, for purposes of Section 8 of the United States Housing Act of 1937, as amended, as defined in Regulations Section 24 CFR Section 5.611.

“Affiliate” means any corporation, partnership, limited liability company or other entity directly or indirectly controlling, controlled by or under common control with such entity. For this purpose, **“control,” “controlled” or “controlling”** means (i) the ownership directly or indirectly of voting control of the corporation or other entity, (ii) control of the management through holding, directly or indirectly, a general partnership interest in a limited partnership or the managing member interest in a limited liability company, or (iii) if such entity has no stock or equity, control over a majority of the board of directors of such entity.

“Affirmative Fair Housing Marketing Plan” means Owner’s Affirmative Fair Housing Marketing Plan submitted with the Application and requiring outreach and affirmative marketing to potential tenants that are least likely to apply for housing at the Project (“Opportunity Tenants”), in order to make them aware of available affordable housing opportunities. Affirmative marketing requires Owner and the Management Agent to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area to Available Units. Opportunity Tenants for the Project, as proposed in the Application, will be households negatively impacted by wildfires, Black, African-American, Hispanic, Latino, Native Hawaiian, Other Pacific Islander, and Asian families and individuals. Initial marketing to Opportunity Tenants will be conducted through bulletin boards, brochures, notices, flyers and letters. If the outreach and affirmative marketing to Opportunity Tenants is not successful, the Affirmative Fair Housing Marketing Plan will be re-evaluated and updated if necessary.

“Affordability Period” means the collective period of time beginning on the earliest date and ending on the latest date of the following durations, each of which may commence or end on different dates but, to the extent that they coincide, run concurrently: (a) the “Qualified Project Period” applicable to the Project; (b) the aggregate of the respective **“Affordability Periods”** described in the Financing Documents; and (c) the time period beginning with the Completion Date and expiring not sooner than December 31, 2056 provided that Owner is in continuous compliance with the terms of this Agreement during such time period; However, in the event that the LIFT Trust Deed is foreclosed or otherwise terminated and the LIFT Loan has not been satisfied, the Affordability Period will be extended to the later of: (i) an additional thirty (30) years beyond the original Affordability Period; or (ii) until December 31, 2086. Such continuous compliance requirement will continue in effect notwithstanding the retirement of the Governmental Note, the recapture of Credits, repayment of the LIFT Loan, and regardless of whether or not the Governmental Note or any other tax-exempt obligations are outstanding with respect to any part of the Project. Notwithstanding the foregoing, OHCS may, at its sole discretion, extend the Qualified Project Period and Affordability Periods of the respective Financing Documents, as well as this Affordability Period beyond **December 31, 2056**, for periods of time matching corresponding periods of time during which OHCS determines Owner to be in material noncompliance with any of the terms of this Agreement (including the incorporated Financing Documents) or the Regulatory Agreement.

“Available Units” mean Dwelling Units in the Project that are actually occupied and Dwelling Units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a Dwelling Unit that is vacant on the later of (i) the date the Project is acquired or (ii) the Closing Date is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a Dwelling Unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“Closing Date” means May 8, 2024.

“Code” means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States. All

references herein to sections, paragraphs or other subdivisions of the Code or the regulations promulgated thereunder will be deemed to be references to correlative provisions of any successor code or regulations promulgated thereunder.

“Completion Date” means January 29, 2026.

“Corrective Notice” means any directive from OHCS to correct a deficiency in the operation or management of the Project, or other noncompliance with the Project Requirements, as determined by OHCS.

“Deed of Trust” or **“Trust Deed”** means the Line of Credit Instrument, Trust Deed, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of May 1, 2024, together with all exhibits, securing the repayment of the Project Loan and related obligations, and as security for the Funding Loan, executed by the Owner for the benefit of the Governmental Lender, encumbering the Property and the Improvements, as assigned by Governmental Lender to the Funding Lender pursuant to that certain Assignment of Trust Deed and Related Documents dated as of May 1, 2024, executed by Governmental Lender for the benefit of Funding Lender.

“DEI” means that certain Diversity, Equity and Inclusion Agreement executed by Owner in connection with the Project.

“Dwelling Units” or **“Units”** mean the units of multifamily residential rental housing comprising the Project that are available for occupancy. For purposes of this definition, no manager’s unit so designated will be treated as a Dwelling Unit or Unit for Qualified Unit compliance purposes during the time of such occupation.

“Event of Default” means any event of default by Owner under this Operating Agreement, under any Note Document, or under any other Financing Document.

“Excess Revenues” mean that Operating Income remaining after payment of applicable Operating Expenses and, subject to the terms of this Operating Agreement, available for distribution by Owner.

“Financial Institution” means (a) any national bank, banking corporation, national banking association or other banking institution, whether acting in its individual or fiduciary capacity, organized under the laws of the United States, any state, any territory or the District of Columbia, the business of which is substantially confined to banking and is supervised by the Comptroller of the Currency or a comparable state or territorial official or agency; (b) an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state, a territory or the District of Columbia; (c) an investment company registered under the Investment Company Act of 1940 or a business development company as described in Section 2(a)(48) of that Act; (d) an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, insurance company or registered

investment company; or (e) institutional investors or other entities who customarily purchase commercial paper or tax-exempt securities in large denominations.

“Fiscal Agent” means Zions Bancorporation, National Association, as Fiscal Agent, or any successor Fiscal Agent serving as such pursuant to the Funding Loan Agreement and any separate or co-Fiscal Agent serving as such thereunder.

“Functionally Related and Subordinate” has the meaning assigned in Treasury Regulations Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) and shall include facilities for use by Tenants; for example, laundry facilities, parking areas and recreational facilities provided that the same is of a character and size commensurate with the character and size of the Project.

“GAAP” means generally accepted accounting principles consistently applied.

“Governmental Lender” means the State of Oregon, acting by and through its State Treasurer and/or its Housing and Community Services Department.

“Housing Act” means the United States Housing Act of 1937, as amended, or its successor.

“IFRS” means the International Financial Reporting Standards.

“Investor” means NEF Assignment Corporation, as nominee, an Illinois not-for-profit corporation.

“Lease” means the form(s) of OHCS-approved agreement between Owner and a Resident under the terms of which a Resident is entitled to enjoy possession of a Unit in the Project.

“Management Agent” means the duly registered entity with a duly licensed individual in a supervisory role engaged by Owner to manage the operation of the Project at any time during the Affordability Period consistent with the terms of the Project Management Agreement.

“Management Agreement” means that management agreement between Owner and Management Agent, if any, satisfactory to OHCS, as amended or replaced. The Management Agreement is an ancillary document to the Financing Documents, subject to their terms and conditions, and hereby included in the definition thereof and incorporated herein.

“Management Plan” means information provided to OHCS (and satisfactory to OHCS) describing, among other things, Owner/Agent relationship, Project and Project-site management staffing, management responsibilities (specific by position), and marketing outreach, as amended from time to time with the approval of OHCS or as required by OHCS. The Management Plan is an ancillary document to the Financing Documents and included in the definition thereof and incorporated herein.

“Median Income for the Area” means the median income for the primary metropolitan statistical area in which the Project is located as calculated in a manner consistent with determinations of median income for such area under Section 8 of the United States Housing Act of 1937, as amended (or if such program is terminated, under such program as is in effect immediately before such termination), as modified from time to time pursuant to the requirements of Revenue Ruling

94-57 and any successor law, *provided* that the Median Income for the Area for a calendar year shall not be less than the Median Income for the Area for the preceding calendar year.

“Note Counsel” means Orrick, Herrington & Sutcliffe LLP or an attorney at law or a firm of attorneys at law selected by OHCS with a nationally recognized standing in matters pertaining to obligations issued by states and their political subdivisions and the tax-exempt nature of interest on such obligations.

“Note Documents” mean the Funding Loan Agreement, the Project Loan Agreement, the Deed of Trust, the Regulatory Agreement, and related documents executed by one or more of the parties (including without limitation, OHCS, Owner and the Fiscal Agent) related to the financing, acquisition, construction, equipping, or operation of the Project.

“Note Owner” or **“Noteholder”** means the person or entity in whose name such Governmental Note is registered.

“Operating Expenses” means all payments required to be made from Operating Income (including those under the Note Documents, including principal and interest payments thereunder), including but not limited to payments due in connection with any debt secured by the Project, all federal, state, county and local government taxes, assessments, or charges; water and sewer charges; operating costs incurred in meeting subordinated debt of the Project (other than subordinated debt of the general partner or managing member of Owner, if any), maintaining and operating the Project, including without limitation costs of required reserves, utilities, supplies, insurance, compensation of all persons who perform duties connected with the operation, maintenance, and repair of the Project, management of the Project, legal, accounting, and other professional fees incurred in connection with the operation, maintenance, and management of the Project; and any other costs or expenses incurred by Owner or its agents with respect to the Project and not otherwise reimbursed by occupants of the Project, which are properly allocable to the operation or maintenance of the Project in accordance with GAAP or IFRS. Legal, accounting and other professional fees, as well as all other costs, incurred in resisting foreclosure or any other remedy exercised by OHCS, or the Fiscal Agent will not qualify as Operating Expenses nor will any payments made by Owner to any Related Persons except as otherwise specified above.

“Operating Income” means all rents paid by occupants and all other income of the Project, including without limitation interest earnings on moneys in the Operating Fund.

“Operating Income and Expense Fund” or **“Operating Fund”** means the account established in a depository approved by OHCS and otherwise organized and operated pursuant to this Agreement.

“Project Requirements” means all performance requirements, restrictive covenants, easements, encumbrances, warranties, liabilities, operational standards, and other obligations of Owner, Management Agent (as applicable), and others arising under the terms and conditions of the Note Documents, the LIHTC Program, the LIFT Program, including applicable provisions of Article XI-Q of the Oregon Constitution, the Act, the Code, Treasury Regulations, this Agreement, the Note Documents, the Financing Documents, applicable OHCS administrative rules, applicable OHCS manuals, applicable OHCS orders and directives (including Corrective Notices), and other

applicable federal, state, and local laws, ordinances, codes, rules, resolutions, orders, and regulations (all of the foregoing, including as amended from time to time).

“Publicly Held Corporation” means a corporation the outstanding voting stock of which is registered under Section 12(b) or 12(g) of the Securities and Exchange Act of 1934, as amended.

“Qualified Project Period” means a period beginning on the first day on which at least 10% of the dwelling units in the Project are first occupied and ending on the latest of (i) 15 years after the date on which 50% of the Dwelling Units are first occupied, (ii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates, or (iii) the date that the Governmental Note and any other federally tax-exempt obligations relating to the Project cease to be outstanding.

“Qualified Tenants” mean the Tenants inhabiting a Qualified Unit.

“Qualified Units” means Dwelling Units whose Tenants have an aggregate Adjusted Income that does not exceed 60% of the Median Income for the Area, at the time of initial occupancy, adjusted for household size. A Dwelling Unit occupied by one or more students shall only constitute a Qualified Unit if such students meet the requirements of Section 142(d)(2)(C) of the Code. For purposes of applying the Code to the Governmental Note and any obligations issued to refund them, the definition of “income” set forth herein for determining whether a Dwelling Unit in the Project is a Qualified Unit will not change, even if the definition of “income” under the above-referenced Regulations Section is changed. As provided in Sections 4 hereof, the character of a Dwelling Unit as a Qualified Unit or State Income Qualified Unit will be redetermined from time to time.

“Related Persons” means a person who is related to another person if:

(A) The relationship between such persons would result in a disallowance of losses under Section 267 of the Code (relating to disallowance of losses, etc., between related taxpayers) and Section 707(b) of the Code (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(B) Such persons are members of the same controlled group of corporations, as defined in Section 1563(a) of the Code, relating to definition of “controlled group of corporations” (except that “more than 50 percent” will be substituted for “at least 80 percent” each place it appears in Section 1563(a) of the Code) and the regulations thereunder.

“Rent” means that monthly amount that a Resident is obligated to pay Owner pursuant to the terms of a Lease.

“Resident Services Plan” means the “Resident Services Plan” or “Resident Plan” as described herein. The Resident Services Plan is an ancillary document to the Financing Documents and included in the definition thereof and incorporated herein.

“Rules and Regulations” means conduct standards for Residents and users of the Project developed by Owner consistent with the Project Requirements. The Rules and Regulations is an ancillary document to the Financing Documents and included in the definition thereof.

“State Income Qualified Tenants” or “State Tenants” means the Tenants inhabiting a State Income Qualified Unit, other than visitors and short-term guests of such State Tenants staying in the State Unit for a period not to exceed 30 days.

“State Income Qualified Units” or “State Units” means Units whose Tenants are subject to and conform to the income restrictions established under the Act, and particularly ORS 456.620(4) or otherwise under this Agreement, including the applicable Financing Documents. OHCS acknowledges that, consistent with ORS 456.120(19), the Project will meet the requirements of this definition if, for the duration of this Agreement, the limitations on Tenants in State Units of the Project and other requirements with respect to same meet the requirements for Qualified Tenants specified under this Agreement and other requirements with respect to Qualified Units herein, including as further limited by or provided in other applicable Financing Documents.

“Tax-Exempt” means, with respect to interest on any obligations of a state or local government, including the Governmental Note, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“Tenant” or “Resident” means any occupant of a Dwelling Unit, other than visitors and short-term guests of Tenants staying in the Dwelling Unit for a period not to exceed 30 days.

“Transferee” means the person to whom Owner sells, transfers to or disposes of the Project, Owner itself or any portion of or interest in either (other than by leasing or renting for individual tenant use as contemplated in this Operating Agreement, easements, licenses, and similar items), including a **“Related Person.”**

“Treasury Regulations” means the regulations of the United States Department of the Treasury under the Code.

1.5. Gender; Number. Unless the context clearly requires otherwise, as used in this Operating Agreement, words of any gender will be construed to include each other gender when appropriate and words of the singular number will be construed to include the plural number, and vice versa, when appropriate.

1.6. Effectuation of Purpose. This Operating Agreement and all the terms and provisions hereof must be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

1.7. Titles and Headings. The titles and headings of the sections of this Operating Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and must not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Operating Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

2. GENERAL REPRESENTATIONS, AGREEMENTS, COVENANTS AND WARRANTIES OF OWNER.

2.1. Restatement; Ratification. Owner expressly restates, ratifies, and assumes by reference herein all representations, agreements, covenants, and warranties in favor of OHCS in the Note Documents and in the Financing Documents.

2.2. Acknowledgement of Owner; Limited Reliance. Owner acknowledges, represents, agrees, and warrants that it understands the nature and structure of the transactions contemplated by this Operating Agreement; that it is familiar with the provisions of all of the documents and instruments to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender, OHCS specifically, or the State of Oregon for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender, OHCS specifically, or the State of Oregon in any manner except to issue the Governmental Note and to make the corresponding Project Loan, the REUA, the LIFT Loan and the OAHTC credits in order to provide funds to assist Owner in financing the Project.

2.3. Representations, Covenants, and Warranties. Owner represents, covenants, agrees, and warrants as follows:

2.3.1. Validity. It is an Oregon limited partnership, duly organized, validly existing under the laws of Oregon, is authorized to do business in Oregon, and it has the power and authority to transact the business in which it is engaged and to enter into and perform this Agreement.

2.3.2. Authority; No Impairment. The making and performance of this Agreement by Owner has been duly authorized by all necessary action of Owner; do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any provision of Owner's organizing documents or authorizing statutes; and do not and will not result in the breach of, or constitute a default or require any consent under, any other agreement or instrument to which Owner is a party or by which Owner or any of its properties is bound or affected and does not and will not result in the creation or imposition of any prohibited encumbrance of any nature.

2.3.3. Enforceability. This Agreement, when executed and delivered, is a valid and binding obligation of Owner enforceable in accordance with its terms.

2.3.4. Single-Asset, Fee-Simple Ownership; Assignment. Owner will own the Project in fee-simple title satisfactory to OHCS and operate the Project as a single-asset entity. If ownership of the Project is transferred pursuant to a Foreclosure Action, as described in Section 13.8 below, the Transferee will have sixty (60) days to transfer ownership to a single-asset entity. Funding Lender's interim ownership of the Project prior to a Negotiated Transfer under Section 13.8 is not subject to this section 2.3.4.

2.3.5. Project Requirements. Owner will timely satisfy all requirements of this Agreement, including the Project Requirements, to the satisfaction of OHCS.

2.3.6. Completion Date. Owner will complete the Project no later than the Completion Date or as otherwise allowed by OHCS, in accordance with this Agreement, the Loan Agreement, and the Project Requirements (including but not limited to the plans and specifications for the Project approved by OHCS or modifications to those plans and specifications, which modifications are subject to approval by OHCS).

2.3.7. Responsibility. Owner assumes full responsibility for timely and appropriate completion of the Project, for ownership of the Project, for its operation of the Project in accordance with the Financing Documents and the Project Requirements, for full and timely satisfaction of the Project Requirements, and acknowledges that OHCS has no direct or contractual responsibility to Owner for completion of the Project, for ownership of the Project, or for its direct operation.

2.3.8. Independent Contractor. Owner will perform all obligations under this Agreement and will timely satisfy the Project Requirements as an independent contractor. Owner is not an officer, employee or agent of the State, as those terms are used in ORS 30.265 or otherwise, with respect to performance under this Agreement.

2.3.9. Owner Responsible for Insurance Coverage. Owner shall maintain the insurance coverage requirements set forth in Exhibit C, attached hereto, and, whether purchased or by self-insurance, for the Project, Owner, and Owner's agents, employees, officers and/or subcontractors is the sole responsibility of Owner.

2.3.10. Non-federal Employment Certification. Owner certifies that it is not employed by or contracting with the federal government for performance covered by this Agreement.

2.3.11. Good Standing Certification. Owner certifies to the best of its knowledge and belief that neither Owner nor any of its principals, officers, directors or employees:

2.3.11.1. Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any state or federal department or agency;

2.3.11.2. Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract related to a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

- 2.3.11.3. Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph 2.3.11.2;
- 2.3.11.4. Has within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default; and
- 2.3.11.5. Is included on the list titled “**Specially Designated Nationals and Blocked Persons**” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <http://www.treasury.gov/ofac/downloads/sdnlist.pdf>

2.4. Representations, Covenants, and Warranties of Transferee. Upon a sale, transfer or other disposition of the Project pursuant to Section 13.1 of this Operating Agreement, the Transferee shall be deemed to be the “Owner” of the Project and to have made and to immediately be subject to the representations, covenants and warranties made by the Owner pursuant to Section 2.3 of this Operating Agreement, except that such Transferee may be a legal entity other than an Oregon limited partnership under subparagraph 2.3.1, provided that it is authorized to do business in Oregon, and it has the power and authority to transact the business in which it is engaged and to assume the obligations under and perform this Agreement and, if the Project has not been completed at the time of the sale, transfer or other disposition of the Project to the Transferee, the Transferee shall not be subject to subparagraphs 2.3.6 and 2.3.7 or to subparagraphs 4.2.5 through 4.2.13 unless the obligation to complete the Project has been expressly assumed by such Transferee. Neither Noteholder nor Funding Lender is an “Owner” or otherwise obligated to comply with the terms and conditions of the Operating Agreement while it holds title to the Project for the interim period prior to a Negotiated Transfer (as described in Section 13.8).

3. **QUALIFIED UNITS; STATE INCOME QUALIFIED UNITS; RESIDENT RELATIONS AND COMPLIANCE.**

3.1. Pursuant to the requirements of Sections 42 and 142 of the Code, Article XI-Q of the Oregon Constitution, the Act, the Program Requirements and otherwise under this Agreement, Owner hereby represents, covenants, warrants, and agrees as follows:

3.1.1. **Affordability Period.** During the Affordability Period, the Project will be operated and maintained as an affordable housing project in accordance with the requirements of this Agreement, the Act, the Regulatory Agreement, and the other Financing Documents (except for any Financing Documents that are terminated as part of a Foreclosure Action), as applicable. Such continuous operational requirement will continue in effect notwithstanding the retirement of the Governmental Note, the recapture of LIHTC, the repayment of the LIFT Loan and regardless of whether or not the Governmental Note or any other tax-exempt obligations are outstanding with respect to any part of the Project.

3.1.2. Section 142 Affordability. Throughout the Qualified Project Period and the term of the Regulatory Agreement, whichever is longer (including if extended under the terms of this Agreement), at least 40 percent of the Dwelling Units in the Project must be Qualified Units either occupied by Qualified Tenants or, if previously rented to and occupied by Qualified Tenants, held vacant and available for Rent to Qualified Tenants.

3.1.3. Section 42 Affordability. Throughout the Qualified Project Period, the terms of the Regulatory Agreement, the LIHTC Documents, and this Operating Agreement (including if any be extended under the provisions of this Agreement), all Dwelling Units in the Project must be State Income Qualified Units and must be occupied by or held vacant and available for rent by persons or families who meet the qualifications to be Qualified Tenants, i.e., whose adjusted household income at initial occupancy is equal to or less than 60% of the Median Income for the Area or, as required in such Financing Documents or applicable HUD Section 8 Housing Assistance Payment Contract requirements, meet more restrictive income qualifications.

3.2. OHCS Loans and Grant Affordability.

3.2.1. LIFT Affordability. Throughout the Affordability Period reflected in the LIFT Documents or reflected in this Operating Agreement, whichever is longer (including if extended under the terms of this Agreement), all Dwelling Units in the Project must be State Income Qualified Units and must be occupied by or held vacant and available for rent by persons or families who meet the respective qualifications to be Qualified Tenants as further reflected in the table below or as required in the Financing Documents.

# of Units	# Bedrooms	# Bathrooms	SQFT	% Rent Restricted	% AMI Restricted
2	1	1	601	30% AMI	30% AMI
3	2	1	866	30% AMI	30% AMI
3	3	2	1070	30% AMI	30% AMI
16	1	1	601	60% AMI	60% AMI
23	2	1	866	60% AMI	60% AMI
23	3	2	1070	60% AMI	60% AMI
1	2	1	914	60% AMI	60% AMI
1	3	2	1088	60% AMI	60% AMI

3.2.2. Affordability Calculation. Applicable income limits for State Units are tied to area median income, adjusted by family size, as determined by OHCS based upon information from HUD or other applicable source. Net rents allowable to Owner hereunder are gross rents less an appropriate utility allowance, consistent with the Project Requirements.

3.2.3. Rent Restrictions. Throughout the Affordability Period, Owner will, at a minimum, restrict Rents with respect to subject State Units in compliance with the Project

Requirements with not-to-exceed limit standards equivalent to the area median income percentage maximum applicable to the particular Unit. Actual allowable gross rent limits corresponding to the not-to-exceed limit standards are calculated by HUD on an annual basis.

3.2.4. Actual Unit Rents. Net rents allowable to Owner are not more than allowable gross rents, less an appropriate utility allowance. Actual approved Rents for subject State Units, as determined by OHCS in its sole discretion, may be lower than allowable net rents, but not in excess of allowable net rents. In exercising its discretion, OHCS may consider factors including, but not limited to, the current cash flow of the Project. OHCS has sole authority and discretion in the determination of what is an appropriate utility allowance and what other charges by Owner must be subsumed within approved Rents as normal or standard charges for Project occupancy.

3.2.5. Limitation of Unit Rents and Other Project Fees. OHCS also may limit other Unit Rents and Project fees, if any, as it determines in its sole discretion, is necessary or appropriate to ensure the affordability of or access to State Units. State Unit Rents and Unit Rents and fees limited under this subparagraph may only be increased subject to prior written approval by OHCS in accordance with the procedures of subparagraph 3.2.6.

3.2.6. Prior Approval of Rents. Owner must obtain prior written approval from OHCS for setting or increasing State Unit and other Unit Rents. Owner may request an increase in Rents annually in writing, together with supporting documentation (including a schedule of Rents for all Project Units), all satisfactory to OHCS, which request will be deemed approved if not in excess of the Project Requirements limits and not denied or modified by OHCS within ninety (90) days of its receipt by OHCS. Subject to the Project Requirements limits, OHCS may approve, deny or modify such Rent increase requests at its sole discretion. OHCS, at its sole discretion, also may approve, deny or modify other requests by Owner for Rent increases, subject to the Project Requirements limits.

3.2.7. Most Restrictive Rent Limitations. Where Unit Rents are subject to limitations from multiple OHCS or other funding sources, the most restrictive limitations will govern not-to-exceed limits for Rents with respect to such Units.

3.3. Resident Relations and Project Management and Compliance.

3.3.1. Resident Services Plan. Owner will file with OHCS a Project Resident Services Plan (the “**Resident Plan**”), consistent with the Project Requirements, satisfactory to OHCS. Any then current Resident Plan, when approved by OHCS, will be deemed to be incorporated into this Agreement. OHCS may require periodic revisions to the Resident Plan from Owner. Owner may propose revisions to the Resident Plan for approval by OHCS. All Resident Plan revisions are subject to OHCS’ sole discretion and must be approved in writing by OHCS prior to becoming effective.

3.3.2. Resident Services and Relations. Owner will provide timely resident services (“Services”) appropriate to the Project population and consistent with the Resident Plan, including as the Resident Plan may be revised from time to time. Owner shall cause the Management Agent to serve the population(s) identified in the Affirmative Marketing Plan, including a plan to offer culturally responsive and/or culturally specific supportive services, implement equity-centered property management, including low-barrier tenant screening criteria. Screening criteria is subject to OHCS review and approval and must be readily available on the Project website and in marketing materials. Information regarding screening, application and tenancy information must be provided in multiple languages, including, at least, the safe harbor languages identified for the applicable area. Rules and regulations pertaining to tenants at the Project, as well as any amendments thereto, must be approved by OHCS.

3.3.3. Management Plan. Owner will file with OHCS a Project Management Plan (the “Management Plan”), consistent with the Project Requirements, satisfactory to OHCS. Any then current Management Plan, when approved by OHCS, will be deemed incorporated into this Agreement. OHCS may require periodic revisions to the Management Plan from Owner. Owner may propose revisions to the Management Plan for approval by OHCS. All Management Plan revisions are subject to OHCS’ sole discretion and must be approved in writing by OHCS prior to becoming effective. The Management Plan may be supplemented by or subsumed into a Project Management Agreement with Owner and the Management Agent, if any, as approved by OHCS in writing.

3.3.4. Project Management Agreement. Owner will execute the Project Management Agreement with OHCS, when required by OHCS, in form and substance satisfactory to OHCS. If Owner will, or is required by OHCS to, accomplish its management functions with respect to the Project through a Management Agent, such Management Agent also must execute the Project Management Agreement. Any then current Project Management Agreement, when approved by OHCS, will be deemed incorporated into this Agreement. OHCS may require change of the Management Agent and revisions to the Project Management Agreement as it deems necessary or appropriate, in its sole discretion, pursuant to Section 10.2 below.

3.3.5. Management Performance. As applicable, Owner will timely and suitably perform its Project management responsibilities directly or through a Management Agent approved in writing by OHCS consistent with the Management Plan and Project Management Agreement, including as the Management Plan or the Project Management Agreement may be revised from time to time. In the event of Management Agent replacement, Owner shall ensure compliance with transition requirements as required by OHCS.

3.3.6. Corrective Action. As a consequence of its monitoring or otherwise, OHCS may identify deficiencies in Owner’s compliance with the Project Requirements. OHCS may require action by Owner and its Management Agent, if any (satisfactory to OHCS), to

correct such deficiencies. Owner will correct such deficiencies as directed by OHCS. The reasonableness of such corrective actions is subject to OHCS in its sole discretion.

3.3.7. Determination of Qualified Units and State Income Qualified Units. For purposes of satisfying the occupancy requirements of this Section 3, the following rules apply. Dwelling Units that are Qualified Units at the beginning of their occupancy or that are State Income Qualified Units will continue to qualify as such Qualified Units or State Units, as applicable, until the earlier of (a) the date the character of each Qualified Unit or State Unit is redetermined pursuant to the next sentence hereof or (b) the circumstances described in Subsection 3.3.13 hereof. Consistent with the definitions of a Qualified Unit and a State Unit, when new Tenants join existing Tenants in such a Qualified Unit or State Unit, the character of that Qualified Unit or State Unit must be redetermined on the next anniversary date of the initial occupancy by the original Tenant on the basis of the then current income of the current Tenants and the number of Tenants in the Qualified Unit or State Unit on the date of such certification. A Qualified Unit, or a State Income Qualified Unit, will be deemed, upon the termination of the Tenant's occupancy, to be continuously occupied, as applicable, by a Qualified Tenant and by a State Tenant, until reoccupied, other than for a temporary period, at which time the character of the Dwelling Unit shall be redetermined. In no event shall such temporary period exceed 31 days.

3.3.8. Comparable Quality. The Qualified Units and State Income Qualified Units shall be of a quality comparable to those units that are rented by other Tenants, if any. All Tenants in the Project shall have equal access to and enjoyment of all common facilities and services of the Project. Owner agrees that the Qualified Units and the State Income Qualified Units occupied by or held vacant for renting to persons or families whose income conforms to the income limitations of Qualified Tenants shall be dispersed throughout the Project in a manner acceptable to OHCS.

3.3.9. Income Certifications. Owner will obtain, complete, and maintain on file, until six (6) years after the end of the Qualified Project Period or after the Affordability Period, whichever is longer, income certifications from each Qualified Tenant and from each State Income Qualified Tenant, dated immediately prior to the initial occupancy of such Qualified Tenant or State Income Qualified Tenant and, except as provided in the next sentence of this Section 3.3.9, no less frequently than annually thereafter (as further described in Section 3.3.13 hereof) in the form prescribed by OHCS, which form may be updated and amended from time to time (the "**Income Certification**"), and will provide such additional information as may be required in the future by OHCS, by Section 142(d) of the Code (as the same may be amended from time to time, as interpreted by Note Counsel), or by the Project Requirements. In lieu of obtaining an annual Income Certification, Owner may, with respect to any particular twelve-month period ending on the recertification date, deliver to OHCS no later than fifteen days after such date a certification that, as of such date, no Dwelling Unit in the Project of comparable or smaller size was occupied within the preceding twelve months by a new resident whose income exceeded the limit applicable to Qualified Tenants (or, if more restrictive State Tenants) upon admission to the Project. Owner shall verify that the income provided by an applicant

in an Income Certification is accurate by taking such steps as OHCS may require, including, but not limited to one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period; (2) obtain an income tax return for the most recent tax year, (3) secure a credit report or conduct a similar information search, (4) obtain an income verification form from the applicant's current employer, (5) obtain an income verification form from the Social Security Administration if the applicant receives assistance from such agency, (6) if the prospective tenant maintains bank accounts, a copy of the most recent bank statements for such accounts, and (7) if the applicant is (i) unemployed and has no such tax return or (ii) has no Social Security Administration verification form, obtain another form of independent verification or an executed written declaration of the prospective tenant. Any third-party verifications so obtained shall be kept in the tenant files or as otherwise required by OHCS.

3.3.10. Records Maintenance; Monitoring. Owner will maintain complete and accurate records pertaining to the Qualified Units and to all State Income Qualified Units, and will permit any duly authorized representative of OHCS, the Fiscal Agent, and the Department of the Treasury or the Internal Revenue Service, upon reasonable notice, to inspect the books and records of Owner pertaining to the Project, including those records pertaining to the occupancy of the Qualified Units and of the State Income Qualified Units. Such records shall be retained by Owner for six (6) years after the end of the Qualified Project Period or the end of this Agreement, whichever is longer.

3.3.11. Certificate of Continuing Compliance. Owner will prepare and submit to OHCS, within thirty days after the end of each year during the Affordability Period hereof, or as otherwise determined by OHCS, a Certificate of Continuing Program Compliance essentially in the form set forth in Exhibit B of the Regulatory Agreement or as otherwise required or allowed by OHCS, executed by Owner stating compliance with the income limitations of this Agreement, including: (i) the percentage of the Dwelling Units of the Project which were Qualified Units or State Income Qualified Units occupied or deemed occupied by Qualified Tenants or by State Income Qualified Tenants during such period, and (ii) that either (A) no uncured default has occurred under this Operating Agreement or (B) that a default has occurred, in which event the certificate shall describe the nature of the default and set forth the measures being taken by Owner to remedy such default.

3.3.12. Lease Terms. Each lease pertaining to a Qualified Unit or to a State Income Qualified Unit shall contain a provision to the effect that the respective Owner has relied on the Income Certification and supporting information supplied by the Qualified Tenant or State Income Qualified Tenant in determining qualification for occupancy of the Qualified Unit or State Income Qualified Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Each lease pertaining to a Qualified Unit or to a State Income Qualified Unit shall contain a provision prohibiting the Tenant from allowing the Dwelling Unit to be occupied, other than on a temporary basis not exceeding 30 days, by any additional persons unless, prior to such occupancy, the Tenant and all other persons who will occupy such Dwelling Unit provide current Income Certifications in the form prescribed by OHCS, which form

may be updated and amended from time to time, unless Owner consents in writing to such occupancy. Each lease pertaining to a Dwelling Unit shall contain a provision stating that Tenants shall be required to recertify income annually and upon addition of any Tenant to the Dwelling Unit unless an existing Tenant in such Unit is a parent or guardian of the new Tenant and that new Tenant's income, as a consequence, is not counted under applicable law in determining household income of a Qualified Tenant or State Income Qualified Tenant. Owner shall not renew the lease of any such Unit unless all Tenants therein comply with the recertification requirement.

3.3.13. Annual Income Determinations. Except as provided in Subsection 3.3.9 above, the determination of whether or not the income of the occupants of a Qualified Unit or of a State Income Qualified Unit exceeds the applicable income limit shall be made at least annually on the basis of the then current income of the Tenants of the Unit, *provided however*, that no recertification need be made for any year if, during such year, no Unit is occupied by a new resident whose income causes a Unit not to be a Qualified Unit or State Unit, as applicable. No later than, and dated as of the respective yearly anniversary of the execution of the lease of each State Income Qualified Tenant and of each Qualified Tenant lease for a unit in the Project (and no less than once each calendar year with respect to the Tenants of each Qualified Unit or State Income Qualified Unit) throughout the Qualified Project Period, Owner shall recertify the income of each State Income Qualified Tenant and of each Qualified Tenant by obtaining a completed Income Certification in the form prescribed by OHCS, which form may be updated and amended from time to time. If the aggregate Adjusted Income of Qualified Tenants in a Qualified Unit or State Income Qualified Tenants in a State Unit), as of the most recent determination thereof, exceeds one hundred forty percent (140%) of the applicable income limit for a Qualified Unit (or State Unit) occupied by the same number of tenants, the Dwelling Unit occupied by such tenants shall continue to be treated as a Qualified Unit (or State Unit) unless and until an Available Unit of comparable or smaller size is rented persons other than Qualified Tenants (or State Income Qualified Tenants).

4. ADDITIONAL POLICY AND PROGRAM REQUIREMENTS.

4.1. Compliance with OHCS and other Policies.

4.1.1. Fair Housing and Other Civil Rights Compliance. Owner shall:

4.1.2. Comply with all applicable state and federal nondiscrimination laws;

4.1.3. Not discriminate against any Tenant who is a parent or legal guardian with whom a child resides or is expected to reside, except (i) in the event that the Project is designated exclusively for households, the heads of whom are over 62 years of age or, if permitted by OHCS and Code, over 55 years of age if the household meets the requirements of 42 U.S.C. 3607(b)(2)(c), or (ii) in compliance with other applicable law.

4.1.4. Comply with the outreach and affirmative marketing strategies for the Opportunity Tenants set forth in the Affirmative Fair Housing Marketing Plan.

4.1.5. Comply with Equal Opportunity Employment standards in hiring and retaining personnel; and

4.1.6. Satisfy any targeted population or services standards in the Program Requirements.

4.1.7. M/W/ESB Utilization. Owner shall comply with established OHCS policies and Owner commitments in the Application regarding utilization of M/W/ESB firms. OHCS' policies regarding M/W/ESB inclusion can be located on OHCS' website. OHCS, at its discretion, and in a format it may see fit or is agreed upon, will require Owner to report on its utilization of M/W/ESB firms during construction and lease up of the Project. <https://www.oregon.gov/ohcs/development/Documents/admin/MWESB/OHCS-MWESB-Compliance-Manual.pdf>

4.1.8. DEI. Owner will comply with commitments set forth in the DEI.

4.1.9. Owner agrees to comply with any and all applicable HUD Federal Specifications and with Oregon's workers' compensation laws and other requirements, and to include such specifications and requirements as an addendum to the general contractor's construction contract.

4.2. General Compliance with the Project Requirements.

4.2.1. Appropriate Costs. Owner will use proceeds of the Loans, the Credits, the LIFT Loan and the OAHTC credits only for financing of eligible costs related to the State Units and such eligible common areas and other aspects of the Project, consistent with the Project Requirements.

4.2.2. Overall Compliance. Owner will comply, and will cause its agents, employees, contractors, subgrantees and assigns, if any, to comply with the terms and conditions of this Agreement, including the Project Requirements.

4.2.3. Local Compliance. Compliance with the Project Requirements expressly includes compliance with applicable local codes, ordinances, and standards.

4.2.4. Compliance by Subcontractors. Owner will include in any contracts with subcontractors that performance under any such contract is subject to the Project Requirements, including record retention by the subcontract and review rights by OHCS and others of such records consistent with monitoring of Owner records hereunder, with OHCS as a third-party beneficiary.

4.2.5. Owner agrees to provide to OHCS upon OHCS' request supporting documentation of all soft costs incurred by Owner that are shown on the Sources and Uses of Funding Budget (e.g., architectural design expenses, legal and other consultant fees, construction

interest, and closing costs), whether or not such costs are paid from Loan proceeds. If at any time OHCS determines that the undisbursed Loan proceeds, together with any sums provided or to be provided by Owner, by other construction lenders, or by any other third party are insufficient to construct and complete the Project in accordance with the Construction Documents, Owner agrees, within fifteen (15) days after written notice from OHCS, to obtain documentation satisfactory to OHCS, in its sole discretion, demonstrating the availability of additional funds as are necessary to enable the Project to be so completed.

4.2.6. All contractors and subcontractors on the Project will be registered and bonded in accordance with ORS Chapter 701 and must be licensed as required by applicable law.

4.2.7. Owner covenants that there has been no material change in the Project financing as described in Section 2.

4.2.8. OHCS may, at its sole discretion, require Owner to withhold 5% retainage of each construction progress payment to ensure performance by the general contractor and any subcontractors ("Retainage"). Final disbursement of the Retainage will not be authorized until the seventy-five (75) day lien period has expired or upon receipt of appropriate lien waivers. This lien period may be reduced, at the option of Owner, by satisfying the early issue requirements of the title insurance and OHCS.

4.2.9. Holdback. A portion of the Loan up to 10% of the Loan Amount (to include any Retainage amounts), as determined by OHCS in its sole discretion, may be held back from disbursement during Project construction (the "**Holdback**"). The Holdback will only be disbursed either (a) in full, upon satisfaction of all applicable conditions precedent to the final disbursement, or (b) in full or in part (at OHCS' sole discretion), (i) at the completion of Project construction and after the seventy-five (75) day lien period has expired (or upon receipt of appropriate lien waivers), (ii) to the extent permitted by OHCS' preliminary cost savings analysis (based upon the actual Project costs and by a projection of future Project costs and future Project funding sources), (iii) and provided that the Project has been completed to a level satisfactory to OHCS (in its sole discretion). In case of any Event of Default under this Agreement or the other Loan Documents, OHCS may apply the Holdback to make any payments necessary to correct the Event of Default.

4.2.10. Contingency Funds. A construction contingency reserve ("**Construction Contingency**") is a line item on the Sources and Uses of Funding Budget and is intended to provide funds in the event of unforeseen costs or required building code corrections. The Construction Contingency will only be available to Owner upon compliance with the disbursement procedures set forth in Section 4.2. If at any time prior to completion of Project construction, OHCS determines that the unused portion of the Construction Contingency is unreasonably low in relation to the amount of work remaining to complete the Project, OHCS may restrict or prohibit the use of the remaining portion of the Construction Contingency or require Owner to make a cash deposit within a specified time period to bring the Construction Contingency up to a reasonable level, as determined by OHCS.

4.2.11. Project Cost Savings. Project Cost Savings will be determined at the end of the Construction Loan Period and will have the meaning and be applied as provided in Section 4 of the Note.

4.2.12. All Construction Documents and the Sources and Uses of Funding Budget must be approved by OHCS in writing and will not be modified subsequent thereto in any material respect without OHCS's prior written approval, which approval shall not be unreasonably withheld or delayed.

4.2.13. OHCS and its agents and representatives will have the right at any reasonable time to inspect the Project, observe the work of construction, examine all materials, plans, specifications, work drawings and other matters relating to the construction, and verify that construction is progressing in compliance with the OHCS-approved disbursement schedule and all Construction Documents; provided, however, such inspection by OHCS is solely for the purpose of protecting OHCS's rights and interests, and will under no circumstances impose any liability on OHCS or result in a waiver of any Event of Default of Owner or be a representation that Owner is or will be in compliance with the Construction Documents or other applicable laws or requirements.

5. QUALIFIED RESIDENTIAL RENTAL PROJECT.

OHCS and Owner hereby acknowledge and agree that, at all times during the term of this Operating Agreement, the Project is to be owned, managed and operated as a “**qualified residential rental project**” as such phrase is used in Section 142(d) of the Code and the related Treasury Regulations. To that end Owner hereby represents, covenants, warrants, and agrees as follows:

5.1. Functionally Related and Subordinate. Owner shall own and operate the Project as residential rental property containing Dwelling Units and facilities Functionally Related and Subordinate to such Dwelling Units, in accordance with Section 142(d) of the Code and related Treasury Regulations;

5.2. Complete and Separate Facilities. Each of the Dwelling Units in the Project must contain complete and separate facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, within the meaning of Treasury Regulations Section 1.103-8(b)(8), as supplemented and amended, provided that, with the approval of OHCS and Note Counsel, as provided under Section 142(d)(2)(D) of the Code, such Dwelling Units may, in the alternative, qualify as single room occupancy units;

5.3. General Public Availability. Once available for occupancy, for the term of this Operating Agreement, each Dwelling Unit in the Project must be rented or available for rental on a continuous basis to members of the general public, without preference to any particular group or class, except preferences permitted under Section 42 of the Code (as clarified by Section 42(g)(9) thereof), or otherwise consistent with federal housing policy governing non-discrimination, as evidenced by the rules and regulations of the Department of Housing and Urban Development

(“HUD”) (24 CFR subtitle A and chapters I through XX), provided, however, that any residential rental unit that is part of a hospital, nursing home, sanitarium, lifecare facility, trailer park, or intermediate care facility for the mentally and physically handicapped is not for use by the general public; notwithstanding the foregoing, Owner shall comply with the Affirmative Fair Housing Marketing Plan.

5.4. Common Plan. The Project will consist of proximate buildings or structures located on a single "tract" of land which have similarly constructed Dwelling Units financed pursuant to a "common plan" together with Functionally Related and Subordinate Facilities which shall be owned by the same "person," except for the common areas (as such terms are used in the Treasury Regulations) for federal tax purposes. Except as expressly allowed in this Agreement (including a transfer under Section 13.8 of this Agreement), Owner has covenanted (and does hereby covenant, represent and warrant) that no interest in Owner or the Project will be transferred without the prior written consent of OHCS and an opinion of counsel to OHCS that such transfer will not, in and of itself, adversely affect any exclusion of interest on the Governmental Note from gross income for purposes of federal income taxation (except for transfers permitted by and made in compliance with Section 13 hereof).

6. MODIFICATION OF SPECIAL TAX COVENANTS AND OTHER COVENANTS.

Owner and OHCS hereby agree as follows:

6.1. More Restrictive Requirements. To the extent any amendments to Article XI-Q of the Oregon Constitution, to the Act, to the Treasury Regulations or the Code with respect to the Note Documents shall, in the written opinion of Note Counsel or of the Oregon Department of Justice (with respect to Article XI-Q of the Oregon Constitution or the Act) filed with OHCS, the Fiscal Agent, and Owner, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Operating Agreement that must be complied with in order to maintain the exemption from taxation of interest on the Governmental Note, this Operating Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements. To the extent any amendments to the Treasury Regulations, Code, or Act with respect to the Financing Documents shall, in the written opinion of the Office of the Oregon Attorney General filed with OHCS and Owner, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Operating Agreement that must be complied with in order to maintain compliance with the Act, this Operating Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

6.2. Less Restrictive Requirements. To the extent any amendments to Article XI-Q of the Oregon Constitution, to the Act, to the Treasury Regulations or to the Code with respect to the Note Documents shall, in the written opinion of Note Counsel or of the Oregon Department of Justice (with respect to Article XI-Q of the Oregon Constitution or the Act) filed with OHCS, the Fiscal Agent and Owner, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified, to provide such less restrictive requirements but only by written consent signed by OHCS and Owner

and the Note Owners, and further approved by the written opinion of Note Counsel that such amendment will not affect the tax exempt status of interest on the Governmental Note.

6.3. Changes. OHCS and Owner may, in a writing signed by authorized representatives of same, amend, modify, waive, release or forebear (collectively, **"Change"**) in the compliance and enforcement of other covenants under this Agreement at the sole discretion of OHCS, as it determines to be appropriate under applicable law and to further the purposes of OHCS, including in promoting safe, sanitary and affordable housing for low and lower income residents of the State of Oregon. Third-party beneficiaries under such covenants, if any, shall have no recourse with respect to such Changes except as expressly provided by law.

6.4. Additional Documents. Owner and OHCS will execute, deliver and, if applicable, file of record any and all documents and instruments, necessary to effectuate the intent of this Section.

7. INDEMNIFICATION; PAYMENT OF OTHER AMOUNTS.

7.1. Indemnification. Owner hereby covenants and agrees that it shall jointly and severally save, indemnify, hold harmless and (subject to the limitations of ORS Chapter 180) defend OHCS and the State of Oregon, together with their respective officers, members, representatives, officials, employees, and agents (the **"Indemnified Parties"**) from and against (i) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with the approval of the financing for the Project, the making of the Project Loan from proceeds of the Governmental Note, or the provision or award of financial assistance under the Financing Documents; (ii) any and all claims arising from any act or omission of Owner or any of its agents, servants, contractors, employees or licensees, in connection with the Loans, financial assistance under the Financing Documents, or the Project; (iii) any and all claims arising out of or related to the design, development, construction, installation, operation, use, occupancy, maintenance, or ownership of the Project (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto); (iv) any and all losses, claims, damages, liabilities or expense of every conceivable kind, character and nature whatsoever of OHCS or State of Oregon arising out of, resulting from or in any way connected with (a) the Fiscal Agent's acceptance or administration of the trusts under the Funding Loan Agreement, or the exercise or performance of any of its powers or duties under the Funding Loan Agreement, in each instance, in accordance with and subject to the terms thereof, or (b) the execution and delivery of the Governmental Note, the execution of the Financing Documents, the execution and delivery of this Agreement, the provision or award of financial assistance under either the Governmental Note, the Financing Documents or this Agreement, or any certifications or representations of Owner made in connection with any such claim or proceeding brought thereon. Owner also shall pay and discharge and shall indemnify and hold harmless the Indemnified Parties from any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. In the event that any action or proceeding is brought against OHCS or any of other Indemnified Parties with respect to which indemnity may be sought hereunder, Owner, upon written notice from the Indemnified Party, shall assume (subject to ORS Chapter 180) the investigation and defense thereof, including the employment of counsel

and the payment of all expenses related thereto. OHCS and other Indemnified Parties shall have the right to reject Owner's selection of counsel if the State chooses to act as their counsel or if they reasonably determine that the counsel selected by Owner has a non-waivable conflict of interest or the use of the same counsel to represent Owner and one or more of the Indemnified Parties would otherwise be prohibited by applicable canons of ethics. Each of the Indemnified Parties shall have the right to approve any settlement in connection with any such losses, claims, damages, liabilities, expenses or actions (collectively, "**Claims**") as they relate to that Indemnified Party.

7.2. Obligations Upon Transfer. Notwithstanding any transfer of the Project to another owner, Owner shall remain obligated to jointly and severally save, indemnify, hold harmless and defend the Indemnified Parties pursuant to this Section for all Claims arising from acts and omissions that occurred prior to the date of such transfer or the date that the transfer is approved in writing by OHCS, whichever is later.

7.3. Continuance of Obligations. Subject to the paragraph immediately above, notwithstanding the redemption or maturity of the Governmental Note, termination of this Operating Agreement, termination of any of the Note Documents, termination of any of the other Financing Documents, or otherwise, Owner shall remain obligated to jointly and severally save, indemnify, hold harmless and (subject to the limitations of ORS Chapter 180) defend the Indemnified Parties pursuant to this Section for all Claims arising out of acts and omissions that occurred during the term of this Operating Agreement, the Qualified Project Period, or the Affordability Period, whichever is longer.

7.4. Reasonable Fees and Expenses. In addition to the foregoing provisions of this Section, Owner will pay upon demand all of the reasonable fees and expenses paid or incurred by the Indemnified Parties including without limitation, reasonable fees of counsel incurred prior to trial, at trial or on appeal and in any bankruptcy or arbitration proceedings, and in enforcing the provisions of this Operating Agreement.

7.5. Scope of Indemnification. This indemnification shall extend to and include, without limitation, all reasonable costs, reasonable counsel fees, expenses or liabilities incurred in connection with any such Claim, or any proceeding brought with respect to any such Claim, except to the extent such Claims and fees, expenses or liabilities are caused solely by the willful misconduct or bad faith of such Indemnified Party.

8. TERM.

8.1. Term; Termination. This Operating Agreement becomes effective upon its execution and delivery and will remain in full force and effect through **December 31, 2056** (unless extended pursuant to the terms of this Agreement), but will not have a term less than the later of thirty (30) years from the Closing Date or the date that the Project is fully placed in service following the issuance of a certificate of occupancy, whichever event is later. The term of this Operating Agreement will include a period at least equal to the Qualified Project Period. The record retention provisions of Section 4 will remain in full force and effect at least until six (6) years after the end of the Qualified Project Period, the end of the Affordability Period or the term

of this Agreement, whichever is later. The provisions of this Agreement are intended by the parties to survive for a minimum of thirty (30) years after the Project is fully placed in service following the issuance of a certificate of occupancy and to survive the Qualified Project Period, the retirement of the Governmental Note, expiration of the Funding Loan Agreement and the Project Loan Agreement, and expiration of the Financing Documents.

8.2. [Reserved]

8.3. Disregard of Certain Entities. The provisions of this Operating Agreement to the contrary notwithstanding (except with respect to the enforcement of remedies), references to the Fiscal Agent, Funding Lender and Noteholder are to be disregarded once the Governmental Note has been paid in full and references to the Investor are to be disregarded once the Credits have expired. Furthermore, termination of the Operating Agreement pursuant to this Section 8 shall not impair the validity of other documents referenced in this Agreement, the validity of which documents shall endure consistent with their own terms.

8.4. Three-Year Safe Harbor. Notwithstanding any of the foregoing in this Section, and in a manner consistent with IRC §42, for three (3) years after the acquisition of title to the Project by the construction or permanent lender, any Qualified Tenant or State Income Qualified Tenant in the Project may not be evicted except for cause and rents charged to such Qualified Tenant or State Income Qualified Tenant may not exceed the rent limits established in this Agreement.

9. TAX-EXEMPT STATUS OF THE GOVERNMENTAL NOTE; QUALIFICATION OF THE CREDITS, AND THE LIFT LOAN.

Owner hereby agrees, covenants and warrants as follows:

9.1. Negative Covenants and Warranties Regarding Governmental Note and Credits. Owner will not (a) take any action, (b) fail to take any action, or (c) make any use of the Project, the proceeds of the Governmental Note, or the proceeds of the Credits inconsistent with the terms of this Agreement or that would cause the interest on any of the Governmental Note to be or become includable in the gross income of the persons holding such Governmental Note for federal income tax purposes (other than substantial users), or subject the Credits to recapture by the IRS. Without limiting the generality of the foregoing, Owner further covenants and agrees that it will take such action or actions (including, without limitation, consenting and agreeing to amendments to this Agreement, the Note Documents, the Financing Documents, and other documents as may be necessary) so that it, all subsequent Owners of any part of the Project, and the Project itself, comply fully and continuously with this Agreement and Sections 42 and 142 of the Code, as amended, as of the date hereof and applicable to the Credits or Governmental Note, and the Project Requirements including, but not limited to the rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service pertaining to the Credits or Governmental Note obligations issued under Sections 42 or 142 of the Code respectively, including, without limitation, the Treasury Regulations.

9.2. Negative Covenants and Warranties Regarding the LIFT Loan. Owner will not (a) take any action, (b) fail to take any action, or (c) make any use of the Project, or the proceeds of the LIFT Loan inconsistent with the terms of this Agreement or that would impair or invalidate their validity under the Project Requirements. Without limiting the generality of the foregoing, Owner further covenants and agrees that it will take such action or actions (including, without limitation, consenting and agreeing to amendments to this Agreement, the LIFT Documents, and other documents as may be necessary) so that it, all subsequent owners of any part of the Project, and the Project itself, comply fully and continuously with the Project Requirements.

10. MAINTENANCE REPRESENTATIONS, AGREEMENTS, COVENANTS, AND WARRANTIES OF OWNER.

Owner hereby represents, agrees, covenants and warrants as follows:

10.1. Maintenance. Owner, at its expense, shall maintain the Project in good condition, repair, and working order, all satisfactory to OHCS, and shall make or cause to be made from time to time as required by OHCS, or otherwise, all necessary repairs, renewals and replacements, ordinary wear and tear and obsolescence excepted. However, this shall not require Owner to operate any portion of the Project after it is no longer economical and feasible in Owner's judgment so long as the terms of this Operating Agreement and the public purposes of the continued financing of the Project with the proceeds of any outstanding Governmental Note or Financing Document subsidies are nevertheless met.

10.2. Management. Owner, at its expense, shall provide for management of the Project in a manner satisfactory to OHCS and in accordance with the Project Management Agreement. Owner and any property Management Agent shall timely execute with OHCS, the Project Management Agreement or similar document satisfactory to OHCS in its sole discretion. Owner shall notify OHCS immediately of any termination of a Management Agent. OHCS may (A) disapprove any proposed Management Agent without penalty to OHCS, at its sole discretion, and (B) require Owner to terminate any Management Agent without penalty to OHCS, at its sole discretion, if upon thirty (30) days prior written notice, or such longer period if such breach cannot be cured in thirty (30) days and the Management Agent is diligently pursuing such cure to OHCS' satisfaction, the following events or situations are not remedied by the Management Agent to the satisfaction of OHCS: (i) any material default under this Section 10, including but not limited to any serious problem or repair requiring immediate action by the Management Agent has not been remedied; or (ii) the vacancy rate for the Project is greater than ten percent (10%) for any six (6) consecutive month period; (iii) the failure of the Management Agent to properly screen and certify tenants in the Qualified Units and State Income Qualified Units and to provide the required annual certifications; (iv) the gross negligence, fraud or willful misconduct of the Management Agent; or (v) any material default under this Agreement, under the Management Agreement, under the Project Management Agreement (or equivalent documents), under the Regulatory Agreement, or under any other of the Financing Documents.

10.3. Remodel. Owner may remodel or modify the Project as it, in its discretion, may deem to be desirable for its uses and purposes. The cost of such remodeling, modifications or improvements shall be paid by Owner, and the same shall become a part of the Project.

11. CONSIDERATION.

The Governmental Lender has issued the Governmental Note and OHCS has made available the Credits and the LIFT Loan to provide funds to finance the Project, all for the purpose, among others, of inducing Owner to acquire and operate the Project as provided herein. OHCS also has agreed to provide or authorized the provision of financial assistance under the Financing Documents to provide funds to finance the Project, all for the purpose, among others, of inducing Owner to acquire and operate the Project as provided herein. In consideration of the foregoing, Owner has entered into this Operating Agreement and has agreed to restrict the uses to which the Project may be put on the terms and conditions set forth herein.

12. RELIANCE.

Owner hereby recognizes and agrees that the representations, covenants, and warranties set forth herein may be relied upon by all persons interested in the legality and validity of the Governmental Note and in the exemption from Oregon personal income taxation and the Tax-Exempt status of the interest on the Governmental Note, as the case may be. Owner also recognizes and agrees that the representations, covenants, and warranties set forth herein or incorporated herein may be relied upon by all persons interested in the legality and validity of the Credits and their exemption from Oregon personal income taxation and federal income taxation. Owner also recognizes and agrees that the representations, covenants, and warranties set forth herein or incorporated herein may be relied upon by all persons otherwise interested in the legality and validity of other subsidies, if any, provided under the Financing Documents. In performing its duties and obligations hereunder, OHCS and the State of Oregon may rely upon statements and certificates of Owner and Tenants (including State Income Qualified Tenants), and upon audits of the books and records of Owner pertaining to the Project or compliance by Owner with this Agreement (including the Financing Documents) or the Note Documents. In addition, OHCS and the State of Oregon may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by OHCS or State of Oregon hereunder in good faith and in conformity with such opinion and other opinions and certifications written for reliance by OHCS and State of Oregon with respect to the Project and its financing. In determining whether any default or lack of compliance by Owner exists under this Operating Agreement, OHCS shall not be required to conduct any investigation into or review of the operations or records of Owner and may rely solely on any written notice or certificate delivered to OHCS by Owner with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

13. SALE, TRANSFER, OR OTHER DISPOSITION OF AN INTEREST IN THE PROJECT, OWNER OR INVESTOR.

13.1. Transfer of Any Interest in Project by Owner. Except as provided otherwise in this Operating Agreement, if Owner sells, transfers or otherwise disposes of any interest in the Project or any portion thereof (other than by leasing or renting for individual tenant use as

contemplated hereunder), without obtaining the prior written consent of OHCS, OHCS may declare an Event of Default under the terms of this Operating Agreement and exercise the remedies provided for herein (including incorporated documents) or available at law. OHCS' consent shall be given promptly and may not be unreasonably withheld or delayed, but may be conditioned upon:

13.1.1. The Transferee being duly qualified and licensed to do business in the State of Oregon;

13.1.2. The Transferee not being a party to any pending action, suit, proceeding or investigation pending or threatened in writing against OHCS;

13.1.3. The Transferee not having been criminally indicted for or otherwise criminally or civilly charged by a governmental entity with fraud or an offense in connection with obtaining or performing a public contract or transaction;

13.1.4. The Transferee having relevant experience owning affordable housing projects and real property management, not being currently in material breach of existing obligations to OHCS and not having a history of non-compliance with OHCS program requirements, including affordability restrictions similar in nature to those set forth in this Operating Agreement;

13.1.5. An opinion of counsel to the Transferee, delivered to OHCS and the Fiscal Agent, to the effect that the Transferee has assumed in writing all duties and obligations of Owner under this Operating Agreement and that this Operating Agreement is a legal, valid and binding obligation of the Transferee;

13.1.6. An opinion of Note Counsel to the effect that the sale, transfer or disposition of the Project or any portion thereof will not adversely affect the exclusion of the interest on the Governmental Note from the gross income for federal income tax purposes; and

13.1.7. The payment of a transfer fee required by OHCS and any other conditions that may be imposed by OHCS or the Fiscal Agent in the discretion of either (but without obligation on the part of the Fiscal Agent) to assure compliance with the Project Requirements, including (without limitation) Department orders and administrative rules, as amended, and also including but not limited to Owner providing OHCS with current financial information with respect to the Transferee and a full description of the Transferee and its principal's and other relevant members' experience in owning affordable housing and in real property management.

Any sale, transfer or other disposition of the Project in violation of this Section 13.1 shall be ineffective to relieve Owner, any Transferee or the Project of any continuing obligations under this Operating Agreement. OHCS' consent hereunder shall not be deemed continuing and Owner and each permitted Transferee shall continue to be bound by this Section 13.1 unless OHCS has

consented to the sale, transfer or disposition of the Project or the sale, transfer or disposition of the Project is otherwise permitted by the Deed of Trust and by this Operating Agreement.

13.2. Transfer of Any Interest in Owner. If Owner sells, transfers or otherwise disposes of any interest in Owner without obtaining the prior written consent of OHCS, OHCS may declare an Event of Default under the terms of this Operating Agreement and exercise the remedies provided for default in Section 21 hereof or as otherwise provided in this Operating Agreement or available at law. The parties agree, however, that, so long as Owner is not then in default hereunder beyond any applicable grace period or cure period, a sale, assignment or transfer of an interest in Owner made in full compliance with any of sub-clauses 13.2.1, 13.2.2, 13.2.3 or 13.2.4 below shall constitute a permitted transfer of an interest in Owner.

13.2.1. Transfers Permitted Prior to Making All Capital Contributions. Prior to making all of the capital contributions required to be made by the Investor under the terms and conditions of the partnership agreement in effect between the Investor and Owner's general partner as of the date of this Agreement (the "**Ownership Agreement**") a one-time transfer of the Investor's limited partnership or limited membership interest in Owner may be made within one year of this Agreement to an Affiliate of the Investor with advance written notice to OHCS of such transfer ("**Permitted Affiliate Transfer of Owner Interest**"). No OHCS consent shall be required for a Permitted Affiliate Transfer of Owner Interest, but written notice shall be provided to OHCS as set forth above in connection with each such transfer. Further, OHCS will not impose a transfer fee or charge on Owner for a Permitted Affiliate Transfer of Owner Interest.

13.2.2. Other Transfers Made Prior to Making All Capital Contributions. Prior to making all capital contributions, other than a Permitted Affiliate Transfer of Owner Interest pursuant to clause 13.2.1 above, no interest in Owner may be transferred without the written consent of OHCS which may be given or withheld in its sole but reasonable discretion, taking into consideration those factors it determines to be relevant. OHCS shall communicate its determination to consent or withhold consent to a transfer promptly to Owner and may impose a transfer fee or charge on Owner consistent with program administrative rules, as amended from time to time.

13.2.3. Transfers of Owner Interest After Making All Capital Contributions. After all of the capital contributions to be made by the Investor under the Ownership Agreement have been made, the sale or other transfer of the limited partnership or limited membership interest in Owner (a "**Post Conversion Transfer of Owner Interest**"), may be made subject to the following: OHCS must (A) be given advance written notice of the proposed sale or transfer; (B) give its written consent to the sale or transfer which consent shall not be unreasonably withheld, conditioned or delayed; and (C) OHCS may impose a transfer fee or charge on Owner consistent with program administrative rules, as amended from time to time. The parties agree that a Post Conversion Transfer of Owner Interest shall be presumed reasonable and that OHCS will promptly provide its consent to such a transfer upon confirmation that such transfer involves a transfer to an Affiliate of the Investor.

13.2.4. Transfers of Interests in General Partner or Managing Member of Owner. To ensure appropriate use of tax credit capital contributions by Owner, and that any party having an ownership interest in the general partner or managing member of Owner is suitable for such purpose, appropriate for the operational integrity of the general partner or managing member, and sufficiently limited in its capacity to direct or control actions by the general partner or managing member, a party proposing to acquire an ownership interest in the general partner or managing member (a “**Member**”) may not acquire an ownership interest in the general partner or managing member without the prior written consent of OHCS. Such consent shall be conditioned on (a) the ownership interest in the general partner or managing member to be acquired by the Member being not greater than one-percent (1%) of the ownership interest in Owner and (b) OHCS receiving evidence reasonably satisfactory to OHCS establishing the suitability of the Member.

13.3. Transfer of Any Interest in Investor. The parties agree that, so long as the Owner is not then in default hereunder beyond any applicable cure period, a Transfer of an interest within the Investor shall constitute a permitted Transfer of an interest within the Investor.

13.4. Removal and Replacement of Owner’s General Partner or Managing Member. The Investor may seek to remove a general partner or managing member of Owner for cause pursuant to the terms of the Ownership Agreement in effect as of the date of this Operating Agreement, or pursuant to any revisions adopted by the parties to the Ownership Agreement and approved in writing by OHCS, subject to the following: (1) the Investor must notify OHCS in writing of its desire to remove the general partner or managing member for cause; (2) the Investor must notify OHCS in writing of the successor general partner or managing member, and (3) OHCS must give its written consent to the removal and replacement of the general partner or managing member, which consent will not be unreasonably withheld, conditioned or delayed. If the Ownership Agreement provisions related to the removal of the general partner or managing member are amended without OHCS’ written approval (a “**Removal Amendment**”), and the Investor seeks to remove the general partner or managing member for cause pursuant to the Removal Amendment, the prior written consent of OHCS must be obtained and OHCS may give or withhold its consent in its sole discretion. Notwithstanding the foregoing, the Investor also may replace a general partner or managing member of Owner for cause with an affiliate of the Investor on a temporary basis for not longer than sixty (60) days pursuant to the terms of Ownership Agreement in effect as of the date of this Agreement, or pursuant to any revisions adopted by the parties to the Ownership Agreement and approved in writing by OHCS. Such replacement does not require prior OHCS approval and will not be subject to an OHCS transfer fee, but notice thereof must be provided to OHCS within two (2) business days of such replacement. Permanent removal or replacement of the general partner or managing member of Owner must still be accomplished in conformance with the first two sentences of this Subsection 13.4.

13.5. Removal and Replacement of Management Agent; Execution of Project Management Agreement. OHCS may require the removal and replacement of the Management Agent, including the appointment of a Management Agent in lieu of Owner. Owner also may, with OHCS’ approval, remove and replace the Management Agent in accordance with the terms and conditions of this Agreement and the Project Management Agreement to be executed among

Owner, OHCS, and the Management Agent, if any, which latter agreement (including as amended or replaced from time to time) is incorporated herein by reference.

13.6. Consents by Department to Admission of Investor and to Security Interest.

13.6.1. Admission of Investor; Special Member or Special Limited Partner. If the Project is financed, in part, by LIHTC, OHCS consents to the admission of the LIHTC Investor member or limited partner, as applicable, in Owner and within one year of this Agreement, as applicable, the admission of a special member or special limited partner in Owner of an entity that is an Affiliate of the Investor.

13.6.2. Grant of Managing Member/General Partner Security Interest. OHCS consents to the managing member/general partner of Owner granting a security interest in its interest in Owner as security for performance of obligations under the Ownership Agreement and under any document evidencing or securing construction or permanent financing of the Project.

13.7. Sale of Project to Managing Member or General Partner. Absent (1) a change in the managing member or general partner in Owner, or in the composition thereof, or (2) an uncured Event of Default under this Agreement, OHCS consent to the sale of the Project to the current managing member or general partner of Owner upon termination of the "compliance period" applicable to the last building of the Project to be placed in service as provided in IRC Section 42 provided (1) OHCS is given adequate notice prior to the transfer, (2) the terms of such sale are reasonable as determined by OHCS, and (3) Owner and the managing member or general partner each will have complied with all other requirements of OHCS, including provision of requested information, execution of required documents satisfactory to OHCS, and payment of an appropriate Transfer fee as established by OHCS.

13.8. Transfer of Any Interest in the Project in the event of a Foreclosure Action. Notwithstanding Section 13.1 or anything to the contrary in this Operating Agreement, the provisions of this Section 13.8 shall apply in the event of a sale, transfer or other disposition of the Project pursuant to a foreclosure or a deed in lieu of foreclosure pursuant to the Deed of Trust following a default under the Note Documents or a default under the documents evidencing or securing the Loans (a "**Foreclosure Action**").

13.8.1. When OHCS Consent is not required. In the event of a Foreclosure Action, prior written consent of OHCS shall not be required in connection with any sale, transfer or other disposition of the Project pursuant to either a trustee or sheriff's sale. Additionally, prior written consent of OHCS shall not be required for the Funding Lender (or its designee) to acquire title to the Project pursuant to a Foreclosure Action.

13.8.2. When OHCS Consent is required. The prior written consent of OHCS is required in connection with a sale, transfer or other disposition of the Project by the Funding Lender if the proposed sale, transfer or disposition of the Project is pursuant to a negotiated sale

between the Funding Lender and a prospective Transferee (a “**Negotiated Transfer**”). OHCS further agrees a) not to unreasonably withhold such written consent, b) to respond to Funding Lender’s request for OHCS’ written consent to a Negotiated Transfer within ten (10) Business Days following receipt of such request (“**Business Days**” means any day except any Saturday, any Sunday, or any day which is a legal or bank holiday) and (c) that failure on the part of OHCS to respond within ten (10) Business Days will be deemed to be consent by OHCS to such Negotiated Transfer. Funding Lender’s request for OHCS’ prior written consent to a Negotiated Transfer may be given at any time, and shall include the prospective Transferee’s name, state of organization (if a business entity), and contact information for a representative of prospective Transferee. In connection with a Negotiated Transfer OHCS further agrees that it will not withhold consent to the transfer so long as the proposed transferee (the “First Transferee”) (i) is licensed to do business in the State of Oregon, (ii) has experience owning affordable housing projects, (iii) is not then in default under any obligations to the State of Oregon; (iv) does not have any actions, suits, proceedings or investigations pending or, to the knowledge of the First Transferee, threatened against OHCS; (v) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity with fraud or a criminal offense in connection with obtaining or performing a public contract or transaction; and (vi) does not have a history of non-compliance with affordability restrictions of a similar nature to those set forth in this Agreement.

13.8.3. Following a Foreclosure Action under this Section 13.8, this Operating Agreement shall continue in full force and effect and the Transferee (except as limited herein) shall immediately upon acquiring the Project be subject to the terms, conditions, and all other requirements of the “Owner” hereunder; provided however, that notwithstanding anything to the contrary set forth in this Operating Agreement, no Transferee, upon a Foreclosure Action or at any time following a Foreclosure Action, shall have or assume any liability or obligation for repayment of the LIFT Loan (including pursuant to Section 21.6.9 herein). Further, in no event shall the Funding Lender be deemed to be the “Owner” of the Project or otherwise obligated to comply with the terms and conditions of this Operating Agreement while it holds title to the Project for any interim period prior to a Negotiated Transfer.

13.8.4. If the Funding Lender sells, transfers, or otherwise disposes of any interest in the Project in violation of this Section 13.8, OHCS may declare an Event of Default under the terms of this Operating Agreement and exercise the remedies provided for herein or available at law.

14. COVENANTS TO RUN WITH THE PROPERTY; EQUITABLE SERVITUDES.

14.1. Inducement. Owner represents, agrees, covenants and warrants that the execution and delivery of the Governmental Note by the Governmental Lender and the loan of the proceeds of the Funding Loan is an inducement to Owner to continue to operate the Project in accordance with this Operating Agreement. Owner further represents, agrees, covenants and warrants that the

provision or authorization of financial assistance by OHCS under the Financing Documents is an inducement to Owner to continue to operate the Project in accordance with this Operating Agreement. In consideration of the execution and delivery of the Governmental Note, the loan of the proceeds of the Funding Loan and the provision or authorization of financial assistance by OHCS under the Financing Documents, Owner has entered into this Operating Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein. Owner hereby acknowledges that the restrictions, covenants and provisions contained herein are necessary to ensure that (i) the Project will be operated as a qualified residential rental project within the meaning of Section 142(d) of the Code, (ii) the interest on the Governmental Note in the hands of the Note Holder will be exempt from federal income taxation under Section 103 of the Code, and (iii) the requirements of Article XI-Q of the Oregon Constitution, the Act, the Financing Documents, and related regulations, and further agreements of the parties will be satisfied as reflected in this Agreement and otherwise. Therefore, Owner covenants, agrees and acknowledges that OHCS has relied on this Operating Agreement in determining to execute and deliver the Governmental Note and to provide or authorize the financial assistance under the Financing Documents.

14.2. Declaration of Restrictive Covenants. OHCS and Owner hereby declare their express intent and agreement that, during the term of this Agreement (including the Affordability Period), the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the Property and Improvements of the Project, shall be deemed equitable servitudes running with the Property and Improvements of the Project, and shall, except as provided in Section 13 of this Operating Agreement, pass to and be binding upon OHCS' and Owner's successors in title including any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein (other than a rental agreement or Lease for a Dwelling Unit) shall contain an express provision making such conveyance subject to the covenants, restrictions, charges, easements and equitable servitudes contained herein; provided, however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

15. BURDEN AND BENEFIT; TRANSFEREE AS OWNER.

15.1. Owner hereby declares its understanding and intent that the burdens of the covenants set forth herein touch and concern the Property and Improvements in the Project in that Owner's legal interest in the Project are rendered less valuable thereby. Owner hereby further declares its understanding and intent that the benefits of such covenants touch and concern the Property and Improvements of the Project by enhancing and increasing the enjoyment and use of the Project by Qualified Tenants and State Income Qualified Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which

the Loans were made and the financial assistance under the Financing Documents was provided or authorized.

15.2. Upon a sale, transfer or other disposition of the Project pursuant to Section 13.1 of this Operating Agreement, the Transferee shall be deemed to be the "Owner" of the Project and to have made the declarations of the Owner set forth in the first paragraph of this Section 15, and shall be subject to the rights of OHCS to take action and pursue remedies against the Transferee as the Owner to ensure compliance with all covenants and obligations under this Operating Agreement, including those related to the operation of the Project as an affordable housing project. These rights and remedies of OHCS include, without limitation, all of the rights and remedies granted to OHCS to ensure affordability, habitability and the management and operation of the Project in accordance with the covenants, obligations and program requirements set forth in any of the applicable Financing Documents (except for any Financing Documents which terminate upon a Foreclosure Action).

16. UNIFORMITY; COMMON PLAN.

The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

17. OPERATING INCOME AND EXPENSE FUND.

Upon written notice by OHCS, which notice OHCS may give and retract from time to time at its sole, but reasonable discretion, Owner shall establish and maintain a Project Operating Income and Expense Fund (the "**Operating Fund**") with a depository approved in writing by OHCS (and acceptable to the Note Holder or designated servicer during the period of the Loans and to the Investor during the period of its participation in Owner). The processes otherwise allowed in the Note Documents for the deposit and expenditure of Operating Income will be deemed permissible under this Agreement unless and until Owner is notified by OHCS that it must implement the Operating Fund. Upon written notice by OHCS, all Operating Income shall be deposited immediately in the Operating Fund, and Owner shall promptly pay all Operating Expenses out of this Operating Fund. No other use of the Operating Fund deposits or the moneys required to be placed therein, including the distribution of Excess Revenues, may be made by Owner without prior written approval of OHCS. So long as the Loans or any portion thereof remains outstanding, any Operating Fund required pursuant to this Agreement will be maintained with the Note Holder and thereafter, if required by the holder of the Governmental Note, with such holder if such holder is a federally insured depository institution and otherwise with a federally insured depository institution satisfactory to such holder in its reasonable discretion.

18. DISTRIBUTIONS FROM THE OPERATING FUND.

During any period in which Owner is required by notice from OHCS to establish and maintain an Operating Fund, neither Owner nor those having a beneficial interest in Owner shall make, receive, or retain any distribution of any assets or any income of any kind from the Project

for the term of this Agreement except from the Operating Fund and then only subject to the following conditions:

18.1. Excess Revenues Distribution. Owner is entitled to distributions of Excess Revenues from the Operating Fund only at the end of each fiscal year of Project operation and only after all Operating Expenses have been paid, or moneys have been set aside for payment, and OHCS has given its written authorization based on OHCS' review of the annual audited financial statement and inspection required in this Operating Agreement. OHCS will endeavor to complete its inspection and review of the annual audited financial statement within sixty (60) days of its receipt. If OHCS fails to give its written authorization for distribution within sixty (60) days after its receipt of the annual audited financial statement without providing notice of corrective action to be taken by Owner with respect to the Project, OHCS' inspections of same, or the annual audited financial statement, distribution of Excess Revenues from the Operating Fund will be deemed approved.

18.2. Withholding Distribution of Excess Revenues. OHCS may withhold authorization of any distribution of Excess Revenues from the Operating Fund when there is an Event of Default, or when OHCS determines that there is a reasonable probability that the Operating Fund balance will not be sufficient to pay all of the Operating Expenses of the Project.

18.3. Constructive Trust. Any distribution of moneys from the Operating Fund that does not comply with the terms of this Section shall be deemed to be held in constructive trust for the benefit of OHCS by the possessor of those moneys. Owner, if not the possessor of the trust moneys, shall make demand upon the possessor of those moneys at the request of OHCS. Any unauthorized distribution of moneys shall be repaid by Owner to the Operating Fund from sources other than other Operating Income or assets of the Project.

19. INFORMATION; MONITORING.

Owner shall:

19.1. Tax Returns. From time to time upon OHCS' request, but not less than annually, provide to OHCS the latest tax returns complete with all schedules, including applicable K-1 statements and financial statements prepared in accordance with GAAP or IFRS and certified by Owner to be true and correct in all respects.

19.2. Audited Financial Statements. When OHCS has required Owner to establish and maintain the Operating Fund or when otherwise expressly requested by OHCS, provide to OHCS within 120 days after the end of each applicable calendar year (or such shorter term as may be applicable in any Financing Document) a complete audited financial statement with respect to the Project in a form acceptable to OHCS, based upon an examination of the books, records, and accounts of the Project, setting forth the financial condition of the Project as of the end of such fiscal year and the results of operation of the Project for such fiscal year.

19.3. Rent Rolls; Operating Statements. From time to time upon OHCS' request provide to OHCS a current rent roll and operating statements prepared in accordance with GAAP or IFRS and certified by Owner to be complete and accurate in all respects.

19.4. Notice to OHCS. Give OHCS written notice within ten (10) days after Owner first receives notice of:

19.5. Litigation or Other Claims. Any litigation or claim of any kind which might subject any of Owner to any liability, whether covered by insurance or not; and

19.6. Complaints and Charges. Any complaint or charge filed by any Governmental Authority or any other Person affecting the Project or any of Owner or their business which may impair the operation of the Project or the tax-exempt status of the Governmental Note.

19.7. Breach or Event of Default. Promptly notify OHCS of any condition or event that constitutes a breach or event of default under the Note Documents, the Financing Documents, or this Operating Agreement.

19.8. Data and Other Information. Promptly furnish to OHCS such data and information, financial or otherwise, concerning any of Owner, as from time to time may reasonably be requested by OHCS, including as required under the Regulatory Agreement, other Note Documents, the Project Management Agreement, and other Financing Documents.

19.9. Inspection; Preparation of Financial Statements. Allow OHCS to inspect the Project, including all records thereof, with reasonable notice and cooperate with such inspection as required by OHCS. All financial statements shall be prepared in accordance with GAAP or IFRS, in form and content satisfactory to OHCS, and certified to be complete and accurate in all respects.

20. CHARGES AND FEES.

20.1. Payment of Charges and Fees. Owner shall timely pay all charges and fees identified in this Operating Agreement, in Department administrative rules (as amended from time to time), and otherwise.

20.2. Payments at Closing. The amount of fees and charges required to be paid at closing under the LOI will be provided by invoice from OHCS to include, among other things, the standard recorded document preparation charge, the LIHTC Recipient Charge, the LIHTC Reservation Charge, the Note Issuance Fee, the LIFT Loan fee, the TEFRA charges, the Financial Advisor charges, as well as supplemental Financing Document and other non-Note Document preparation charges from the Department of Justice. Note Counsel charges and other legal fees due from Owner at closing will be paid separately by Owner at closing.

20.3. Ongoing Payments. As part of the charges and fees due from Owner to OHCS, Owner acknowledges and agrees that it shall prospectively pay administration and monitoring fees

and related charges, (i) on a prospective ongoing annual basis during the first fifteen (15) years of the Affordability Period in a yearly amount calculated on the basis of **\$35** for each of the residential units in the Project; (ii) on a prospective ongoing annual basis for the remaining balance of the Affordability Period in a yearly amount calculated on the basis of **\$25** for each of the residential units in the Project; and (iii) additionally, on a prospective ongoing annual basis during the Qualified Project Period for the Governmental Note in a yearly amount calculated on the basis of **\$10** for each of the = residential units in the Project), with all applicable installments due and payable in an aggregate amount on a calendar-year basis for the duration of the Affordability Period (at a minimum, through **December 31, 2056**), the first payment of which shall be due and payable upon the first day of the month after which 10% of the residential units in the Project are first occupied or **December 31, 2026**, whichever is sooner (pro-rated based on the remaining portion of the calendar year), and thereafter in regular payments in advance as described above commencing on **January 1, 2027** in accordance with terms satisfactory to OHCS. Such fees and related charges are subject to adjustment from time to time by OHCS in accordance with its then current administrative rules.

21. DEFAULTS; ENFORCEMENT.

21.1. [Reserved]

21.2. Corrective Actions. OHCS may, from time to time, identify and direct Owner to correct deficiencies in Owner's compliance with this Agreement (including the Project Requirements), which it will correct as so directed.

21.3. Withholding Distributions. OHCS may withhold any Owner distributions due it from the Operating Fund, consistent with Section 18.

21.4. Required Training. OHCS may require Owner, its owners, principals, officers, employees, and agents to undertake training, at Owner's expense, as directed by OHCS.

21.5. Extension of Affordability Period. OHCS may, by written notice, extend the Affordability Period described in this Agreement or in individual Financing Documents for periods of time matching corresponding periods of time during which OHCS determines Owner to be in material noncompliance with any of the terms of this Agreement (including the Project Requirements).

21.6. Additional Remedies. If Owner defaults in the performance or observance of any covenant, agreement or obligation of Owner set forth in this Operating Agreement, and if such default remains uncured by Owner, Investor, or Funding Lender for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHCS determines relate to material health or safety needs of Project Tenants) after notice thereof shall have been given by the Governmental Lender (or in the case of a default under the Note Documents, by the Fiscal Agent) to Owner, Investor (for the duration of Investor's membership in Owner), and Funding Lender (for the duration of its interest in the Loans), or for a period of thirty (30) days from the date Owner should, with due diligence, have

discovered such default, then the Governmental Lender may declare an “**Event of Default**” to have occurred hereunder provided, however, if a default is not reasonably capable of being cured within thirty days or any lesser notice period provided by the Governmental Lender, the Governmental Lender may, in its sole discretion, extend the correction period for up to six (6) months, but only if the Governmental Lender determines there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project, the correction period for the successor for an existing default shall be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project (and further provided that no Event of Default may be declared by Governmental Lender for the failure of Funding Lender to comply with certain provisions of this Operating Agreement as set forth in Section 2.4 of this Agreement). To the extent that the default is not corrected within the above-described cure period including extensions, if any, granted by the Governmental Lender, an Event of Default shall be deemed to occur and the Governmental Lender may exercise its rights and remedies under this Section or otherwise. Following the occurrence of an Event of Default hereunder, the Governmental Lender may, at its option, take any one or more of the following steps (except that itemized remedies 21.6.2, 21.6.8, & 21.6.9 always must be preceded by notice of default to the Investor and Funding Lender, as applicable in accordance with this subsection), in addition to all other remedies provided in this Agreement, by law, or in equity:

- 21.6.1.** By mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender hereunder;
- 21.6.2.** Obtain the appointment of a receiver for the operation of the Project (subject to the terms of the Intercreditor Agreement);
- 21.6.3.** Have access to and inspect, examine and make copies of all of the books and records of Owner (including any Management Agent) pertaining to the Project;
- 21.6.4.** Withhold approval of any Owner distribution from the Operating Fund;
- 21.6.5.** Declare Owner, the Management Agent (if applicable), and any member, officer, employee, or agent of either entity ineligible to receive further financial assistance from OHCS;
- 21.6.6.** Require termination of the Management Agent and its replacement to OHCS’ satisfaction;
- 21.6.7.** Require Owner to cease management of the Project, if self-managing, and to engage a Management Agent acceptable to OHCS;
- 21.6.8.** Require a change in the general partner or managing member of Owner, to OHCS’ satisfaction;

21.6.9. Subject to the limitations set forth in Section 13.8, require repayment of the outstanding aggregate principal amount of the LIFT Loan (together with applicable interest and charges) with respect to the Project, and such amount will be immediately due and payable following thirty (30) days from such written demand, by Owner to OHCS;

21.6.10. Enter onto the Property and correct Events of Default with respect to the Project at Owner's expense, which expense Owner will repay to OHCS within ten (10) days of any presentment of charges for same;

21.6.11. Withhold any Owner distributions due it from the Operating Fund;

21.6.12. Require Owner, its owners, principals, officers, employees, and agents to undertake training, at Owner's expense, as directed by OHCS;

21.6.13. Take such other action as allowed (i.e., with or without notice) under this Agreement, including incorporated documents; or

21.6.14. OHCS may take such other action available at law or in equity as may appear necessary to enforce the covenants, conditions, agreements, and obligations of Owner under this Agreement, in such order and manner as it may select, to recover monetary damages caused by such violation or attempted violation of any covenant, condition, agreement, or obligation. Such penalty or damages to include but not be limited to all costs, expenses including but not limited to staff and administrative expense, fees, including but not limited to all reasonable attorneys' fees which may be incurred by OHCS or any other party in enforcing or attempting to enforce this Agreement following any Event of Default on the part of Owner or its successors, whether the same shall be enforced by suit or otherwise.

21.6.15. Penalty and Damages for Failure to Comply with Affordability Requirements. Subject to the notice and cure provisions of this subsection 21.6, failure to comply with the affordability requirements (as detailed in Sections 3.1 and 3.2 of this Agreement) may result in the imposition on Owner of damages and penalties by OHCS of \$250/day for each noncompliant Qualified Unit. Any such damages and penalties imposed by OHCS shall be personal and unsecured obligations of Owner and no subsequent transferee or owner of the Project, including without limitation, any transferee following a foreclosure or deed in lieu of foreclosure, shall be subject to or obligated for the payment of any such damages or penalties imposed by OHCS in respect of any period prior to the ownership of the Project by such party.

21.7. No Waiver. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any person entitled to enforce the same to

obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

21.8. Department Fees, Costs, and Expenses. All reasonable fees, costs and expenses of OHCS, including legal expenses prior, during or after trial (including on appeal, in bankruptcy or arbitration) incurred in taking any action pursuant to this Section shall be the sole responsibility of Owner. Reasonable attorneys' fees shall not exceed the rate charged to OHCS by its counsel.

21.9. Validity of Mortgages and Like Encumbrances. No breach or default under this Operating Agreement shall defeat or render invalid any mortgage or like encumbrance upon the Project or any portion thereof given in good faith and for value.

21.10. Cure Right. The Investor and Funding Lender are entitled to cure any Event of Default hereunder within the time frame provided to Owner hereunder. OHCS hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor or Funding Lender will be deemed to be cured by Owner and shall be accepted or rejected by OHCS on the same basis as if made or tendered by Owner. The right of Investor or Funding Lender to cure a default hereunder does not create an obligation independent of Owner by Investor or Funding Lender to effectuate a cure of any such default.

21.11. No Limitation. This Section does not limit other rights and remedies available to OHCS under this Agreement, including incorporated documents.

22. RIGHT TO WAIVE REQUIREMENT FOR NOTE COUNSEL OPINION.

OHCS may, in its sole and absolute discretion, waive the requirements for the delivery of any opinion of Note Counsel set forth herein.

23. RECORDING AND FILING.

Owner shall cause this Operating Agreement and all amendments and supplements hereto to be recorded and filed in the real property records of the Oregon county or counties in which the Project is situated and in such other places as OHCS may reasonably request. Owner shall pay all fees and charges incurred in connection with any such recording.

24. PAYMENT OF FEES, CHARGES, DAMAGES AND PENALTIES.

Notwithstanding a discharge of the Funding Loan Agreement or any other event, including payment of the Loans, Owner shall pay all fees, charges, damages and penalties to OHCS required under this Operating Agreement or otherwise in connection with the Project.

25. GOVERNING LAW; VENUE.

25.1 Governing Law. This Operating Agreement shall be governed by the laws of the State of Oregon without regard for principles concerning conflicts of laws.

25.2 Venue. The parties hereby agree that the courts of the State of Oregon or, where necessary, the U.S. District Court for the District of Oregon, shall have exclusive jurisdiction over any action brought by or against the Governmental Lender under this Operating Agreement or in any way relating to the transactions contemplated hereby. In no event shall this provision be construed as a waiver by the State of Oregon or Governmental Lender of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. OWNER, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

26. AMENDMENTS.

This Operating Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the county or counties in which the Project is situated.

27. NOTICES.

27.1. Delivery of Notice. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery or first-class mail, postage prepaid, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

To OHCS: Oregon Housing and Community Services Department
725 Summer Street NE, Suite B
Salem, OR 97301-1266
Attention: Development Resources & Production Section
Telephone: (503) 986-6897

With a copy to: Oregon Housing and Community Services Department
725 Summer Street NE, Suite B
Salem, OR 97301-1266
Attention: Asset and Property Management Section

And with a copy to: Oregon Department of Justice
1162 Court St. NE
Salem, OR 97301-4096
Attention: OHCS Contact Counsel

To Owner: Mountainview Townhomes Limited Partnership
c/o Stewardship Development LLC
1247 Villard Street
Eugene, OR 97403
Attn: Amanda Perkins
Email: amanda@stewardshipproperties.net
Telephone: (541) 517-9065

And to: Klamath Housing Authority
1445 Avalon Street
Klamath Falls, OR 97603
Attention: Executive Director
E-mail: ann@klamathhousing.org
Telephone: (541) 884-0649

With a copy to: Kantor Taylor PC
1200 Fifth Avenue, Suite 1910
Seattle, WA 98101
Attention: Mark Kantor
Email: mkantor@kantortaylor.com
Telephone: (206) 812-2500

And with a copy to: Elliot, Ostrander & Preston, P.C.
707 SW Washington Street, Suite 1500
Portland, OR 97205
Telephone: (503) 753-3582
Attention: Paul Dagle
Email: paul.dagle@daglelaw.com

To the Investor: NEF Assignment Corporation
10 S. Riverside Plaza, Suite 1700
Chicago, IL 60606
Attention: Vice President – Asset Management

With a copy to: Kutak Rock LLP
The Omaha Building
1650 Farnam Street
Omaha, NE 68102-2186
Attention: Erin O’Gara
Email: Erin.Ogara@kutakrock.com

To the Funding Lender and Servicer: U.S. Bank National Association
1307 Washington Ave., Suite 300
Mail code: SL MO RMCD
St. Louis, MO 63103
Attention: Community Development Lending

With a copy to: Davis Wright Tremaine LLP
865 Figueroa Street, Suite 2400
Los Angeles, CA 90017
Attention: Nancy Clapp
Email: nancyclapp@dwt.com
Telephone: (213) 633-6835

To the Fiscal Agent:

Zions Bancorporation, National Association
Corporate Trust Department
601 Union Street, Suite 3600
Seattle WA, 98101
Telephone: (206) 438-1267
Attention: Anna McCully
Email: anna.mccully@zionsbank.com

With a copy to:

Zions Bancorporation, National Association
800 W Main Street, Suite 1000
Boise, ID 83702
Telephone: (208) 501-7466
Attention: Allison Darnall
Email: Allison.darnall@zionsbancorp.com

27.2. Change of Notice Information. The above-identified persons and entities may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given three business days after the date of mailing.

28. SEVERABILITY.

If any provision of this Operating Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

29. NO CONFLICTS WITH OTHER DOCUMENTS.

Owner warrants that Owner has not executed, and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event the requirements of this Operating Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

30. CONSTRUCTION.

The parties to this Operating Agreement acknowledge that each party and its counsel have participated in the drafting and revision of this Operating Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Operating Agreement or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to this Operating Agreement.

31. TIME OF THE ESSENCE.

Time is of the essence in the performance by Owner of the terms of this Agreement.

32. NO THIRD-PARTY BENEFICIARIES; NO RECOURSE.

32.1 No Third-Party Beneficiaries; Changes. The Governmental Lender (including the State of Oregon) and Owner are the only parties to this Agreement and are the only parties entitled to rely on and enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly indirectly or otherwise, to third persons unless such third persons are individually identified by name in this Agreement and expressly described as intended beneficiaries of the terms of this Agreement.

32.2 No Right of Action. Residents and third-party beneficiaries, if any, under incorporated documents have no right of action to enforce the restrictive covenants or equitable servitudes created hereunder (except, with respect to LIHTC or Governmental Note covenants, as expressly reserved to third-party beneficiaries in applicable Code or Treasury Regulations provisions). OHCS retains the exclusive right to enforce such covenants and servitudes (except, with respect to LIHTC or Governmental Note covenants, as expressly reserved to third-party beneficiaries in applicable Code or Treasury Regulations provisions). Residents and other third-party beneficiaries under this Agreement (including incorporated documents), if any, have no claim, cause of action or other right of recourse against OHCSs with respect to any action or lack of action taken by OHCS with respect to this Agreement (including the described covenants and servitudes) or the Project arising from their rights, if any, under this Agreement or otherwise.

32.3 No Attorney Fees. Residents and third-party beneficiaries under incorporated documents, if any, have no right to attorney fees under this Agreement (less incorporated documents) for claims asserted as third-party beneficiaries hereunder nor will parties hereto have a right to attorney fees under this Agreement (less incorporated documents) against Residents and other third-party beneficiaries.

33. CROSS DEFAULT.

An Event of Default hereunder may be deemed by OHCS to be an Event of Default under the Note Documents and under the Financing Documents. An Event of Default under the Note Documents shall constitute an Event of Default hereunder.

34. PRESERVATION.

Owner acknowledges and agrees that the Project is a "participating property" as defined in ORS 456.250 and, as such, is subject to the requirements, among other things, of ORS 456.250 through 456.265. Owner, its successors and assigns, and any owner of the Project (or any party thereof) are bound by and will comply with the Project Requirements, including but not limited to ORS 456.250 through 456.265.

35. NO LIMITATIONS ON ACTIONS OF GOVERNMENTAL LENDER IN EXERCISE OF ITS GOVERNMENTAL POWERS.

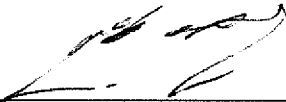
Nothing in this Operating Agreement, the Funding Loan Agreement, the other Note Documents, or the Financing Documents is intended, nor shall it be construed, to in any way limit

the actions of the Governmental Lender in the exercise of its governmental powers. It is the express intention of the parties hereto that the Governmental Lender shall retain the full right and ability to exercise its governmental powers with respect to Owner, the Project, and the transactions contemplated by this Operating Agreement, the Funding Loan Agreement, the other Note Documents, or the Financing Documents to the same extent as if it were not a party to this Operating Agreement, the Funding Loan Agreement, the other Note Documents, or the Financing Documents, or the transactions contemplated thereby, and in no event shall the Governmental Lender have any liability in contract arising under this Operating Agreement, under the Funding Loan Agreement, under the other Note Documents, or the Financing Documents by virtue of any exercise of its governmental powers.

(Signature Pages Follow)

OHCS:


STATE OF OREGON acting by and through its
HOUSING AND COMMUNITY SERVICES
DEPARTMENT

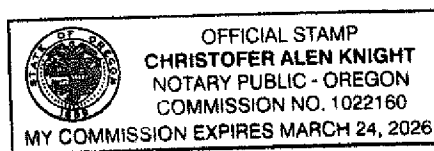
By: 
Caleb Yant
Deputy Director

STATE OF OREGON)
) ss.
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this 1st day of May 2024 by Caleb Yant, Deputy Director, on behalf of the State of Oregon, acting by and through its Housing and Community Services Department.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.


Notary Public for Oregon
My Commission Expires: March 24, 2026



MOUNTAINVIEW TOWNHOMES LIMITED PARTNERSHIP,
an Oregon limited partnership

By: KHA Mountainview GP LLC,
an Oregon limited liability company
Its: Managing General Partner

By: Klamath Housing Authority,
an Oregon public body corporate and politic
Its: Manager

By: 
Ann Malfavon, Executive Director

By: Stewardship Mountainview LLC,
an Oregon limited liability company
Its: Administrative General Partner

By: Stewardship Development LLC,
an Oregon limited liability company
Its: Manager

By: JCP Real Estate LLC,
an Oregon limited liability company
Its: Member

By: _____
Amanda Perkins, Member

[Notary Pages Follow]

MOUNTAINVIEW TOWNHOMES LIMITED PARTNERSHIP,
an Oregon limited partnership

By: KHA Mountainview GP LLC,
an Oregon limited liability company
Its: Managing General Partner

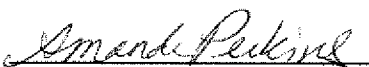
By: Klamath Housing Authority,
an Oregon public body corporate and politic
Its: Manager

By: _____
Ann Malfavon, Executive Director

By: Stewardship Mountainview LLC,
an Oregon limited liability company
Its: Administrative General Partner

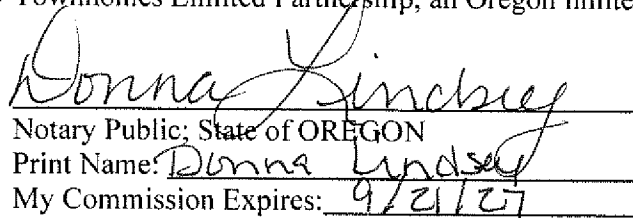
By: Stewardship Development LLC,
an Oregon limited liability company
Its: Manager

By: JCP Real Estate LLC,
an Oregon limited liability company
Its: Member

By: 
Amanda Perkins, Member

[Notary Pages Follow]

This instrument was acknowledged before me this 6th day of May, 2024 by Ann Malfavon, the Executive Director of the Klamath Housing Authority, an Oregon public body corporate and politic, the Manager of KHA Mountainview GP LLC, an Oregon limited liability company, the Managing General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.



This instrument was acknowledged before me this _____ day of May, 2024 by Amanda Perkins, Member of JCP Real Estate LLC, an Oregon limited liability company, the Member of Stewardship Development LLC, an Oregon limited liability company, the Manager of Stewardship Mountainview LLC, an Oregon limited liability company, the Administrative General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.

Notary Public; State of OREGON
Print Name: _____
My Commission Expires: _____

EXHIBIT A

(Legal Description)

All that certain Real Property situated in the City of Willamette, County of Klamath, State of Oregon, described as follows:

Parcel 1, Land Partition 15-23, a replat of Parcel 3 Land Partition 8-20, a replat of Parcel 3 of Land Partition 2-17 situate in the NE1/4 Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and recorded December 26, 2023 as Instrument No. 2023-010962, Klamath County Records.

EXHIBIT B

Form of Project Management Agreement

STATE OF OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT LOCAL INNOVATION AND FAST TRACK HOUSING PROGRAM PROJECT MANAGEMENT AGREEMENT

This Local Innovation and Fast Track Housing Program Project Management Agreement (this "**Agreement**") is made and entered to this 1st day of _____ 2024 (the "**Effective Date**") by and among _____ company ("**Owner**"), the State of Oregon, acting by and through its Housing and Community Services Department ("**OHCS**") and _____ an Oregon corporation ("**Agent**").

RECITALS

A. Owner has applied to the Department for financial assistance from multiple OHCS programs to partially finance the new construction of an affordable, multifamily, rental-housing development comprised of a total of _____ (____) units (including **zero (0)** manager unit(s)), of which _____ (____) residential units will be income and rent-restricted for low-income persons as further described below (the "**Qualified Units**") in **one (1)** residential building(s) and **zero (0)** community building(s) (collectively, and including related common areas and other improvements, the "**Improvements**"). The Improvements are situated on certain real property located in _____ (the "**City**"), _____ County (the "**County**"), Oregon and further described in Exhibit A, attached hereto (the "**Property**"). The Property and the Improvements are collectively referred to herein as the "**Project**" and known as "_____".

B. Through the LIFT Program, OHCS will provide the conditional LIFT Loan for the Project up to a maximum principal amount of _____ **DOLLARS (\$_____)** (the "**LIFT Loan**"). The LIFT Loan will be evidenced, among other things, by (i) a promissory note in the aggregate principal amount of the LIFT Loan dated as of the Effective Date (the "**LIFT Note**") delivered to OHCS by Owner; (ii) a Line of Credit Trust Deed, Security Agreement, Fixture Filing and Assignment of Leases and Rents, dated as of the Effective Date (the "**LIFT Trust Deed**") executed by Owner, as Grantor, in favor of OHCS, as beneficiary, to be recorded in the official records of the County; (iii) a Loan Agreement, dated as of the Effective Date (the "**LIFT Loan Agreement**") entered into by and between Owner and OHCS; (iv) a Repayment and Completion Guaranty Agreement, dated as of the Effective Date (the "**Guaranty**") entered into between OHCS and _____ ("**Guarantor**"); (v) this Agreement; (vi) that certain Local Innovation and Fast Track Housing Program Operating Agreement and Declaration of Land-Use Restrictive Covenants dated as of the Effective Date (the "**Operating Agreement**") entered into by and between Owner and OHCS; and (vii) any ancillary documents related to the documents previously identified in this Recital. The documents referenced in this Recital, together with all other documents related to the LIFT Loan, including as amended from time to time, are hereinafter, collectively, referred to as the "**LIFT Documents**."

□

- C. Through the LIFT Program, OHCS will deliver the LIFT Loan to Owner. The LIFT Loan is evidenced by the LIFT Documents as defined in the Operating Agreement.
- D. The source of the LIFT Loan is the State of Oregon Article XI-Q General Obligation Taxable Bonds (the “**LIFT Bonds**”) issued by the State of Oregon for the purpose of OHCS loaning certain proceeds of the LIFT Bonds to finance the costs of developing, constructing, acquiring and rehabilitating, furnishing, and equipping multifamily, affordable, rental-housing developments such as the Project.
- E. Owner and OHCS have or will execute and record in the official records of the County the Operating Agreement to restrict the use and control the operation of the Project so as to comply with Project Requirements (as hereinafter defined) and related restrictive covenants, easements, and servitudes that shall run with the land and be binding and a burden upon the Property of the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein or hereafter for the duration of the Operating Agreement.
- F. Owner, OHCS, and Agent have or will execute this Agreement to further articulate the manner of the Project’s operation and management in keeping with its sources of funding from OHCS and applicable law including, but not limited to Article XI-Q of the Oregon Constitution and the Act (as hereinafter defined).
- G. It is the intent of the parties that any management agreement (“**Management Agreement**”) between the Owner and its management agent, including Agent concerning the Project will be consistent with and subordinate to this Agreement, the Operating Agreement, and the Project Requirements.

AGREEMENT

NOW, THEREFORE, for good and sufficient consideration, including the Loan and the terms and conditions hereinafter set forth, the parties agree as follows:

SECTION 1. INCORPORATION OF RECITALS AND DOCUMENTS; DEFINITIONS.

- 1) **Incorporations.** The foregoing Recitals and the Exhibits are hereby incorporated by reference to the same extent and with the same force and effect as if fully set forth herein, provided, however, that the Recitals and the Exhibits may not be deemed to modify the express provisions of this Agreement.
- 2) **Definitions.** Capitalized terms used herein without definition or not otherwise defined below, have the meaning ascribed to such term in the Operating Agreement and the Project Requirements unless the context clearly requires otherwise.

“**Act**” means the Housing Finance Act, ORS Chapter 456.515 to 725, as amended.

“**Affiliate**” means any corporation, partnership, limited liability company, or other entity directly or indirectly controlling, controlled by or under common control with such entity. For this purpose, “**control**,” “**controlled**” or “**controlling**” means (i) the ownership directly or indirectly of voting

control of the corporation or other entity, (ii) control of the management through holding, directly or indirectly, a general partnership interest in a limited partnership or the managing member interest in a limited liability company, or (iii) if such entity has no stock or equity, control over a majority of the board of directors of such entity.

“Affordability Period” means the Affordability Period defined in the Operating Agreement.

“Agent” or “Management Agent” means **Klamath Housing Authority**, public body corporate and politic of the State of Oregon and any subsequent professional property management company with an appropriate supervisory person properly licensed by the Oregon Real Estate Agency, as necessary, and required by OHCS to take over Project Management from Northeast Oregon Housing Authority or the Owner consistent with the terms of this Agreement, the Operating Agreement, and the Project Requirements as well as the Management Agreement between Agent and Owner, which Management Agreement is subject to this Agreement and the Project Requirements.

“Application” means the Application as defined in the Operating Agreement.

“Available Units” means Available Units as defined in the Operating Agreement.

“Code” or “IRC” mean the Code or IRC as defined in the Operating Agreement.

“Corrective Notice” means a Corrective Notice as defined in the Operating Agreement, e.g., any directive from OHCS to correct a deficiency in the operation or management of the Project, or other noncompliance with the Project Requirements, as determined by OHCS.

“Dwelling Units” or “Units” mean Dwelling Units or Units as defined in the Operating Agreement.

“Financing Documents” mean, collectively, the Note Documents and the Financing Documents as each are defined in the Operating Agreement.

“GAAP” means generally accepted accounting principles consistently applied.

“Gross Collections” means all amounts actually collected or required to be collected by the Owner or, if applicable, Agent with respect to the Project, such as rents, Project subsidies, vending and laundry machine income, income from commercial space (if any), and other permitted use charges, but excluding:

- (i) income derived from interest on investments;
- (ii) discounts and dividends on insurance; and
- (iii) security deposits and OHCS-approved fees.

☐ **“HUD”** means the U.S. Department of Housing and Urban Development.

☐

☐ **“IFRS”** means the International Financial Reporting Standards consistently applied.

☐

- ☐ **"Issuer"** means, collectively, the Oregon State Treasurer, the Department of Administrative Services, and the Housing and Community Services Department. In any context exclusive of the Bonds, "Issuer" means the Housing and Community Services Department.
- ☐
- ☐ **"Key Personnel"** means personnel as described in Section 6, with current such personnel identified in the **"Description of Key Personnel"** attached hereto as **Exhibit D**.
- ☐
- ☐ **"Lease"** means the form(s) of OHCS-approved agreement between the Owner and a Resident under the terms of which said Resident is entitled to enjoy possession of a Unit in the Project.
- ☐
- ☐ **"Management Plan"** means the Management Plan as defined in the Operating Agreement and attached hereto as **Exhibit B**.
- ☐
- ☐ **"Owner Agreement"** means the Owner's First Amended and Restated Agreement of Limited Partnership in effect as of the date of this Agreement.
- ☐
- ☐ **"Project"** means the Property, together with all improvements, buildings, appurtenances, and equipment thereon as more fully described in the Financing Documents.
- ☐
- ☐ **"Project Requirements"** means the Project Requirements as defined in the Operating Agreement.
- ☐
- ☐ **"Qualified Resident"** or **"Qualified Tenant"** means a person as so defined in the Operating Agreement.
- ☐
- ☐ **"Qualified Unit"** means a Qualified Unit as defined in the Operating Agreement.
- ☐
- ☐ **"Rent"** means Rent as defined in the Operating Agreement.
- ☐
- ☐ **"Resident"** means a Resident as defined in the Operating Agreement.
- ☐
- ☐ **"Resident Services Plan"** means the **"Resident Services Plan"** or **"Resident Plan"** described in the Operating Agreement and attached hereto as **Exhibit C**.
- ☐
- ☐ **"Rules and Regulations"** means Rules and Regulations as defined in the Operating Agreement, e.g., conduct standards for Residents and users of the Project consistent with Program Requirements.
- ☐
- ☐ **"Unit"** or **"Dwelling Unit"** means a Unit or Dwelling Unit as defined in the Operating Agreement, e.g., a residential dwelling unit in the Project.
- ☐

SECTION 2. APPOINTMENT OF AGENT; PRUDENT MANAGEMENT SATISFACTORY TO OHCS.

Owner acknowledges its appointment of Agent, and Agent acknowledges its appointment by Owner, as exclusive Management Agent for Owner with respect to the Project pursuant to the terms of the referenced Management Agreement and subject to the terms of this Agreement and the Project Requirements. Agent will manage, and Owner will ensure management of, the Project in a reasonable and a prudent business

manner consistent with this Agreement and the Project Requirements, all in a manner satisfactory to OHCS.

SECTION 3. COMPLIANCE WITH PROGRAM REQUIREMENTS; RENTAL RATES.

(1) Compliance with the Project Requirements.

- (a) Acknowledgement of the Project Requirements and Performance Obligations.** Agent understands, covenants, and agrees that Owner may acquire or has acquired the LIFT Loan and other funding from OHCS for the financing of the Project and is required to comply with the terms of the Financing Documents (including as supplemented or amended) as well as with the Project Requirements. Agent and Owner expressly covenant and agree that the operation of the Project is subject to this Agreement, the Operating Agreement, other Financing Documents, and the Project Requirements. Agent and Owner expressly covenant and agree that the Owner is, or will be, providing accommodations in the Project to Qualified Tenants as described in the Operating Agreement, principally for residential use consistent with the terms of the Financing Documents, including the Project Requirements, all to the satisfaction of OHCS, and Agent is obligated hereunder to accomplish such performance.
- (b) Compliance; Conflicts.** The Agent and Owner will timely comply with applicable provisions of the Financing Documents, including the Project Requirements (including, but not limited to the terms and conditions of the Management Agreement and of this Agreement and the Operating Agreement). In the event of any conflict among the Financing Documents, the terms of the Operating Agreement will prevail.
- (c) Corrective Notices.** Agent and Owner will timely comply with any Corrective Notice issued by OHCS. However, if the Agent or Owner believes that a Corrective Notice is not consistent with Financing Documents, including the Project Requirements, it may provide written comment of same to OHCS within the cure period allowed under the Corrective Notice. OHCS' subsequent written determination upon any received comment will be deemed to be final and requiring compliance, as therein articulated, by Agent and Owner.

(2) Rent and Other Charges. There will be no assessment of Rent or other charges to Qualified Tenants except as pre-approved in writing by OHCS. OHCS approval is at its discretion.

- (a) OHCS Approval of Rental Rates.** Agent may adjust Rents annually by submitting proposed adjustments in writing to OHCS for its approval, together with supporting documentation, both satisfactory to OHCS. Supporting documentation must include a current rent roll with respect to all Units. Subject to the Financing Documents, including the Project Requirements, OHCS may approve, deny, or modify proposed adjustments at its discretion. Adjustment requests will be deemed approved if not denied or modified by OHCS within ninety (90) days of their receipt by OHCS. Notwithstanding the foregoing, any adjustments remain subject to readjustment by OHCS consistent with the Project Requirements. Notwithstanding the foregoing, Rent increases of 5% or less within a 12-month period do not require approval by OHCS.

(b) Notice of Rental Rate Changes. Upon written approval by OHCS of a change in Rent for any Qualified Unit or, subject to paragraph (d) below, any applicable Unit, Agent and Owner must provide at least one full month (and not less than 30 days) advanced written notice to affected Residents of such Rent changes before such Rent changes can become effective, and then only on a prospective basis.

(c) Calculation of Rent. OHCS has final approval of what charges properly must be considered within the calculation of Rent – and subject to its limitations. Rent limitations, as identified under the Operating Agreement, speak in terms of gross rents, including utilities and charges of similar Unit-use character as determined by OHCS.

(3) LIFT Affordability. Throughout the Affordability Period reflected in the LIFT Documents or reflected in the Operating Agreement, whichever is longer (including if extended), all Dwelling Units in the Project shall be State Income Qualified Units and must be occupied by or held vacant and available for rent by persons or families who meet the respective qualifications to be Qualified Tenants, i.e., whose adjusted household income at initial occupancy is equal to or less than ___% of the Median Income for the Area or, as reflected in the table below:

Unit Type	Number of Units	Maximum Percent of Median Family Income as Determined by HUD	Maximum Rent Standards as Determined by HUD
Studio			
1 bedroom			
2 bedroom			
3 bedroom			

SECTION 4. CONFER WITH OWNER AND OHCS. Agent will keep itself informed as to the Project Requirements and, notwithstanding the authority given to the Agent in this Agreement or under the Management Agreement, will confer fully and freely with the Owner and OHCS in the performance of its duties as Agent, including as requested by Owner or OHCS.

SECTION 5. MEETING WITH OWNER AND AGENT. Agent will cause an appropriate officer of the Agent to attend meetings at such times, and under such circumstances, as requested by Owner or OHCS.

SECTION 6. PERSONNEL OF AGENT.

☐ (1) Key Personnel of Agent. Agent is approved to act as Agent based on the training and experience of its “**Key Personnel**” as represented to the Owner and OHCS in the Description of Key Personnel attached hereto and incorporated herein as **Exhibit D**.

☐

(2) Maintaining Key Personnel; Approval of Changes. Agent has represented that the described Key Personnel will be directly involved in the oversight of the day-to-day operations and accounting

functions of the Project, particularly in managing and supervising on-site managers and those performing accounting functions for the Owner and Project. Because OHCS is giving its approval of the Agent based on the training and experience of the described Key Personnel, if the Agent causes or experiences a loss of one or more of such Key Personnel in their positions as represented to OHCS in **Exhibit D**, Agent will promptly provide notice of such loss to OHCS and replace any such Key Personnel with qualified individuals with comparable training and experience. Agent will provide to OHCS the name of each new Key Person and a description of that person's training and experience. A Key Person holding his or her described position because of appointment or election to public office in accordance with law will be deemed to be qualified and acceptable to OHCS.

- ☐ (3) Employees of Agent. The Agent will investigate, hire, pay, supervise, and (if appropriate) discharge all personnel necessary for the prudent and successful operation of the Project consistent with the Project Requirements, including the terms of this Agreement. Agent personnel must include responsible persons to provide a physical, on-site presence at such times as necessary for the prudent and appropriate operation of the Project, for compliance with this Agreement, for compliance with the Project Requirements, and as otherwise requested by OHCS. Such personnel must be consistent with the terms of this Agreement, including **Exhibit D**.
- (4) On-Site Management. Not less than **one (1)** responsible managerial person(s) of the Agent will be available either in person or by telephone not less than 24 hours per day, seven days per week.
- (5) Compensation. Compensation (including fringe benefits) payable to Agent employees, plus all local, state, and federal taxes and assessments incidental to the employment of such personnel, will be borne solely by Agent, and will be paid out of Agent's fee consistent with the Management Agreement, except for compensation payable to onsite staff which is to be paid from the Project operating budget.

SECTION 7. SERVICES OF AGENT.

- ☐ (1) Services During Construction/Rehabilitation. If applicable, prior to completion of construction:
 - (a) Owner shall furnish to OHCS in a format acceptable to OHCS, revised estimates of maintenance and operating expenses accompanied by satisfactory documentation in the form of bids, contracts, or comparable-cost information;
- ☐ (b) Agent shall retain such maintenance personnel as necessary for the Project no later than the day prior to occupancy;
- ☐ (c) Agent shall provide training for on-site management, if any, and maintenance personnel satisfactory to OHCS, including but not limited to attendance at conferences and seminars on housing management;
- ☐ (d) Agent shall establish satisfactory "**Rules and Regulations**" for the Project consistent with the standard form of OHCS-approved Lease or as otherwise required by OHCS consistent with the Project Requirements;

- ☐ (e) Agent shall establish a book-keeping and accounting system in accordance with GAAP or IFRS standards acceptable to OHCS and consistent with the Project Requirements;
- ☐
- ☐ (f) In the absence of insurance coverage acceptable to OHCS obtained by Owner, Owner shall provide for appropriate insurance coverage in accordance with the Management Agreement and the Project Requirements;
- ☐
- ☐ (g) Agent shall secure all necessary equipment and supplies for appropriate operation of the Project;
- ☐
- ☐ (h) Agent shall participate in preoccupancy conferences and training sessions as required by Owner or OHCS; and
- ☐
- ☐ (i) Agent shall provide an accounting for all expenses to be paid from interim income in accordance with GAAP or IFRS standards acceptable to OHCS and the Project Requirements for cost certification, etc.
- ☐ (2) Structure and Warranties. Agent will obtain from the Owner a complete set of plans and specifications as approved by OHCS and copies of all guarantees and warranties pertinent to construction, fixtures, and equipment. With the aid of this information and inspection by competent personnel, Agent will thoroughly familiarize itself with the character, location, construction, layout, plan, and operation of the Project and especially with the electrical, heating, plumbing, air conditioning, ventilating systems, and other mechanical equipment.
- ☐ (3) Maintenance and Repairs. Agent will cause the Project, including all buildings, appurtenances, equipment, and grounds, to be maintained and repaired in accordance with commercial standards, the Project Requirements, and otherwise required by Owner or OHCS. OHCS may require maintenance and repairs supplemental to those required by Owner.
 - ☐ (a) Agent will timely and regularly accomplish maintenance and repairs (to the extent feasible) through the services of regular maintenance employees.
 - ☐ (b) Agent will contract with qualified independent contractors for the maintenance and repair of heating, ventilation, air-conditioning systems, elevators, and other extraordinary maintenance or repairs that are beyond the capability or time-constraints of regular maintenance employees.
 - ☐ (c) Agent is authorized to purchase all materials, equipment, tools, appliances, supplies, and services necessary for proper maintenance and repair of the Project, except as otherwise limited in this Agreement, in the Management Agreement, or by notice from OHCS.
- ☐ (4) Preventive Maintenance. Agent will implement a preventive maintenance schedule including, but not limited to inspections of all Units at least annually; residency commencement and termination check list reviews; inventory control procedures and audits; regular common area maintenance; regular equipment maintenance; exterior maintenance on a seasonal basis; and painting, decorating, and replacement timetables in accordance with industry standards or as otherwise necessary or appropriate. Owner or OHCS may require specific supplemental preventive maintenance.

- ☐ (a) Agent will timely and regularly accomplish preventive maintenance through (to the extent feasible) the services of regular maintenance employees.
- ☐ (b) Agent will contract with qualified independent contractors for the preventive maintenance of heating, ventilation, air-conditioning systems, elevators, and other extraordinary maintenance or repairs that are beyond the capability or time-constraints of regular maintenance employees. Contracts with such contractors must include, satisfactory to OHCS: a provision permitting Agent to terminate same upon a determination by OHCS of material noncompliance; requirements of license and bonding compliance; requirements for appropriate insurance commensurate with the services to be provided. OHCS must be included as a loss payee on such insurance policies for all such contracts that exceed a cost of \$250,000 per year unless waived in writing by OHCS.
- ☐ (c) Agent is authorized to purchase all materials, equipment, tools, appliances, supplies, and services necessary for proper preventive maintenance of the Project, except as otherwise limited in this Agreement, in the Management Agreement, or by notice from OHCS.

☐ (5) Service Requests of Residents. Agent will maintain professional relations with Residents whose service requests will be received, considered, and recorded on a systematic, timely, and written basis to show the action taken with respect to each such request. Complaints of a serious nature and all written complaints will, after thorough investigation, be reported by Agent to the Owner (and, if requested, to OHCS) with appropriate recommendations. Agent will make appropriate provision for receipt of emergency calls from Residents on a 24-hour basis.

☐ (6) Site Visits. Agent will visit the Project at least once a month to monitor the physical plant and Project operations, and to provide support and assistance to the on-site manager(s), if any. Agent will also visit and attend to Project matters as reasonably requested by Owner or OHCS.

☐ (7) Inspection of Units. Agent will make, and cooperate with Owner and OHCS in making, annual and other requested inspections of each Unit and other areas of the Project. Agent will independently make such other inspections of Units and other Project areas as circumstances warrant. Agent will accompany OHCS on all annual inspections by OHCS and as otherwise requested by OHCS and fully cooperate with any such inspections. The annual inspection by Agent may be in conjunction with an OHCS inspection but is in addition to other routine Unit inspections by Agent as circumstances warrant or as directed by OHCS or Owner, or as otherwise contemplated under this Agreement. Agent will take appropriate action with respect to a Resident's material misbehavior. Agent will report in writing to OHCS and Owner with respect to any material concerns with respect to the Project, including with respect to Resident Lease violations or otherwise. Such report must be submitted to OHCS and Owner within forty-five (45) days of Agent's knowledge of such concerns and must include a plan of corrective action or statement of resolution. If requested, the Agent will provide written reports of any and all inspection findings to OHCS.

☐ (8) Property Insurance; Damage Reporting.

- (a) Insurance. In the absence of insurance coverage acceptable to OHCS obtained by Owner, Agent will obtain recommendations for, and cause to be placed in force, all forms of insurance needed to adequately protect the Owner, OHCS, and the Project (and as otherwise required by law), including, where appropriate, comprehensive general liability insurance, boiler insurance, fire and extended coverage insurance, burglary and theft insurance, and business income insurance. OHCS must be included as a loss payee, with an appropriate loss deductible acceptable to OHCS. All of the various types of insurance coverage required for the benefit of OHCS, Owner and Project must be placed with such companies, in such amounts, and with such beneficial interest appearing therein as will be consistent with the Owner Agreement, requirements of other lenders, and reasonably acceptable to the Owner and OHCS.
- (b) Damage Reporting. The Agent will promptly investigate and make a full written report to the Owner and OHCS within five (5) working days of it receiving knowledge of any material damage, accident, or claim relating to the ownership, operation, management, repair or maintenance of the Project, including the estimated cost of repair or recompense, and will cooperate with and make any and all reports required by any insurance company in connection therewith.
- (9) Project Automobile Insurance. Agent will obtain automobile liability coverage on the Project vehicle(s), if any. This expense normally will be a Project operating cost, subject to review by OHCS. Minimum coverage must be \$500,000 combined single-limit with the Owner named as an additional insured party. Agent will only allow persons properly licensed and insured to operate any such vehicle(s).
- (10) Notice of Authority. In addition to its authority to manage the Project as specified herein, Agent is authorized by the Owner to accept service of process and to receive and give receipt for notices and demands. Agent will post and maintain a notice of such information in a conspicuous place on the Project premises. Agent must promptly inform OHCS and Owner of such services of process, notices, and demands.
- (11) Review of Operations by OHCS; Corrective Notices.
- (a) Agent will, consistent with reasonable notice to Residents and as permitted under the Oregon Residential Landlord Tenant Act, permit OHCS to conduct on-site inspections of the Project including, to assess Resident compliance with the rental agreement, and the performance of any and all management services that Agent must provide pursuant to the Management Agreement, this Agreement, the Program Requirements, or otherwise (including under any Management Plan). An authorized representative of Agent will be available during on-site evaluations and cooperate fully with OHCS. Agent also will permit and facilitate inspection and copying of all Project records as requested by OHCS. OHCS may provide to the Owner and Agent written reports based on such inspection evaluations, including Corrective Notices.
- (b) Agent will timely comply with Corrective Notices within thirty (30) days or such other cure period provided in the Corrective Notice. Agent will provide documentation of such cure to OHCS, satisfactory to OHCS, no later than the end date of the cure period. In the event such corrective cure cannot be made within thirty (30) days or such other provided cure period, Agent will give written notice of such and provide OHCS with a written plan for the extended cure,

including a timetable of proposed actions. Agent's implementation of that written plan for an extended cure is subject to approval or modification by OHCS, but such right by OHCS will not relieve Agent from responsibility for timely commencement of corrective action.

☐ (12) Collections and Delinquencies.

- ☐ (a) Collection and Deposit of Rents and Charges; Itemization of Delinquent Accounts. Agent will collect and deposit in an account at a state or federally chartered bank approved by OHCS all rents and other charges due from Residents and all rents or other payments due the Owner from lessees of other non-dwelling areas of the Project. Agent covenants and agrees that it will, and Owner hereby authorizes Agent to, request, demand, collect, receive, and give receipts for any and all charges or rents which may at any time be or become payable to the Owner. Agent will not accept rents and other charges in cash unless a receipt is given to the payee and a copy is retained in the Project records. Agent will take such action, including legal action, with respect to delinquencies in payments due the Owner as the Owner may from time to time authorize. Agent will furnish Owner (and OHCS, if requested) with an itemized list of all Residents with delinquent accounts as of the tenth (10th) day of each month on or before the fifteenth (15th) day of the same month.
- ☐ (b) Limitations on Conditions for Lease. Neither Agent nor Owner will require as a condition of occupancy or leasing of any Unit any consideration or deposit other than the prepayment of the first month's rent plus (i) a refundable cleaning/security deposit not in excess of one month's rent and, if applicable (ii) an additional pet deposit; both subject to approval by OHCS.
- ☐ (c) Review and Approval of other Charges. All charges with respect to use of the Project, including Dwelling Units, are subject to OHCS review and approval. OHCS may disallow or limit any charge that it determines to be in violation of the Project Requirements or otherwise will unduly burden access to and use of the Project by Qualified Tenants.

☐ (13) Payments and Expenses.

- ☐ (a) Disbursements. From the funds collected and deposited in the appropriate account established under Section 10 hereof, Agent will cause to be disbursed regularly and punctually in accordance with the Financing Documents, the following:
- ☐ (a) All of the real estate tax and insurance premium escrow payments required of the Owner, which payments will be deemed to be part of the "operating expenses" of the Project as the same may be defined in the Financing Documents;
- ☐ (b) All of the principal, interest, and other charges required to be paid to approved commercial lenders and to OHCS hereunder, under any of the Financing Documents, or under any other applicable Program Requirement;
- ☐ (c) All remaining operating expenses of the Project, including appropriate administrative, maintenance and utility expenses;

- ☐ (d) All amounts required to be deposited in a replacement reserve account with Owner's primary commercial lender, as additionally set forth in the Financing Documents, or additionally required by OHCS; and
- ☐ (e) The fees of Agent with respect to management of the Project consistent with the Management Agreement and as permitted under this Agreement. Such fees are subject to periodic review and modification or disapproval by OHCS.

(b) Disbursement Limitations. With the exception of payments provided in the subsection immediately above and payments for utilities services, Agent will make no disbursements in excess of Two Thousand Dollars (\$2,000); unless specifically authorized by the Owner; provided, however, that emergency repairs, involving manifest danger to life and property, or immediately necessary for the preservation and safety of the Project, or immediately necessary in order to comply with a requirement of the Oregon Residential Landlord Tenant Act, or for the safety of the Residents, or required to avoid the suspension of any necessary services to the Project, may be made by the Agent without regard to the cost limitation above with the understanding and obligation that Agent will, if at all possible, confer immediately with the Owner regarding every such expenditure, and will submit a request for any required OHCS approval promptly following the emergency. Agent will not incur liabilities to the Owner (direct or contingent) which, in the aggregate, will exceed at any time Two Thousand Dollars (\$2,000) or that will require payment more than one year from the creation thereof, unless specifically authorized by the Owner and approved in writing by OHCS.

(c) Approval of Expenses. All expenses attributed to management or operation of the Project not consistent with an Owner-approved budget agreed to by OHCS are subject to disapproval or modification by OHCS, in which event, disallowed expenses must be promptly repaid to the appropriate Project Account or, with pre-approval by OHCS, offset against future distributions allowed to Owner from Operating Income or against future payments to Agent in accordance with this Agreement. OHCS may require adjustments to the Owner-approved budget upon thirty (30) days written notice.

☐ (14) Governmental Orders. The Agent will take such action as may be necessary to comply promptly with any and all orders or requirements affecting the Project placed thereon by any other federal, state, county, or municipal authority having appropriate jurisdiction (satisfying whichever is more restrictive, e.g., should funding sources occasioning such requirements be layered), and orders of the Board of Fire Underwriters or other similar bodies. The Agent will not take any action under this subsection (unless OHCS so directs) so long as the Owner is contesting or has affirmed its intention to contest any such order or requirement and promptly institutes proceedings contesting any such order or requirement. The Agent will promptly, and in no event later than forty-eight (48) hours from the time of their receipt, notify the Owner and OHCS in writing of all such orders and notices of requirements.

☐ (15) Utility Service and Purchases. Subject to the approval of Owner and in accordance with the Project Requirements, Agent will enter into contracts for water, sewer, electricity, garbage and trash removal, energy, extermination, snow removal, elevator maintenance, and other necessary services with respect to the Project. Further, Agent will place orders for such equipment, tools, appliances,

materials, and supplies as are necessary to operate, maintain, and repair the Project properly. When taking bids or issuing purchase orders, Agent will act at all times in the best interest of the Owner, the Project, Project Residents, and in compliance with the Project Requirements, and will be under duty to secure for and credit to the Owner any discounts, commissions or rebates obtainable as a result of such purchases.

(16) Records and Reports.

- (a) Records; Examination.** Agent will establish and maintain a comprehensive system of records, books, and accounts in a manner satisfactory to the Owner and OHCS. All records, books and accounts will be subject to examination at reasonable hours by any authorized representative of the Owner, OHCS, the Oregon Secretary of State, and relevant agencies of the federal government. Agent will cooperate fully in any such inspection, including with respect to the copying of such records, books, and accounts, which copying and delivery will be at Owner's expense.
- (b) Fiscal Year Reporting.** With respect to each fiscal year beginning or ending during the term of this Agreement, Agent will provide obtain and provide certain financial documentation as follows:

 - (i) Reporting.** In the absence of annual financial reports provided by Owner, Agent will obtain an annual financial report prepared by an independent Certified Public Accountant acceptable to OHCS based upon the preparer's examination of the relevant books and records of the Owner and the Agent. The report will be prepared in accordance with GAAP or IFRS standards satisfactory to OHCS and other OHCS requirements, the preparer will render a satisfactory opinion, and Agent will complete a satisfactory representation letter. All of these records will be submitted to the Owner within thirty (30) days after the end of the fiscal year for the Owner's further certification and submission to OHCS within an additional thirty (30) days - for a total of sixty (60) days from fiscal year end within which to make delivery to OHCS. Compensation for the preparer's services will normally be considered an operating expense of the Project, subject to OHCS approval.
 - (ii) Other OHCS Funding Reporting.** If the Project is financed by any other OHCS funding, in the absence of Owner doing so, submit annually-required financial records and reports to OHCS and Owner within thirty (30) days from fiscal year end, unless otherwise allowed or required by OHCS pursuant to the terms of the applicable Financing Document. Compensation for the preparer's services will normally be considered an operating expense of the Project, subject to OHCS approval.
- (c) Income Statements.** Upon request from OHCS, Agent will prepare and submit an income statement to the Owner and to OHCS within fifteen (15) days of request by OHCS that compares actual and budgeted income and expenses of the Project.
- (d) Requested Information.** Agent will timely furnish such information (including occupancy reports) as may be requested (whether specifically or by agreement) by the Owner or

OHCS, from time to time with respect to the financial, physical, or operational condition of the Project.

- ☐ (e) Monthly Operational Reports. By the fifteenth (15th) of each month, unless otherwise provided in the Management Agreement, Agent will furnish the Owner any requested reporting regarding operation of the Project.
- ☐ (f) Employment Reporting. Agent will prepare, execute, and file for the Owner and for itself all forms, reports, and returns required by law in connection with the employment of personnel, including unemployment insurance, worker's compensation insurance, disability benefits, social security, and other similar insurance, benefits or taxes now in effect or hereafter imposed.
- (g) Other Reporting to OHCS. Agent will promptly provide OHCS with all information and records as OHCS otherwise may request from time to time. Costs of production may constitute a Project cost upon written approval by OHCS.

☐ (17) Affirmative Marketing Duties; Approval of Leases.

☐ (a) Affirmative Marketing. At least ninety (90) days prior to completion of the Project, Agent will assume responsibility for all functions and services of the initial and/or continued rental of the Units and other leased areas in the Project, including non-discriminatory marketing of such Units and other areas. Further, consistent with Owner's Affirmative Fair Housing Marketing Plan submitted with the Application, Owner and Agent committed to a detailed strategy to engage commonly underserved communities in the area. **"Affirmative Fair Housing Marketing Plan"** means Owner's Affirmative Fair Housing Marketing Plan submitted with the Application and requiring outreach and affirmative marketing to potential tenants that are least likely to apply for housing at the Project (**"Opportunity Tenants"**), in order to make them aware of available affordable housing opportunities. Affirmative marketing requires Owner and the Management Agent to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area to Available Units. Opportunity Tenants for the Project, as proposed in the Application, will be households negatively impacted by wildfires, Black, African-American, Hispanic, Latino, Native Hawaiian, Other Pacific Islander, and Asian families and individuals. Initial marketing to Opportunity Tenants will be conducted through bulletin boards, brochures, notices, flyers and letters. Agent shall serve the population(s) identified in the Affirmative Marketing Plan, including a plan to offer culturally responsive and/or culturally specific supportive services, implement equity-centered property management, including low-barrier tenant screening criteria. Screening criteria is subject to OHCS review and approval and must be readily available on the Project website and in marketing materials. Information regarding screening, application and tenancy information must be provided in multiple languages, including, at least, the safe harbor languages identified for the applicable area. Rules and regulations pertaining to tenants at the Project, as well as any amendments thereto, must be approved by OHCS. If the outreach and affirmative marketing to Opportunity Tenants is not successful, the Affirmative Fair Housing Marketing Plan will be re-evaluated and updated if necessary.

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- ☐ (b) Leases; Approvals. All templates of Unit leases, including subsequent modifications, must be approved in advance by Owner and OHCS and comply with the Project Requirements. Fill-in information on lease templates may only vary as allowed by Owner and OHCS. Other leases,

including subsequent modifications and renewals, must be approved in advance by Owner and OHCS.

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□ **(18) Compliance With Layered Funding Requirements; Compliance With Leases and Other Agreements.**

- **(a) Agent Compliance.** Agent will operate and maintain the Project consistent with the highest commercial standards, the Project Requirements, and to OHCS' satisfaction. If other OHCS or other governmental funding is used with respect to the Project, Agent also will conform to any higher or more limited standards applicable to such funding.

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- **(b) Resident Compliance; Non-Resident Compliance.** Agent will ensure full compliance by Residents (and other users of Units and related common areas) with the terms and conditions of their Leases, applicable Rules and Regulations, and the Project Requirements. Agent also will ensure full compliance by lessees and users of non-dwelling areas of the Project with the terms and conditions of their respective Leases and use agreements.

- **(c) Avoidance of Involuntary Terminations.** Agent will act proactively to encourage voluntary compliance by Residents, other lessors, and other users of the Project with applicable standards. Owner shall provide funding for a Resident Services provider that will, counsel Residents and make referrals to social service agencies in cases of financial hardship and other circumstances deemed appropriate by Agent so that involuntary termination of tenancies may be avoided to the maximum extent consistent with sound management of the Project. Agent will not, however, tolerate willful evasion of payment of rent or violation of other Lease terms or willful or enduring violation of applicable Rules and Regulations or the Project Requirements.

- **(d) Termination of Leases and Other Agreements.** Subject to applicable law, Agent may terminate any tenancy when, in the Agent's judgment, sufficient cause occurs under the terms of a Resident Lease or a lease of any non-dwelling area of the Project. Statements explaining evictions will be filed with Owner and OHCS as part of Agent's Monthly Operational Reports.

- **(e) Use of Legal Counsel.** Agent is authorized to consult with legal counsel to bring actions for eviction and to execute notices to vacate and to commence appropriate judicial proceedings; provided, however, that Agent will keep the Owner (and, upon request, OHCS) informed of such actions and will follow such instructions as the Owner has prescribed that are not inconsistent with this Agreement or the Project Requirements. Subject to the Owner's approval, costs incurred in connection with such actions normally will be considered as Project operating expenses, subject to OHCS approval.

□ **(19) Project Rent and Income Limits.** Project Rent and affordability limits must be maintained in accordance with the Operating Agreement, this Agreement, and the Project Requirements.

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□ **(20) Certification of Resident Income.** Agent will require Qualified Residents to certify their gross incomes as provided in the Operating Agreement.

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☐ (21) Verification of Rents. Agent will verify the Rent charged for each Qualified Unit during each year of the Affordability Period as provided in the Operating Agreement. Agent will provide such documentation of Rents as OHCS deems satisfactory including as may be required pursuant to the Operating Agreement or other Program Requirements.

☐ ☐ (22) Services to Residents. Owner shall provide funding to ensure the provision of services to Residents in accordance with the Resident Services Plan attached hereto as **Exhibit C** to the satisfaction of OHCS. Agent will, annually and as more frequently requested by OHCS, provide documentation to OHCS of the provision of such services in accordance with the Plan in a manner and substance satisfactory to OHCS.

☐ (23) Compliance with OHCS and other Policies.

☐ 35.1.1. **Fair Housing and Other Civil Rights Compliance.** Agent shall:

☐ 35.1.2. Comply with all applicable state and federal nondiscrimination laws;

☐ 35.1.3. Not discriminate against any Tenant who is a parent or legal guardian with whom a child resides or is expected to reside, except (i) in the event that the Project is designated exclusively for households, the heads of whom are over 62 years of age or, if permitted by OHCS and Code, over 55 years of age if the household meets the requirements of 42 U.S.C. 3607(b)(2)(c), or (ii) in compliance with other applicable law.

☐ 35.1.4. Comply with the outreach and affirmative marketing strategies for the Opportunity Tenants set forth in the Affirmative Fair Housing Marketing Plan.

☐ 35.1.5. Comply with Equal Opportunity Employment standards in hiring and retaining personnel; and

☐ 35.1.6. Satisfy any targeted population or services standards in the Program Requirements.

☐ **SECTION 8. OTHER ACTS.** Agent will perform such other acts, including as requested by the Owner or OHCS as they deem are reasonable, necessary, or appropriate in the discharge of Agent's duties under this Agreement, including as required under the Management Plan attached as **Exhibit B**.

SECTION 9. LIABILITY OF AGENT; NON-RESPONSIBILITY OF OHCS; PAYMENT FROM CLIENT TRUST ACCOUNT. Everything to be done by the Agent under this Agreement is done as Agent of the Owner and all obligations, expenses, or other liabilities incurred as a consequence of Agent's action or inaction, whether directly or by its officers, employees, or agents, will be solely for the account of and on behalf of the Owner. OHCS bears no responsibility for Agent or Owner action or inaction, whether directly or by their respective officers, employees, or agents. Any payments to be made by the Agent hereunder will be made out of such sums as are available in the Client Trust Account established pursuant to Section 10(1). Agent will not be obliged to make any advance to, or for the account of, the Owner or to pay any sum, except out of funds held or provided as aforesaid, nor will the Agent be obliged

to incur any liability or obligation for the account of the Owner without assurance that the necessary funds for the discharge thereof will be provided by the Owner.

SECTION 10. BANK ACCOUNTS.

- (1) Operating Income and Expense Account, i.e., Client Trust Account. Agent will establish and maintain, in a depository whose deposits are insured by the Federal Deposit Insurance Corporation ("FDIC"), including in accordance with the Financing Documents, a separate depository account as Agent of the Owner for the deposit of Operating Income, with authority to draw thereon for any payments to be made by the Agent to discharge any liabilities or obligations of the Owner incurred in accordance with this Agreement. This account will be carried in the Agent's name and will be designated of record as the "**Operating Account**" or as otherwise permitted or directed by OHCS. Agent also will establish such other special depository accounts as may be required by the Owner or OHCS. Any and all interest which may accrue on deposits contained in any accounts established in accordance with this subsection will be used by the Agent to discharge any legitimate and appropriate Operating Expenses of the Project consistent with the terms of this Agreement, the Management Agreement, and the Operating Agreement.
- (2) Security Deposit Account. Agent will collect, deposit and disburse Residents' security deposits in accordance with the terms of the respective Lease and ORS 90.300 or other applicable provision of Oregon law, including as amended. To the extent that Agent is required to deposit Residents' security deposits in interest-bearing accounts, such account must be separate from all other accounts and funds, with a depository whose deposits are insured by the FDIC. Agent will be responsible for any loss incurred by the Project for its failure to comply with refunding of security deposits to Residents as required in the Financing Documents and other applicable Program Requirements. If applicable, security deposit accounts will be carried in the Agent's name and will be designated of record as "**Client Trust Account – Security Deposits.**" Agent will cause the amount in the foregoing account to equal or exceed at all times the aggregate of all outstanding obligations by the Owner with respect to Residents' security deposits.
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- (3) Other Accounts. Agent will establish and maintain such other accounts as may be required under the LIFT Loan Agreement, the Operating Agreement, other Financing Documents, or other applicable Program Requirements.

SECTION 11. OFFICE IN PROJECT. Owner will furnish any on-site manager(s) with suitable office space and office furniture on the site of the Project and with electricity, heat, water, and janitorial service therein, including as directed by OHCS. Office expenses, including but not limited to telephone, postage, stationery, office equipment, and supplies normally will be considered an operating expense of the Project, subject to approval by OHCS.

SECTION 12. COMPENSATION OF AGENT.

(1) Agent's Fee. The sole compensation to which the Agent will be entitled to receive for all services performed under the Management Agreement and pursuant to this Agreement will be a monthly fee as agreed to with Owner and subject to OHCS approval, not to exceed the greater of \$45.00 per unit

per month or 4.5% of Gross Collections per month. Such fee will be computed and paid monthly based upon the Gross Collections for the preceding month.

(2) Agent's Costs. All supervisory, bookkeeping, accounting, and clerical expenses, along with all of Agent's overhead expenses, will be borne by Agent out of its own funds and will not be treated as an operating expense of the Project provided that postage, photocopy, facsimile, software licensing, long distance telephone, bank services charges, Owner or OHCS required trainings, and all other out-of-pocket expenses incurred by Agent in the direct management of the Project shall be Project operating expenses and the obligation of the Owner. Employees or service providers performing credit and record checks on tenants will be charged at amounts reflecting actual compensation, employer's payroll taxes, the payroll processing fee and a markup compensating Agent for overhead and management services being provided directly for the Project.

SECTION 13. NONDISCRIMINATION. Except as permitted by law, Agent will comply with the provisions of any applicable federal, state, or local law prohibiting discrimination in housing on the grounds of race, color, sex, religion, national origin, or otherwise, including but not limited to Title IV of the Civil Rights Act of 1964 (42 USC 2000 d et seq.), all requirements imposed by or pursuant to HUD regulations (24 CFR, Subtitle A, Part 1) issued pursuant to that Title; regulations issued pursuant to Executive Order 11063, Title VIII of the 1968 Civil Rights Act (42 USC 3601 et sequitur), and ORS chapter 659.

SECTION 14. EXPIRATION AND TERMINATION.

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☐ (1) Execution; Cessation of Management Agreement. Execution of this Agreement or of the Management Agreement will not be deemed complete unless and until they have been approved in writing by OHCS. Any Management Agreement between the Owner and Agent will terminate upon the termination or expiration of this Agreement or upon revocation of OHCS approval of Agent.

☐

☐ (2) Authority. Agent's ability to act in such role for Owner is subject to OHCS's continuing approval, which OHCS may give or withhold at its reasonable discretion. OHCS is granting Agent a conditional **twelve (12) month** approval as Agent. OHCS will review the performance of the Agent 60 days prior to the end of the approval period or, if deemed necessary by OHCS, at any other point during the term of this Agreement with 60 days' notice to determine if OHCS will continue or extend its approval. This conditional approval period begins with the effective date of this Agreement.

☐

☐ (3) Expiration. Unless sooner terminated pursuant to the terms hereof, this Agreement will be in effect on a fixed-term basis from the date of execution hereof until _____. And, unless a written notice to terminate this Agreement is submitted to OHCS at least sixty (60) days prior to the expiration date of this Agreement, this Agreement will continue on a month-to-month basis until terminated by any party as provided below. A suitable replacement agent must be submitted to and approved by OHCS (including execution of a successor Project Management Agreement satisfactory to OHCS) prior to termination of this Agreement, unless otherwise permitted in writing by OHCS.

☐

□ (4) Termination by Mutual Consent. The Management Agreement and this Agreement may be terminated by the mutual written consent of Owner, Agent, and OHCS. Owner and Agent must submit their written request to terminate the foregoing agreements to OHCS at least sixty (60) days prior to the date specified for termination. A suitable replacement management agent must be submitted to and approved by OHCS (including execution of a successor Project Management Agreement satisfactory to OHCS) prior to termination of this Agreement, unless otherwise permitted in writing by OHCS.

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□ (5) Termination by Owner.

□ (a) Owner may terminate the Management Agreement, with or without cause, upon 30 days written notice to Agent.

□ (b) In the event that Agent materially fails to perform any duty hereunder or under the Management Agreement, or materially fails to comply with any of the provisions hereof or thereof, Owner may notify the Agent and OHCS in writing of such default and Owner's intent to terminate this Agreement and the Management Agreement absent timely cure. If such default is not remedied within sixty (60) days from the date of notice to Agent, Owner may terminate this Agreement and the Management Agreement immediately and/or exercise other appropriate remedies subject to the balance of this subsection.

□ (c) Owner must provide written notice to OHCS in advance of its intent to terminate this Agreement or the Management Agreement. A suitable replacement management agent must be submitted to and approved by OHCS (including execution of both a successor Project Management Agreement and Management Agreement, each satisfactory to OHCS) prior to termination of this Agreement or the Management Agreement, unless otherwise permitted in writing by OHCS.

□ (6) Termination After Minimum Term. Owner or Agent may terminate this Agreement and the Management Agreement after the minimum term provided in this section, but only with prior written notice to OHCS as provided hereafter. Owner or Agent must submit its written notice to terminate this Agreement and the Management Agreement to OHCS with a copy to the Agent or Owner at least sixty (60) days prior to the date specified for termination. Unless termination is for cause or by OHCS, the minimum term of this Agreement and of the Management Agreement will be **one (1) year(s)**. Upon either the Owner or Agent giving notice under this subsection, the Owner, within forty-five (45) days, shall provide OHCS with the name of a replacement management agent that is approved by OHCS (including execution of both a successor Project Management Agreement and Management Agreement, each satisfactory to OHCS).

□ (7) Termination Because of Bankruptcy. In the event that the Owner or Agent becomes insolvent, is dissolved, commits an act of bankruptcy under the United States Bankruptcy Act (as now or hereafter amended), files or has filed against it, voluntarily or involuntarily, a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the United States Bankruptcy Act (as now or hereafter amended), makes an assignment for the benefit of creditors; procures, permits or suffers, voluntarily or involuntarily, the appointment of a receiver or trustee to take charge of any of the Project or any other properties owned by the Owner or Agent, or has initiated against it, voluntarily or involuntarily, any act, process or proceeding under any

insolvency law or other statute or law providing for the modification or adjustment of the rights of creditors, the other may immediately terminate this Agreement provided that OHCS has given its written consent to such termination and further provided that such party provides prompt notice to the other party.

(8) Termination by OHCS. OHCS may terminate this Agreement and the Management Agreement, with cause, on ten (10) days' written notice to the Owner and Agent; except that in the event of a default by the Owner under applicable Financing Documents with OHCS, OHCS may terminate this Agreement immediately without notice, but prompt advice of such action will be given to the Owner and Agent. No liability will attach to OHCS in the event of its termination of this Agreement pursuant to this subsection or otherwise in the event of a termination of this Agreement.

(9) Accounting Upon Termination. Within forty-five (45) days after the termination of this Agreement, Owner and Agent will account to each other with respect to all matters outstanding as of the date of termination. Owner will furnish Agent security against any outstanding obligations or liabilities that Agent may have incurred hereunder and Agent will turn over to Owner all records, documents and other instruments, waiting lists, and any and all other files and papers in its possession pertaining to Agent's performance under this Agreement.

(10) Owner Responsibilities to OHCS upon Termination. Upon any termination pursuant to this Section, if not sooner required hereunder, Owner will ensure execution of a successor Project Management Agreement and Management Agreement within ten (10) days of such termination. Unless denied by OHCS, Owner will be responsible for management of the Project during any interim period. In the event of Management Agent replacement, Owner shall ensure compliance with transition requirements as required by OHCS.

SECTION 15. FURTHER ASSURANCES.

- (1) Further Acts. Owner and Agent, at any time upon request of OHCS, will do, make, execute and deliver all such additional and further acts, instruments or papers as OHCS may require in its sole discretion to protect OHCS' rights under this Agreement.
- (2) Reliance. OHCS may rely upon statements, certificates, and other records of Owner or Agent and their agents and assigns, as well as Residents, including as to accuracy, genuine nature, and proper execution of such statements, certificates, and other records.
- (3) Consultation with Counsel. OHCS may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection as to any action taken or suffered by OHCS in good faith and in conformity with the opinion of such counsel with respect to this Agreement, the Operating Agreement, the Management Agreement, or other Program Requirements.
- (4) Compliance. Owner and Agent will comply, and will cause their agents, employees, contractors, subgrantees and assigns, if any, to comply with and (for performance by same pursuant to contract) to contract to comply with the terms and conditions of this Agreement, the Operating Agreement, and other applicable Program Requirements.

SECTION 16. INDEMNITY. Owner and Agent jointly and separately assume full responsibility and liability for management and operation of the Project, for breach of this Agreement, the Management Agreement, or the Program Requirements, including by themselves or by any of their officers, agents, employees, members, subcontractors, assigns, or otherwise. Owner and Agent, jointly and separately, shall save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, OHCS and their officers, agents, employees, members, and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to the Project, this Agreement, the Management Agreement, the Program Requirements, or resulting from or arising out of the acts, omissions, neglect or misconduct of Owner or Agent, or any of their subcontractors, officers, agents, members, employees, assigns, or others under or with respect to this Agreement, the Management Agreement, the Program Requirements, or the Project. In addition to the foregoing, Owner shall save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, OHCS and their officers, agents, employees, members, and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to the Operating Agreement, the Bonds or resulting from or arising out of the acts, omissions, neglect or misconduct of Owner or Agent, or any of their subcontractors, officers, agents, members, employees, assigns, or others under or with respect to the Operating Agreement or the Bonds.

SECTION 17. AGENT STATUS.

- (1) **Independent Contractor.** Agent will perform all obligations under this Agreement, under the Management Agreement, under the Operating Agreement, and with respect to other Program Requirements as an independent contractor. Agent is not an officer, employee or agent of the State, as those terms are used in ORS 30.265 or otherwise, with respect to performance under this Agreement, under the Management Agreement, under the Operating Agreement, and with respect to other Program Requirements.
- (2) **Owner Responsible for Insurance Coverage.** Owner agrees that insurance coverage, whether purchased or by self-insurance, for Owner's agents, employees, officers and/or subcontractors is the sole responsibility of Owner.
- (3) **Good Standing Certification.** Agent certifies to the best of its knowledge and belief that neither the Agent nor any of its principals, officers, directors, employees, or agents:
 - (a) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any state or federal department or agency;
 - (b) Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract related to a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - (c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection (b));

(d) Has within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default; and

(e) Is included on the list titled "**Specially Designated Nationals and Blocked Persons**" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<https://www.treasury.gov/ofac/downloads/sdnlist.pdf>

SECTION 18. REMEDIES.

- (1) **Repayment Upon Termination.** Other than in cases of a termination under Section 14 of this Agreement, or a judicial determination that a provision of this Agreement is unenforceable or inapplicable, if this Agreement or any part hereof, terminates prior to the term of the Affordability Period, Owner will, within thirty (30) days of written demand for repayment, repay the LIFT Loan to OHCS, together with applicable interest, fees, and other charges.
- (2) **Deficiencies.** OHCS may, from time to time, identify and direct Agent and Owner to correct deficiencies (including deficiencies by Owner) in their compliance with this Agreement (including all Program Requirements), which they will correct as so directed.
- (3) **Extension of Affordability Period.** OHCS may by written notice extend the Affordability Period described in the Operating Agreement for periods of time matching corresponding periods of time during which OHCS determines the Owner or Agent to be in material noncompliance with any of the terms of this Agreement (including applicable Program Requirements).
- (4) **Required Training.** OHCS may require Owner, Agent, and their respective owners, principals, officers, employees, and agents to undertake relevant training, e.g., Fair Housing Act training, at Owner's expense, as directed by OHCS.
- (5) **Additional Remedies.** If the Agent or Owner defaults in the performance or observance of any covenant, agreement or obligation set forth in this Agreement, and if such default remains uncured by Agent or Owner for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHCS determines relate to material health or safety needs of Project occupants) after notice thereof will have been given by OHCS, or if such default runs for a period of thirty (30) days from the date the Owner or Agent should, with due diligence, have discovered such default, then OHCS may declare an "**Event of Default**" to have occurred hereunder provided, however, if a default is not reasonably capable of being cured within thirty (30) days or within any lesser notice period provided by OHCS, OHCS may, in its sole discretion, extend the correction period for up to six (6) months, but only if OHCS determines there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project or the Land, the correction period for the successor for an existing default will be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project. To the extent that the default is not corrected within the above-described period including extensions, if any, granted by OHCS, an Event of Default will be deemed to occur and OHCS may exercise its rights and remedies

under this Section. Following the occurrence of an Event of Default hereunder OHCS may, at its option, take any one or more of the following steps (except that itemized remedies (b), (e), (f), and (h) always must be preceded by notice of default to the Investor, if any, in accordance with this subsection while Investor is a member of Owner), in addition to all other remedies provided in this Agreement, by law, or in equity:

- (a) By mandamus or other suit, action or proceeding at law or in equity, require Owner or Agent specifically to perform their obligations under this Agreement or enjoin any acts or things that may be unlawful or in violation of the rights of OHCS under this Agreement;
- (b) Obtain the appointment of a receiver to operate the Project in compliance with this Agreement;
- (c) Require a change in the general partner or managing member, as applicable, of Owner to OHCS' satisfaction;
- (d) Require termination of the Management Agent and its replacement to OHCS' satisfaction;
- (e) Withhold from Owner, suspend or terminate, all or part of any undisbursed LIFT Loan funding under this Agreement;
- (f) Demand repayment of the LIFT Loan, and such amounts will be immediately due and payable to OHCS following thirty (30) days from such written demand;
- (g) Declare Owner, Agent, and their owners, principals, officers, employees, and agents ineligible to receive further OHCS financial assistance for such period as OHCS determines in its sole discretion;
- (h) Offset amounts due from repayment of the LIFT Bonds or other OHCS Project funding against other funding awarded or to be awarded to Owner by OHCS;
- (i) Have access to, and inspect, examine and make copies of, all of the books and records of Owner or its agents pertaining to the Project, to inspect the Project at any time, and to inspect Dwelling Units of the Project upon reasonable notice;
- (j) Enter onto the Property and correct Events of Default with respect to the Project at Owner's expense, which expense Owner will repay to OHCS within ten (10) days of any presentment of charges for same;
- (k) Withhold from Owner any distributions due it from the Operating and Expense Fund, i.e., the Client Trust Account;
- (l) Require Owner, Agent, and their owners, principals, officers, employees, and agents to undertake training, at Owner's expense, as directed by OHCS; and
- (m) Take such other action under this Agreement, at law, in equity, or otherwise as may be

available to OHCS.

- (6) **Survival of Remedies; Remedies Nonexclusive; Non-Waiver.** The rights and remedies of OHCS provided for in this Agreement will survive the termination of the Affordability Period and of this Agreement. The rights and remedies of OHCS provided for in this Agreement will not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. Inclusion of a remedy as being available upon an Event of Default does not preclude its exercise otherwise, if so permitted under this Agreement without notice of an Event of Default. No failure of or delay by OHCS to enforce any provision of this Agreement will constitute a waiver by OHCS of that or any other provision, nor will any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

SECTION 19. ASSIGNMENTS. This Agreement will inure to the benefit of the parties and constitute a binding obligation upon the Owner and Agent, and their respective successors and assigns, provided that the Agent cannot assign this Agreement, the Management Agreement, or any of its duties hereunder or thereunder without the prior written consent of the Owner and OHCS.

SECTION 20. AMENDMENT. This Agreement constitutes the entire agreement among the parties and no amendment or modification thereof will be valid and enforceable except by supplemental agreement in writing, executed, and approved in the same manner as this Agreement.

SECTION 21. EXECUTION OF COUNTERPARTS. For the convenience of the parties, this Agreement may be executed in counterpart copies, which are in all respects similar and each of which will be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

SECTION 22. CAPTIONS; GENDER; NUMBER. Wherever used in this Agreement, the singular number will include the plural, and the plural will include the singular; and the use of any gender will apply to all genders. The captions and the headings of the sections of this Agreement are for convenience only and are not to be used to interpret or define the provisions hereof.

SECTION 23. WAIVER. No waiver of a breach of any of the agreements or provisions contained in this Agreement will be construed to be a waiver of any subsequent breach of the same or of any other provisions of this Agreement.

SECTION 24. SEVERABILITY. If any clause, sentence, section, paragraph, provision, or part of this Agreement is judged to be invalid or unenforceable, such adjudication will not affect or invalidate the remainder of this Agreement, it being understood and agreed that such invalid or unenforceable clause, sentence, section, paragraph, provision, or part is and will be severable from the remainder of this Agreement.

SECTION 25. NOTICE.

- (1) **Manner of Delivery.** Except as otherwise expressly provided in this Agreement, any notices required or permitted to be given under this Agreement will be given in writing, by personal delivery, or mailing the same, postage prepaid, to OHCS or Owner at the following addresses:

To the Owner:

OHCS:

Oregon Housing and Community Services Department
725 Summer St., NE, Suite B
Salem, OR 97301-1266
Attn: Asset Management and Compliance Section

AGENT:

SECTION 26. ATTORNEY FEES. In the event a lawsuit is instituted regarding this Agreement, the prevailing party in any dispute arising under this Agreement will be, to the extent permitted by law, entitled to recover from the non-prevailing party its reasonable attorney fees and all costs and disbursements incurred at trial and on appeal. Reasonable attorney fees will not exceed the rate charged to OHCS by its attorneys. Notwithstanding the foregoing, no attorney fees, costs, or disbursements may be awarded under this Agreement with respect to lawsuits maintained by or against Project Residents or third-party beneficiaries, if any.

SECTION 27. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION. This Agreement will be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") among the parties related to this Agreement must be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event will this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. OWNER AND AGENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 28. NO LIMITATIONS ON ACTION IN EXERCISE OF GOVERNMENTAL POWERS. Nothing in this Agreement is intended, nor may it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the parties hereto that OHCS will retain the full right and ability to exercise its governmental powers with respect to Owner, Agent, the Project, the transactions contemplated by this Agreement, and applicable Program Requirements to the same extent as if it were not a party to this Agreement, and in no event will OHCS

have any liability in contract arising under this Agreement the Application, the Reservation, the Program Requirements, or otherwise by virtue of any exercise of its governmental powers.

SECTION 29. SURVIVAL OF RIGHTS AND REMEDIES. Rights and remedies normally intended to survive the termination or expiration of this Agreement will so survive.

SECTION 30. CONSTRUCTION. The parties to this Agreement acknowledge that each party and its counsel have participated in the drafting and revision of this Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Agreement or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to this Agreement.

SECTION 31. TIME OF THE ESSENCE. Time is of the essence in the performance of the terms of this Agreement by Owner and Agent.

SECTION 32. CROSS DEFAULT. OHCS may treat an Event of Default hereunder as an Event of Default under the LIFT Documents and under the Financing Documents. OHCS may treat an Event of Default under the Financing Documents, or under any other of the LIFT Documents, as an Event of Default hereunder.

(Signature pages to follow.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date.

□

OWNER:

LIFT Program Management Agreement

Signature Page

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AGENT:

TIN: _____,

By: _____

Approved:

**LICENSED REAL ESTATE
BROKER:**

[Name]
OREA License #

STATE OF _____)
County of _____) : ss

The foregoing instrument was acknowledged before me this ____ day of _____ 2024 by _____ of _____, the _____, who executed the foregoing instrument for and on behalf of Agent.

Notary Public for the State of Oregon
My Commission Expires: _____

OHCS:

STATE OF OREGON, acting by and through its
Housing and Community Services Department

By: _____
Roberto Franco, Assistant Director
Development Resources and Production Section

LIFT Program Management Agreement

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Exhibit A
Legal Description

LIFT Program Management Agreement

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Exhibit B
Management Plan

LIFT Program Management Agreement

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Exhibit C
Resident Services Plan

LIFT Program Management Agreement

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Exhibit D
Key Personnel Summary

LIFT Program Management Agreement

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EXHIBIT C

Insurance Requirements

The Owner shall obtain and maintain: (a) commercial general liability insurance (including liabilities assumed under contract), naming OHCS, its employees and agents as additional insureds, covering the Property and the work and business conducted thereon, with such limits, coverages, and risks insured as OHCS may reasonably request from time to time; (b) insurance against loss or damage to the Improvements and other tangible Property (other than the Land) by fire and any of the risks covered under an "all risk" policy, with extended coverage and course of construction endorsements and with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, and with a standard lender's loss payable clause naming as beneficiary "State of Oregon, by and through its Housing and Community Services Department," in an amount not less than the full replacement value of the Improvements, without reduction for coinsurance; and (c) unless OHCS otherwise agrees in writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Property. In addition, Owner will obtain and maintain all other insurance coverages designated by OHCS that are commonly carried for similar properties in any amounts that OHCS may require. In each case the insurance must: (i) be written by a company or companies acceptable to OHCS; (ii) contain a long-form mortgagee clause in favor of OHCS with loss proceeds under any policy payable to OHCS, subject to the terms of the Trust Deed and the rights of any superior mortgagee or trust deed beneficiary; (iii) require at least 30 days' prior written notice to OHCS of cancellation or reduction of coverage; (iv) contain waivers of subrogation and endorsements that no act or negligence of Owner or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy, will affect the validity or enforceability of such insurance as against OHCS; and (v) be in full force and effect on the date of this Operating Agreement. Owner agrees that it will comply with the requirements of OHCS as to the purchase and maintenance of flood insurance, as those requirements are established by OHCS's policies and requirements in effect from time to time. OHCS must be named as an additional insured on all liability policies. The "loss payable" clause must identify all lenders as beneficiaries and indicate that payments be made to or among beneficiaries as their interests shall appear. Owner will forward to OHCS certificates executed by the insurer or its agent evidencing the coverages required under the Trust Deed (and, if requested, copies of all policies and renewals thereof) together with proof of premiums paid for the current policy year.