



Department of Environmental Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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

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

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

See Attachment A for Nominee Agreement
See Attachment B for Master Lease

Amendment to reflect a transfer of title to all or part of the brownfield site

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

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

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

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

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

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

Other (explain in detail below)

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

The purpose of this BCP Application to Amend No. 2 is to:

(1) add the non-applicant, "SV-A Moderate Owners LLC", to the BCA as the beneficial and equitable owner of the BCP Site, pursuant to a Nominee Agreement with the current Fee Owner of the BCP Site, "Acacia Sendero Verde Housing Development Fund Corporation." See Attachment A for Nominee Agreement

(2) add the existing Volunteer, "SV-A Owners LLC", to the BCA as a long-term lessee, pursuant to a Master Lease with the current Beneficial Owner of the BCP Site, "SV-A Moderate Owners LLC". See Attachment B for Master Lease. (Note: "SV-A Owners LLC" is already on the BCA as the sole Remedial Party/Volunteer, and it will remain the sole Remedial Party/Volunteer.)

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

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

Section I. Current Agreement Information			
BCP SITE NAME: Sendero Verde Redevelopment Project - P _H ; BCP SITE NUMBER: C231135			
NAME OF CURRENT APPLICANT(S): SV-A Owners LLC			
INDEX NUMBER OF AGREEMENT: C231135-09-19 DATE OF ORIGINAL AGREEMENT: 11/12/2019			
Section II. New Requestor Information (complete only if adding new requestor or name has changed)			
NAME			
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX	E-MAIL	
1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN			ZIP CODE 10001
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN			ZIP CODE
PHONE	FAX	E-MAIL	
2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			
3. Describe Requestor's Relationship to Existing Applicant:			

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

OWNER'S NAME (if different from requestor) SV-A Moderate Owners LLC [Beneficial Owner]

ADDRESS 551 Fifth Avenue, 23rd Floor

CITY/TOWN New York, NY

ZIP CODE 10176

PHONE 917-542-8619

FAX

E-MAIL sbarker@rosecompanies.com

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

See Attachment A for Nominee Agreement

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

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

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

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

OWNER'S NAME (if different from requestor) SV-A Owners LLC [Long-Term Lessee]

ADDRESS 551 Fifth Avenue, 23rd Floor

CITY/TOWN New York, NY

ZIP CODE 10176

PHONE 917-542-8619

FAX

E-MAIL sbarker@rosecompanies.com

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

See Attachment B for Master Lease

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

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

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

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

PARTICIPANT

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

VOLUNTEER

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

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

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

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

Prior Owner Current Owner Potential /Future Purchaser Other _____

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

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

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

1. Property information on current agreement:

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

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

2. Check appropriate boxes below:

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

2a. PARCELS ADDED:

Acreage
Added by
Parcel

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

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

Acreage
Removed
by Parcel

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

Total acreage to be removed: _____

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

2c. NEW SBL INFORMATION:

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

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

3. TOTAL REVISED SITE ACREAGE: _____

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

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

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information
BCP SITE NAME: Sendero Verde Redevelopment Project - Parcel # BCP SITE NUMBER: C231135
NAME OF CURRENT APPLICANT(S): SV-A Owners LLC
INDEX NUMBER OF AGREEMENT: C231135-09-19
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 11/12/2019

Declaration of Amendment:

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

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

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

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

(Individual)

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

Date: _____ Signature: _____

Print Name: _____

(Entity)

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

Date: 12/21/2022 Signature: 

Print Name: Michael Arman / SV-A Owners LLC

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:

<p><input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.</p>	<p><input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.</p>
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Effective Date of the Original Agreement: 11/12/2019

Signature by the Department:

DATED: 12/27/2022

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: 

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

SUBMITTAL REQUIREMENTS:

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

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

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

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

BROWNFIELD CLEANUP PROGRAM (BCP) INSTRUCTIONS FOR COMPLETING A BCP AMENDMENT APPLICATION

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement. NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

COVER PAGE

Please select all options that apply. Provide a brief narrative of the nature of the amendment requested. At the bottom of the page, please enter the site code. This field will auto-populate in the bottom left corner of the subsequent pages.

SECTION I CURRENT AGREEMENT INFORMATION

Provide the site name, site code and current requestor exactly as it appears on the existing agreement. Provide the agreement index number and the date of the initial BCA, regardless of any executed amendments.

SECTION II NEW REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners' names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

Requestor Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address. Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative unless another contact name and address is provided with the application.

Consultant Name, Address, etc.

Provide information for the requestor's consultant. Attorney Name, Address, etc.
Provide information for the requestor's attorney.

Please provide proof that the party signing this Application and Amendment has the authority to bind the requestor. This would be documentation from corporate organizational papers, which are updated, showing

the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC.

SECTION III CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Only include if a transfer of title has taken place resulting in a change in ownership and/or operation of the site. Provide the relationship of the owner to the site by selecting one of the check-box options.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property. Attach separate pages as needed.

Operator Name, Address, etc.

Provide information for the new operator, if applicable.

SECTION IV NEW REQUESTOR ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

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

If the requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. A purchase contract does not suffice as proof of access.

SECTION V PROPERTY DESCRIPTION AND DESCRIPTION OF CHANGES / ADDITIONS / REDUCTIONS (IF APPLICABLE)

NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

1. Property Information on Existing Agreement

Provide the site address and tax parcel information exactly as it appears on the current agreement (or as it has been modified in previous amendments).

2a. Addition of Property

Provide the tax parcel information and acreage for each parcel to be added. Provide the total acreage to be added below the far-right column.

2b. Reduction of Property

Provide the tax parcel information and acreage for each parcel to be removed. Provide the total acreage to be removed below the far-right column.

2c. Change to SBL or metes and bounds description

Provide the new tax parcel information and attach a metes and bounds description.

All requested changes to this section should be accompanied by a revised survey or other acceptable map depicting the proposed new site boundary. Additionally, provide a county tax map with the site boundary outlined, as well as a USGS 7.5-minute quadrangle map with the site location clearly identified.

SUPPLEMENT TO THE APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT – QUESTIONS FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY

This page should only be completed if:

a. The site is located in the five boroughs comprising New York City

AND

b. The site does not currently have an eligibility determination for tangible property credits.

PART II

The information in the top section of page 7 should auto-populate with the information provided on page 2. If a new requestor is applying to enter the program, provide the required information and signature at the bottom of page 7 and the required information and signature on page 8.

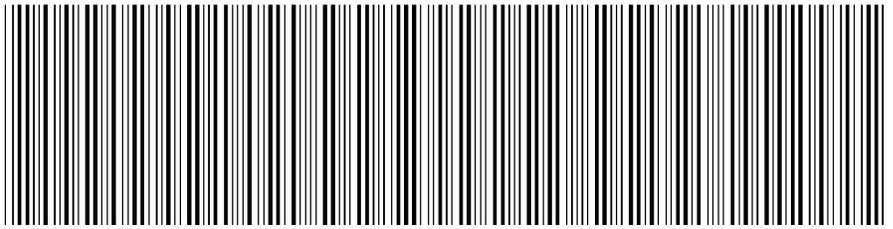
If no new requestor is applying to the program but any other change has been made, provide the required information and signature on page 8.

Attachment A:

Recorded Declaration of Interest and Nominee Agreement, dated as of June 24, 2021, by and between Acacia Sendero Housing Development Fund Corporation, SV-A Owners LLC, and SV-A Moderate Owners LLC

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

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



2021062500710003001E44FA

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 27

Document ID: 2021062500710003

Document Date: 06-24-2021

Preparation Date: 06-25-2021

Document Type: AGREEMENT

Document Page Count: 25

PRESENTER:

MISSION TITLE AGENCY, LLC
511 FIFTH AVENUE, 22ND FLOOR
NEW YORK, NY 10176
212-710-9515
ALEC@MISSIONTITLEAGENCY.COM

RETURN TO:

MISSION TITLE AGENCY, LLC
511 FIFTH AVENUE, 22ND FLOOR
NEW YORK, NY 10176
212-710-9515
ALEC@MISSIONTITLEAGENCY.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	1617	120	Entire Lot	N/A MADISON AVENUE
Property Type: OTHER				

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

ACACIA SENDERO VERDE HOUSING DEV FUND CO
INC.
300 WEST 175TH STREET
BRONX, NY 10457

PARTY 2:

SV-A OWNERS LLC
551 FIFTH AVENUE, 23RD FLOOR
NEW YORK, NY 10176

Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 162.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

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

CITY OF NEW YORK

Recorded/Filed 07-01-2021 13:18

City Register File No.(CRFN):

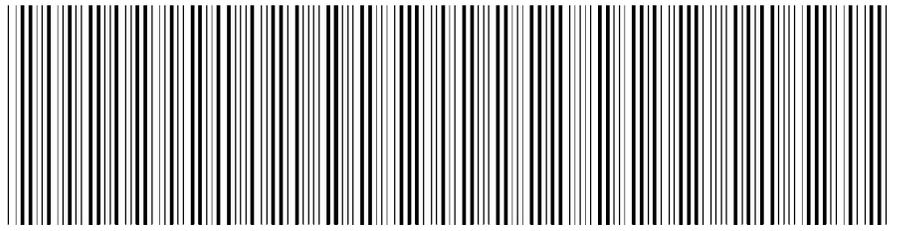
2021000251798



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2021062500710003001C467A

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 27

Document ID: 2021062500710003
Document Type: AGREEMENT

Document Date: 06-24-2021

Preparation Date: 06-25-2021

PARTIES

PARTY 2:

SV-A MODERATE OWNERS LLC
551 FIFTH AVENUE, 23RD FLOOR
NEW YORK, NY 10176

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

THIS DECLARATION OF INTEREST AND NOMINEE AGREEMENT (the “Agreement”) is entered into as of June 24, 2021 by and among **ACACIA SENDERO VERDE HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation having an address at 300 East 175th Street, Bronx, New York 10457 (the “**HDFC**”), **SV-A OWNERS LLC**, a New York limited liability company having an address at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “**LIHTC COMPANY**”) and **SV-A MODERATE OWNERS LLC**, a New York limited liability company having an address at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “**NON-LIHTC COMPANY**” and together with the LIHTC COMPANY, the “**COMPANY**”).

WHEREAS, the HDFC is the owner of the title to a certain plot, piece or parcel of real property, lying and being in the County of New York, New York, Block 1617, Lot 120 on the Tax Map of the City of New York, New York County, more commonly known by the street address 50 East 112th Street, New York, New York, as more particularly described in Schedule A, attached hereto and made a part hereof (the “**Property**”); and

WHEREAS, the HDFC, the LIHTC COMPANY and the NON-LIHTC COMPANY desire to acquire, assemble, develop, own, operate and manage a housing project comprised of one (1) thirty-four (34) story building containing an aggregate of three hundred and forty-seven (347) rental units, plus one (i) superintendent’s unit, approximately 22,801 square feet of community facility space and approximately 6,213 of retail space (collectively, the “**Project**”); and

WHEREAS, by this Agreement, the HDFC transfers all beneficial and equitable interest in, to and with respect to the Project to the NON-LIHTC COMPANY; and

WHEREAS, the COMPANY and the HDFC will enter into mortgages evidencing loans (the “Loans” and all documents executed in connection with the Loans, the “**Loan Documents**”) with New York City Housing Development Corporation (“**HDC**”), the City of New York acting by and through its Department of Housing Preservation and Development (“**HPD**” and together with HDC and Citibank, N.A., the “**Lenders**”) and GSB LIHTC Investor LLC (“**Investor Member**”) for the purpose of providing funds to construct, develop and operate the Project; and

WHEREAS, the HDFC, the LIHTC COMPANY and the NON-LIHTC COMPANY intend to subject the Property to a condominium regime known as Sendero A Condominium (the “**Condominium**”) consisting of the following six (6) condominium units:

- (i) a condominium unit containing two hundred and eight (208) units to be rented to households with incomes at or below 60% area median income (“**AMI**”), one (1) superintendent’s unit and ancillary space related thereto (“**LIHTC Unit**”);
- (ii) a condominium unit containing one hundred and thirty-nine (139) units to be rented to households with incomes at or below 90% AMI and ancillary space related thereto (“**Non-LIHTC Unit**”);
- (iii) a condominium unit containing approximately 8,733 square feet of community facility space and ancillary space related thereto (“**CF Unit 1**”);

- (iv) a condominium unit containing approximately 2,530 square feet of community facility space and ancillary space related thereto (“**CF Unit 2**”);
- (v) a condominium unit containing 11,538 square feet of community facility space and ancillary space related thereto (the “**CF Unit 3**”); and
- (vi) a condominium unit containing approximately 6,213 square feet of retail space and ancillary space related thereto (the “**Retail Unit**”).

WHEREAS, as of the date hereof, the NON-LIHTC COMPANY shall enter into a master lease agreement with the LIHTC COMPANY (the “**LIHTC Master Lease**”), pursuant to which the LIHTC COMPANY shall lease the space comprising the LIHTC Condo Unit, CF Unit 1 and CF Unit 2 from the NON-LIHTC COMPANY, which LIHTC Master Lease shall terminate upon formation of the Condominium; and

WHEREAS, upon formation of the Condominium, the LIHTC Master Lease will terminate and by this Agreement, the NON-LIHTC COMPANY shall transfer its equitable and beneficial interest in the LIHTC Unit, CF Unit 1 and CF Unit 2 to the LIHTC COMPANY and this Agreement shall terminate with respect to the LIHTC Unit, CF Unit 1 and CF Unit 2 as between the HDFC and the NON-LIHTC COMPANY, such that the LIHTC COMPANY shall be the sole equitable and beneficial owner of the LIHTC Unit, CF Unit 1 and CF Unit 2; and

WHEREAS, upon formation of the Condominium, the HDFC shall retain record title to each of the LIHTC Unit, Non-LIHTC Unit, CF Unit 1, CF Unit 2, CF Unit 3 and the Retail Unit; and

WHEREAS, upon conversion of the Loans to permanent financing (“**Conversion**”), the parties hereto shall record an addendum to this Agreement, clarifying that equitable and beneficial interest of the LIHTC Condo Unit, CF Unit 1 and CF Unit 2 is held by the LIHTC COMPANY and the equitable and beneficial interest of the Non-LIHTC Unit, CF Unit 3 and the Retail Unit is held by the NON-LIHTC COMPANY; and

WHEREAS, the HDFC, the LIHTC COMPANY and the NON-LIHTC COMPANY desire that (i) until the formation of the Condominium, as evidenced by recording of that certain condominium declaration for the Project, all beneficial and equitable interest in, to and with respect to the Project be transferred and held by the NON-LIHTC COMPANY with legal title to the Project remaining in the HDFC in accordance with the terms of this Agreement and (ii) upon formation of the Condominium, as evidenced by recording of that certain condominium declaration for the Project, (x) all beneficial and equitable interest in, to and with respect to the LIHTC Unit, CF Unit 1 and CF Unit 2 will be transferred to and held by the LIHTC COMPANY, and (y) all beneficial and equitable interest in, to and with respect to the Non-LIHTC Unit, CF Unit 3 and the Retail Unit will be held by the NON-LIHTC COMPANY; and

WHEREAS, the HDFC and the COMPANY desire that all beneficial and equitable interest in, to and with respect to the Project be transferred and held by the COMPANY with legal title to the Project remaining in the HDFC in accordance with the terms of this Agreement; and

WHEREAS, the HDFC and the COMPANY agree that the HDFC will hold legal title to the Project solely as nominee on behalf of the COMPANY in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein contained, the adequacy of which are hereby acknowledged, the parties hereto jointly and severally covenant and agree as follows:

1. Until such time as the COMPANY shall elect to have record title transferred pursuant to Section 6(e) hereof, record title to the Project shall be held by the HDFC, as the nominee, for and on behalf of the COMPANY, it being understood that the beneficial ownership of the Project from the date hereof and at all times in the future, shall be vested in the COMPANY, and its successors and assigns, and the HDFC does not, and shall not have, any personal or beneficial interest of any kind in the Project. The COMPANY shall, at all times, have all the benefits, rights, approval, burdens and immunities accruing with respect to the Project. The HDFC further acknowledges that the COMPANY has furnished all of the consideration for acquiring and developing the Project, including the assumption of obligations for financing the total development of the Project, and all of the rents, issues and profits of the Project, or any portion thereof shall at all times be the property of the COMPANY. The HDFC, and the COMPANY as co-insured, each warrants and represents that it has acquired good and marketable title to the Project subject only to those covenants, easements, restrictions and encumbrances of record, approved by the COMPANY, and set forth in the title insurance policy issued by Westcor Land Title Insurance Company (the "**Title Policy**") to the HDFC and the COMPANY as of the date hereof ("**Permitted Encumbrances**"). The HDFC agrees to warrant and defend title, subject to the extent required under sections 6(h) and 19 herein, against any and all claims whatsoever, subject only to the Permitted Encumbrances and at the COMPANY'S demand, the HDFC agrees to convey title to the Project to the COMPANY or to any other party designated by the COMPANY, at any time, by bargain and sale deed, subject only to the Permitted Encumbrances.

2. The HDFC has notified or will notify all interested third parties that pursuant to this Agreement the HDFC is acting solely as nominee of the COMPANY with respect to the Project. The HDFC shall provide the COMPANY with evidence of such notification reasonably satisfactory to the COMPANY. The HDFC shall also obtain any written acknowledgments which are necessary and advisable from all interested third parties with respect to the HDFC holding title to the Project as nominee of the COMPANY.

3. The equitable interest in the Project shall accrue to the COMPANY in a manner satisfactory to the COMPANY.

4. The HDFC is acting and shall act solely as an agent on behalf of the COMPANY, as principal, in all acts with respect to the Project. The HDFC shall not do any act with respect to the Project without the prior written consent of the COMPANY, which may be withheld in the sole and absolute discretion of the COMPANY.

5. So long as the HDFC shall hold record title to the Project:

a. any and all notices, statements and communications received by the HDFC, as holder of record title with respect to the Project, shall be promptly delivered to the COMPANY;

b. all benefits, including any proceeds of title insurance received pursuant to the Title Policy accruing with respect to the Project shall belong to the COMPANY, and if received by the HDFC, shall be turned over to the COMPANY promptly upon receipt;

c. the HDFC shall not do or suffer to be done, any act or omission with respect to the Project, or the record title thereto, or convey or encumber the same, in any way, except as directed by the COMPANY, its successors and assigns;

d. the HDFC shall comply with all directions which may be given to it by the COMPANY with respect to the Project; provided, however, that the HDFC shall not be required to take any action as provided in this Agreement unless furnished with sufficient funds by the COMPANY therefor;

e. the COMPANY shall be deemed an insured for purposes of the Title Policy and entitled to all proceeds of title insurance recoverable pursuant to same;

f. the HDFC shall maintain itself as a single purpose entity and shall not hold title to any property other than the Property; and

g. the HDFC shall not admit any new members or permit the withdrawal of any members of the HDFC without the prior written consent of the COMPANY.

6. The COMPANY and the HDFC on behalf of themselves and their respective successors and assigns, who are recognized as "third party beneficiaries" hereunder, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

a. So long as the HDFC shall hold legal title in the Project, the HDFC shall not have any right to possess or control the Project and the COMPANY shall have:

- (i) complete and exclusive possession and control of the Project;
- (ii) an unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project to obsolescence or exhaustion, and shall bear the risk of loss if the Project is destroyed or damaged;
- (iii) an unconditional right to receive all economic benefits associated with the Project, including the right to retain all of the net proceeds from any sale or refinancing of the Project;
- (iv) an unconditional obligation to keep the Project in good condition and repair;

- (v) an unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project as may be required by the members of the COMPANY and/or any mortgage lenders with respect to the Project;
- (vi) an unconditional obligation to pay all taxes levied on, and assessments made with respect to, the Project;
- (vii) an unconditional obligation to pay for all of the capital investment in the Project; and
- (viii) an unconditional obligation to pay for all maintenance and operating costs in connection with the Project.

b. The COMPANY is the “owner”, as that term is defined in Section 2 of the New York Lien Law, of the Premises and the HDFC is not in any respects an “owner” of the Project for federal tax purposes under the New York Lien Law and the COMPANY is the “owner” of the Project for federal tax purposes;

c. The HDFC has received and reviewed the documents executed in connection with the Financing (the “**Loan Documents**”), and acknowledges that any and all rights, title, interests and/or benefits the HDFC has under this Agreement are absolutely and completely subject and subordinate to any and all rights, benefits, terms, conditions and provisions contained in and/or created by the Loan Documents;

d. The HDFC shall have no power, right and/or authority to transfer, encumber, lien, and/or create or grant any rights and/or interests in or to all or any portion of the Project and/or any part or parts thereof without the written consent of the COMPANY and any transfer, encumbrance, lien, right and/or interest purported to be created, granted, permitted and/or resulting from any action or inaction of the HDFC in connection with the Project and/or any part or parts thereof, without said consent, shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon the COMPANY;

e. Upon the written demand of the COMPANY, the HDFC shall immediately execute and record in the appropriate land records a bargain and sale deed of the Project to the COMPANY or to any other person or entity designated by the COMPANY and in connection with the execution and recordation of any such bargain and sale deed, the HDFC hereby unconditionally and unequivocally constitutes and appoints the COMPANY to be its lawful and true agent and attorney-in-fact, with full power of substitution to either separately or jointly execute and record any such bargain and sale deed on behalf of the HDFC, in the name, place and stead of the HDFC with the same force and effect as if such deed was executed and recorded by the HDFC, provided, however, that any consents required pursuant to any and all city, state or federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments (collectively, the “Government Financing Documents”) shall have been obtained. The HDFC authorizes any third party to rely on the aforesaid power of attorney granted

in the previous sentence and hereby waives and releases any claim or claims the HDFC may have against such third party in so relying on such power of attorney;

f. HDFC hereby agrees at the direction of COMPANY to promptly execute any and all documents necessary to grant to HDC or other financial institution making or credit enhancing the Loans to COMPANY and/or the owner of the LIHTC Unit (each such financial institution a "Lender") a mortgage or mortgages and any similar security interests on the Property, as well as any documents required to be executed by HDFC in connection with the financing, development, operation and management of the Property, provided that HDFC shall execute such documents for the sole purpose of encumbering its interest in the Property, provided further that HDFC shall not be obligated to execute any such documents that would violate the provisions of Article XI and provided further that all such mortgages and all notes secured by such mortgages shall be non-recourse to HDFC in its capacity as the bare legal or record title owner of the Property. HDFC hereby constitutes and appoints the COMPANY to be its lawful and true agent and attorney-in-fact coupled with an interest, with full power of substitution to execute any documents or instruments deemed to be required to be executed by the COMPANY, in connection with all aspects of the (i) construction financing, (ii) Conversion, and (iii) all refinancings of any such permanent financing, on the following conditions: (a) COMPANY shall advise HDFC of the need to execute any such conversion documents or instruments on not less than ten (10) business days' notice; (b) should HDFC fail to comply with COMPANY's request based upon a failure to respond, COMPANY shall then have the right to execute all such documents or instruments in the name and on behalf of HDFC as if HDFC were the party executing the same, provided that the execution and delivery of such documents or instruments complies with the Property Documents, the Not-for-Profit Corporation Law of the State of New York, and HDFC's Certificate of Incorporation and by-laws.

g. The HDFC shall have no rights, powers and/or authority over, with respect to and/or in connection with the Project and/or any part or parts thereof in any bankruptcy or other proceeding in which the COMPANY may hereafter be a party, and no shareholder, officer, trustee, receiver, administrator, legal representative, regulator or creditor of the HDFC shall have any right, power and/or authority over, with respect to and/or in connection with the Project and/or any part or parts thereof;

h. The HDFC shall, at COMPANY's request and at COMPANY's sole but reasonable cost and expense, join in and be a party to any legal action or proceeding commenced against or relating to the Property or the Project, provided that such participation by the HDFC is necessary to protect or enforce the HDFC's and/or the Company's respective interests in the Property and/or the Project;

i. The COMPANY and the HDFC each have full power and authority to enter into this Agreement and to comply with all of the terms, provisions and conditions contained in this Agreement;

j. Neither the execution, delivery or recording of this Agreement, nor the fulfillment of or compliance with the terms, conditions or provisions of this Agreement conflicts with, violates or results in a breach of the terms, conditions or provisions of any

agreement, instrument, law, rule or regulation of which the COMPANY and/or the HDFC is now a party or by which either or both may be bound or affected or results in the creation of any lien, charge or encumbrance upon the Project and/or any part or parts thereof;

k. Any and all notices, demands and other communication made by either the COMPANY or the HDFC to the other party shall be in writing and sent to the addresses as set forth above, and to HDC, HPD and the Investor Member at the addresses below, by hand, by mail (registered, certified, return receipt requested) or by nationally recognized overnight courier:

New York City Housing Development Corporation
110 William Street
New York, New York 10038
Attn: Executive Vice President, Development

New York City Department of Housing Preservation and Development
100 Gold Street
New York, New York 10038

and

Citibank, N.A.
388 Greenwich Street, Trading 6th Floor
New York, New York 10013
Attention: Transaction Management Group
Sendero Verde Building A
Deal ID No. [REDACTED]
Facsimile: (212) 723-8209

and

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Sendero Verde Building A
Deal ID No. [REDACTED]
Facsimile: (805) 557-0924

and

Citibank, N.A.
388 Greenwich Street, 8th Floor
New York, New York 10013
Attention: Account Specialist
Sendero Verde Building A

Deal ID No. [REDACTED]
Facsimile: (212) 723-8209

GSB LIHTC Investor LLC
Urban Investment Group
c/o Goldman Sachs Group
200 West Street
New York, New York 10282
Attention: Urban Investment Group Portfolio Manager

with copies to:

Hirschen Singer & Epstein LLP
902 Broadway, 13th Floor
New York, New York 10010
Attention: Russell A. Kivler, Esq.

Sidley Austin LLP
787 Seventh Avenue
New York, New York 10019
Attention: Steve Koppel, Esq.

Acacia Sendero Verde Housing Development Fund Company, Inc.
300 East 175th Street,
Bronx, New York 10457

With a copy to:
Goldstein Hall PLLC
80 Broad Street, Suite 303
New York, New York 10004
Attn: David A. Goldstein, Esq.

And a copy of any notices
of default sent to:

Citibank, N.A.
388 Greenwich Street
New York, New York 10013
Attention: General Counsel's Office
Sendero Verde Building A
Deal ID No. [REDACTED]
Facsimile: (646) 291-5754

7. The COMPANY shall have the beneficial ownership of the Project for all purposes (including, federal income tax purposes) and shall have all rights related thereto

including, but not limited to, the right to claim depreciation deductions with respect to any depreciable property comprising a part of the Project, the right to receive an allocation of federal low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, the right to amortize capital costs and to claim any other federal or state tax benefits attributable to the Project, the right to receive all proceeds from the Project, including from rents and other moneys from mortgages, pledges, sales, or other dispositions of the Project, and to all tax benefits, including depreciation and the low income housing tax credits. In addition thereto, it shall be in the sole and absolute discretion of the COMPANY to develop, operate, manage, assign, encumber, transfer or sell the Project or any portion thereof or interest therein or any right or indicia of ownership in connection therewith, and at the request of the COMPANY, the HDFC shall cooperate with the COMPANY and execute any and all documents required by the COMPANY in connection with the development, operation, management, assignment, encumbrance, transfer or sale of the Project or any portion thereof or interest therein, or any right or indicia of ownership in connection therewith. In furtherance of the foregoing, and without limitation, the HDFC shall transfer and convey the Project, by bargain and sale deed, subject only to the Permitted Encumbrances and Regulatory Agreements, in connection with the transfer or sale of the Project or any portion thereof or any interest therein to any party designated by the COMPANY.

8. The COMPANY shall have all management authority and control over the Project, with respect to, but not by way of limitation, construction and development of the Project, performance and enforcement of all leases, agreements with regard to the sale of the Project or otherwise, and any covenants concerning the Project.

9. The HDFC covenants and agrees to perform all acts reasonably requested by the COMPANY in regard to or arising from the ownership, management and operation of the Project.

10. Except for the addendum described in Paragraph 21 below, this Agreement may not be amended or revoked except by written instrument duly executed by each of the parties hereto and provided that, for long as the Investor Member is a member of the COMPANY, this Agreement may not be modified, amended, terminated or revoked without the prior written consent of the Investor Member.

11. This Agreement shall be construed in accordance with the laws of the State of New York.

12. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. This Agreement may be executed in one or more counterparts, and by different signatories hereto in separate counterparts, each of which when so executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

14. The COMPANY and the HDFC hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal court sitting in The City of New York over any suit, action or proceeding arising out of or relating to this Agreement and/or the Loan Documents, and the COMPANY and the HDFC hereby agree and consent that, in addition to any methods of service of process provided for under applicable law, all of service of process in any such suit, action or proceeding in any New York State or Federal court sitting in the City of New York may be made by certified or registered mail, return receipt requested, directed to the COMPANY and the HDFC at the address indicated in the captioned agreement, and service so made shall become complete five (5) days after the same shall have been so mailed.

15. Both the COMPANY and the HDFC hereby, knowingly, voluntarily, intentionally, **expressly and unconditionally waive**, in connection with any suit, action or proceeding, arising out of, under or in connection with this Agreement, any and every right either or both of them may have to **A TRIAL BY JURY**.

16. Notwithstanding anything contained herein to the contrary, if there is an Event of Default (as defined in any and all city, state or federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments (collectively, the “**Government Financing Documents**”)) under any Government Financing Document, the HDFC shall have the right, following notice to the Company, to enter the Property to cure the default as agent for and on behalf of the Company, provided that the Company is not diligently acting to cure such default. For purposes of this provision, Government Financing Document shall mean all City of New York, State or Federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments.

17. The closing of the transactions contemplated in this Agreement shall be contingent upon the admission of the Investor Member as a member of the COMPANY pursuant to the amended and restated operating agreement of COMPANY.

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

with any of the terms of the Project Documents or any applicable law, rule or regulation; (iv) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; and/or (v) defect in the construction or condition or characteristics of the Property or the Project, whoever and whatever the cause. The COMPANY shall include the HDFC and Acacia Real Estate Development, Inc. as additional insureds on any insurance policies for the Project.

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

C. In the event that any action or proceeding is brought against the HDFC or each of their members, directors, and officers with respect to which indemnity may be sought under this Section, the COMPANY shall assume the investigation and defense of such action or proceeding, including the employment of counsel selected by the HDFC, and shall assume the payment of all expenses related thereto, provided, however, that the action or proceeding did not arise out of the gross negligence or willful misconduct of the HDFC. The HDFC shall have the right, if it shall conclude in good faith that a conflict of interest exists, to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the COMPANY shall pay all reasonable fees and expenses of such separate counsel.

This Section 18 shall survive the termination of this Agreement.

19. Upon formation of the Condominium, the equitable and beneficial interests owned by NON-LIHTC COMPANY hereunder with respect to the LIHTC Unit, CF Unit 1 and CF Unit 2 shall be transferred to the LIHTC COMPANY and the equitable and beneficial interests in such LIHTC Unit, CF Unit 1 and CF Unit 2 shall thereafter be held by the LIHTC COMPANY subject to the terms of this Agreement; upon such transfer by NON-LIHTC COMPANY to LIHTC COMPANY of the equitable and beneficial interest in the LIHTC Unit, CF Unit 1 and CF Unit 2, this Agreement shall terminate with respect to the LIHTC Unit, CF Unit 1 and CF Unit 2 as between the HDFC and the NON-LIHTC COMPANY, such that the LIHTC COMPANY shall be the sole equitable and beneficial owner of the LIHTC Unit, CF Unit 1 and CF Unit 2.

20. Until formation of the Condominium, the term "COMPANY" used herein shall refer to the NON-LIHTC COMPANY with respect to the entire Project (including, but not limited to the to-be-formed LIHTC Unit, CF Unit 1 and CF Unit 2) and thereafter shall refer to the NON-LIHTC COMPANY solely with respect to the Non-LIHTC Unit, CF Unit 3 and Retail Unit, to the LIHTC COMPANY with respect to the LIHTC Unit, CF Unit 1 and CF Unit 2.

21. Upon Conversion, the parties hereto shall record an addendum to this Agreement, in the form attached hereto as Exhibit A, clarifying that equitable and beneficial interest of the LIHTC Unit, CF Unit 1 and CF Unit 2 is held by the LIHTC COMPANY and equitable and beneficial interest of the Non-LIHTC Unit, CF Unit 3 and Retail Unit is held by the NON-LIHTC COMPANY.

[signatures on following page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

NON-LIHTC COMPANY:

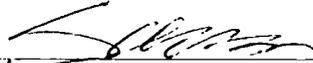
SV-A MODERATE OWNERS LLC,
a New York limited liability company

By: SV-A Owners LLC, its Managing Member

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its sole Member

By: SV Managers A LLC, its Managing Member

By: 
Name: Spencer Orkus
Title: Authorized Signatory

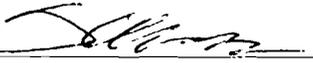
LIHTC COMPANY:

SV-A OWNERS LLC,
a New York limited liability company

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its sole Member

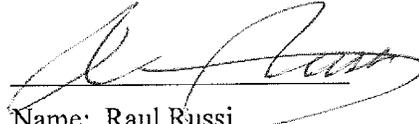
By: SV Managers A LLC, its Managing Member

By: 
Name: Spencer Orkus
Title: Authorized Signatory

HDFC:

**ACACIA SENDERO VERDE HOUSING
DEVELOPMENT FUND COMPANY, INC.,**
a New York not-for-profit corporation

By:



Name: Raul Russi

Title: Authorized Signatory

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

On the 21 day of June 2021, before me, the undersigned, a Notary Public in and or said State, personally appeared SPENCER ORKUS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.



Notary Public

JOAN SIGMAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SI6351859
Qualified in New York County
My Commission Expires December 12, 2024

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

On the ___ day of June 2021, before me, the undersigned, a Notary Public in and or said State, personally appeared RAUL RUSSI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

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

On the ___ day of June 2021, before me, the undersigned, a Notary Public in and or said State, personally appeared SPENCER ORKUS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

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

On the 16th day of June 2021, before me, the undersigned, a Notary Public in and or said State, personally appeared RAUL RUSSI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.



Notary Public

GIAMARA M. ROSADO Notary Public, State of New York Registration # [REDACTED] 06305162 Qualified In Bronx County Commission Expires June 2, 2022

SCHEDULE A

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

BEGINNING at the corner formed by the intersection of the southerly side of East 112th Street (80 feet wide) with the easterly side of Madison Avenue (80 feet wide);

RUNNING THENCE easterly along the southerly side of East 112th Street, 100 feet to a point;

RUNNING THENCE southerly at right angles with the southerly side of East 112th Street, 140 feet 11 inches to a point;

RUNNING THENCE westerly at right angles to the last mentioned course, 100 feet to the easterly side of Madison Avenue;

RUNNING THENCE northerly along the easterly side of Madison Avenue, 140 feet 11 inches to the corner of the point or place of BEGINNING.

TOGETHER with the benefits of that certain Light and Air Easement Agreement by and among ACACIA SENDERO VERDE II HOUSING DEVELOPMENT FUND COMPANY, INC., SV-B OWNERS LLC, ACACIA SENDERO VERDE HOUSING DEVELOPMENT COMPANY, INC., SV-A OWNERS LLC and SV-A MODERATE OWNERS LLC, dated 6/24/2021 and to be recorded in the Office of the New York City Register, New York County.

TOGETHER with the benefits of that certain Shared Facilities and Easement Agreement by and among ACACIA SENDERO VERDE HOUSING DEVELOPMENT FUND COMPANY, INC., SV-A OWNERS LLC, SV-A MODERATE OWNERS LLC, ACACIA SENDERO VERDE II HOUSING DEVELOPMENT FUND COMPANY, INC. and SV-B OWNERS LLC, dated 6/24/2021 and to be recorded in the Office of the New York City Register, New York County.

EXHIBIT A

**FORM OF
ADDENDUM
TO
DECLARATION OF INTEREST AND NOMINEE AGREEMENT**

This Addendum to Declaration of Interest and Nominee Agreement (the “**Agreement**”) by and among ACACIA SENDERO VERDE HOUSING DEVELOPMENT FUND COMPANY, INC., a New York not-for-profit corporation having an address at 300 East 175th Street, Bronx, New York 10457 (the “**HDFC**”), SV-A OWNERS LLC, a New York limited liability company having an address at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “**LIHTC COMPANY**”) and SV-A MODERATE OWNERS LLC, a New York limited liability company having an address at 551 Fifth Avenue, 23rd Floor, New York, New York 10176 (the “**NON-LIHTC COMPANY**”) and together with the LIHTC COMPANY, the “**COMPANY**”), dated as of _____, 202_ and effective as of the Effective Date (as such term is defined below).

WHEREAS, the HDFC, LIHTC Company and Non-LIHTC Company entered into that certain Declaration of Interest and Nominee Agreement, dated as of June __, 2021 and recorded in the Office of the City Register, New York County on _____, 2021 at CRFN _____ (the “**Nominee Agreement**”), pursuant to which, as of the Effective Date, the HDFC is the nominal owner and the Non-LIHTC Company is the beneficial and equitable owner of certain real property located at Block 1617, Lots [update with final condo lot numbers] (f/k/a Lot 120) on the Tax Map of the City of New York, New York County, more commonly known by the street address 50 East 112th Street, New York, New York, as more particularly described in Exhibit A, attached hereto and made a part hereof (the “**Property**”); and

WHEREAS, the Nominee Agreement contemplated the formation of that certain Sendero A Condominium (“**Condominium**”) pursuant to that certain Condominium Declaration submitted by the HDFC, LIHTC Company and Non-LIHTC Company and recorded on _____, 202_ in the Office of the City Register, New York County in CRFN _____ (the “**Declaration**”), which Declaration established a six-unit condominium comprised of:

- (i) a condominium unit containing two hundred and eight (208) units to be rented to households with incomes at or below 60% area median income (“**AMI**”) and ancillary space related thereto (“**LIHTC Unit**”), as more fully described in Exhibit B attached hereto;
- (ii) a condominium unit containing one hundred and thirty-nine (139) units to be rented to households with incomes at or below 90% AMI, one (1) superintendent’s unit and ancillary space related thereto (“**Non-LIHTC Unit**”), as more fully described in Exhibit C attached hereto;
- (iii) a condominium unit containing approximately 8,733 square feet of community facility space and ancillary space related thereto (“**CF Unit 1**”), as more fully described in Exhibit D attached hereto;

- (iv) a condominium unit containing approximately 2,530 square feet of community facility space and ancillary space related thereto (“**CF Unit 2**”), as more fully described in Exhibit E attached hereto;
- (v) a condominium unit containing 11,538 square feet of community facility space and ancillary space related thereto (the “**CF Unit 3**”), as more fully described in Exhibit F attached hereto; and
- (vi) a condominium unit containing approximately 6,213 square feet of retail space and ancillary space related thereto (the “**Retail Unit**”), as more fully described in Exhibit G attached hereto.

(collectively, the LIHTC Unit, Non-LIHTC Unit, CF Unit 1, CF Unit 2, CF Unit 3 and Retail Unit are defined as the “**Project**”).

WHEREAS, as described in the Nominee Agreement, upon the formation of the Condominium, (i) LIHTC Company is the sole beneficial and equitable owner of the LIHTC Unit, CF Unit 1 and CF Unit 2, (ii) Non-LIHTC Company is the sole beneficial and equitable owner of the Non-LIHTC Unit, CF Unit 3 and Retail Unit and (iii) HDFC remains as the fee owner of the entire Project in accordance with the terms of the Nominee Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein contained, the adequacy of which are hereby acknowledged, the parties hereto jointly and severally covenant and agree as follows:

1. Capitalized terms used herein and not defined shall be given the meaning provided to them in the Nominee Agreement.
2. The effective date of this Agreement shall be the date of recordation of the Declaration, which occurred on _____, 202_ (the “**Effective Date**”).
3. With respect to the LIHTC Unit, CF Unit 1 and CF Unit 2 and the LIHTC Company, from the Effective Date:
 - a. equitable and beneficial ownership to the LIHTC Unit, CF Unit 1 and CF Unit 2 shall be held by the LIHTC Company and the Non-LIHTC Company shall have no interest in the LIHTC Unit, CF Unit 1 or CF Unit 2;
 - b. references to the term “Project” shall mean the LIHTC Unit, CF Unit 1 and CF Unit 2;
 - c. references to the term “Company” shall mean the LIHTC Company; and

- d. the LIHTC Company shall be the sole equitable and beneficial owner of the LIHTC Unit, CF Unit 1 and CF Unit 2.

4. With respect to the Non-LIHTC Unit, CF Unit 3 and Retail Unit and the Non-LIHTC Company, from the Effective Date:

- a. equitable and beneficial ownership to the Non-LIHTC Unit, CF Unit 3 and Retail Unit shall be held by the Non-LIHTC Company and the LIHTC Company shall have no interest in the Non-LIHTC Unit, CF Unit 3 or Retail Unit;
- b. references to the term "Project" shall mean the Non-LIHTC Unit, CF Unit 3 and Retail Unit;
- c. references to the term "Company" shall mean the Non-LIHTC Company; and
- d. the Non-LIHTC Company shall be the sole equitable and beneficial owner of the Non-LIHTC Unit, CF Unit 3 and Retail Unit.

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

[signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

NON-LIHTC COMPANY:

SV-A MODERATE OWNERS LLC,
a New York limited liability company

By: SV-A Owners LLC, its Managing Member

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its sole Member

By: SV Managers A LLC, its Managing Member

By: _____

Name: Spencer Orkus

Title: Authorized Signatory

LIHTC COMPANY:

SV-A OWNERS LLC,
a New York limited liability company

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its sole Member

By: SV Managers A LLC, its Managing Member

By: _____

Name: Spencer Orkus

Title: Authorized Signatory

HDFC:

**ACACIA SENDERO VERDE HOUSING
DEVELOPMENT FUND COMPANY, INC.,**
a New York not-for-profit corporation

By: _____

Name: Raul Russi

Title: Authorized Signatory

EXHIBIT A THROUGH EXHIBIT G

Legal Descriptions of Project and All Condo Units

[To Be Provided Prior to Execution of Addendum]

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

ACACIA SENDERO VERDE HOUSING DEVELOPMENT FUND COMPANY, INC.,

SV-A MODERATE OWNERS LLC

AND

SV-A OWNERS LLC

50 East 112th Street
New York, New York
Block 1617, Lot 120

Record and Return to:

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

Attachment B:

Executed Master Lease, dated as of June 24, 2021, by
and between SV-A Moderate Owners LLC and SV-A
Owners LLC

MASTER LEASE

Between

**SV-A MODERATE OWNERS LLC,
a New York limited liability company**

as Landlord,

and

**SV-A OWNERS LLC,
a New York limited liability company,**

as Tenant

Dated: as of June 24, 2021

**MASTER LEASE
(LIHTC UNIT, CF UNIT 1 AND CF UNIT 2)**

THIS MASTER LEASE (“Master Lease”) is made and entered into as of June 24, 2021, by and among **SV-A MODERATE OWNERS LLC**, a New York limited liability company (hereinafter referred to as “**Owner**” or “**Landlord**”) and **SV-A OWNERS LLC**, a New York limited liability company (hereinafter referred to as “**Tenant**”).

RECITALS

1. Acacia Sendero Verde Housing Development Fund Company, Inc., a New York not for profit corporation (“**HDFC**”), as nominee for the Owner, is the fee owner, and the Owner is the beneficial owner of the real property and improvements located at 50 East 112th Street, New York, New York 10029 and shown on the Tax Map of the City of New York, New York County as Block 1617, Lot 120 (the “**Property**”), as more particularly described on Schedule A attached hereto, which Property shall be subjected to a condominium regime pursuant to a Declaration of Condominium, which to-be-formed condominium in the building constructed at the Property (the “**Building**”) will consist of a six (6) unit condominium known as Sendero A Condominium (the “**Condominium**”), and such Condominium shall be comprised of:

- a. a condominium unit containing two hundred and eight (208) units to be rented to households with incomes at or below 60% area median income (“**AMI**”), one (1) superintendent’s unit and ancillary space related thereto (“**LIHTC Unit**” or “**Unit 1**”);
- b. a condominium unit containing one hundred and thirty-nine (139) units to be rented to households with incomes at or below 90% AMI and ancillary space related thereto (“**Non-LIHTC Unit**” or “**Unit 2**”);
- c. a condominium unit containing approximately 8,733 square feet of community facility space and ancillary space related thereto (“**CF Unit 1**” or “**Unit 3**”);
- d. a condominium unit containing approximately 2,530 square feet of community facility space and ancillary space related thereto (“**CF Unit 2**” or “**Unit 4**”);
- e. a condominium unit containing 11,538 square feet of community facility space and ancillary space related thereto (the “**CF Unit 3**” or “**Unit 5**”); and
- f. a condominium unit containing approximately 6,213 square feet of retail space and ancillary space related thereto (the “**Retail Unit**” or “**Unit 6**”).

2. The Landlord desires to hereby let and demise to Tenant and Tenant desires to hereby take from the Landlord that certain residential space which will consist of LIHTC Unit, CF Unit 1 and CF Unit 2 (collectively the “**Demised Premises**”).

3. The LIHTC Unit will collectively consist of two hundred and eight (208) rental units which will be income and rent-restricted and otherwise qualifying for the low-income housing tax credit (the “**Federal Housing Tax Credit**”) under Section 42 of the Internal Revenue Code of 1986 as amended (the “**Code**”).

4. The Project (as defined herein) will be subject to (i) financing arrangements with mortgage lenders secured by encumbrances upon the Property (among other property), and (ii) various Restrictions (as defined herein) relating to the operation of the Project, including the Demised Premises.

5. Tenant intends to operate the Demised Premises in accordance with the provisions of the Restrictions and Section 42 of the Code, as applicable, so as to enable the Tenant to be able to claim the Federal Housing Tax Credit with regard to the Demised Premises. Tenant intends to in the future enter into subleases of the residential units included in the Demised Premises pursuant to residential leases (the “**Residential Leases**”) with tenants who are qualified tenants in accordance with the Restrictions and Section 42 of the Code.

6. Tenant desires to lease the Demised Premises from Landlord and Landlord desires to lease the Demised Premises to Tenant pursuant to the terms of this Master Lease to hold, maintain, operate, and sell or otherwise dispose of its interest in the Demised Premises hereunder (the “**Master Leasehold Interest**”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Capitalized terms used herein and not otherwise defined shall have the following meanings:

“Additional Rent” shall have the meaning set forth in Section 4.2(b).

“Additional Rent Estimate” shall have the meaning set forth in Section 4.2(c).

“Additional Rent Payment Date” shall have the meaning set forth in Section 4.2(c).

“Adverse Consequences” means all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees, including court costs and reasonable attorneys’ fees and expenses.

“Affiliate” means any Person which directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a member of Landlord or Tenant. For purposes hereof, the terms “control,” “controlled,” or “controlling” shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of the beneficial interest of any such Person, as the case may be, directly or indirectly, or acting through one or more Persons, (ii) the control in any manner over the manager(s) or managing member(s) or the election of more than one director or trustee (or Persons exercising similar functions) of

such Person, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such Person.

“Allocation Agreement” shall have the meaning set forth in Section 7.4.

“Authority” means any housing credit agency under Section 42 of the Code or applicable housing finance authority, which is a public body corporate and politic created by the State of New York, City of New York or other agency authorized to allocate Credits or issue bonds or other evidence of indebtedness to finance residential rental housing developments.

“Bank” means Citibank, N.A.

“Base Rent” shall have the meaning set forth in Section 4.1.

“By-Laws” means the By-Laws governing the operations of the Condominium, which shall be set forth as an exhibit to the Declaration of the Sendero A Condominium, as same may be amended from time to time.

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

“Collateral” shall have the meaning set forth in Section 18.8.1(a).

“Collateral Assignment” shall have the meaning set forth in Section 18.8.2(c).

“Common Charges” means those expenses of the Condominium that are directly related to the operation and maintenance of the Common Elements, as set forth in an annual budget to be delivered pursuant to Section 4.2(c).

“Common Elements” shall mean the areas of the Condominium that are for common use of the residents of the Project or that provides services for the tenants of the Project which services are provided in consideration for rent payable by the tenants without separate charge or fee (other than Utilities), such common elements and limited common elements to be set forth in the Condominium Declaration, including public areas to the extent required for access to, use and enjoyment of the Project for residential purposes including, without limitation, common hallways on the floors on which the Demised Premises are located, stairways, elevators and lobby, subject to the terms, covenants, provisions and conditions of this Master Lease., all as described in the Declaration.

“Compliance Period” shall have the meaning provided in Section 42(i)(1) of the Code.

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

“Condominium Documents” shall mean the Declaration, by-laws of the Condominium and any rules and regulations applicable to the Condominium.

“Credit Conditions” means, for the duration of the Compliance Period, any and all restrictions including, but not limited to, applicable Federal, state and local laws, rules and regulations, which must be complied with in order to qualify for the Federal Housing Tax Credits or to avoid an event of recapture in respect of the Federal Housing Tax Credits. All references to Credit Conditions herein shall only apply to the Demised Premises.

“Credit” or “Credits” means Federal Housing Tax Credits, individually or collectively.

“Debt Payments” shall have the meaning set forth in Section 7.4.

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

“Default” shall have the meaning set forth in Section 18.1.

“Deferred Additional Rent” shall have the meaning set forth in Section 18.1.

“Designated Prime Rate” means the prime rate of interest published from time to time in The Wall Street Journal or if, at any time, such prime rate shall not be published or publicly announced, the rate announced by such other “money center” bank located in New York City as may be selected by Landlord, adjusted as such prime rate adjusts.

“Entity” means any general partnership, limited partnership, corporation, joint venture, trust, limited liability company, business trust, cooperative or association.

“Environmental Laws” shall have the meaning set forth in Section 27.1(b).

“Estimated Additional Rent” shall have the meaning set forth in Section 4.2(c).

“Event of Bankruptcy” or “Bankruptcy” means, as to a specified Person:

(i) the entry of a decree or order for relief by a court having jurisdiction in respect of such Person in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of his property, or ordering the winding-up or liquidation of his affairs and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

(ii) the commencement by such Person of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by him to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of such Person or for any substantial part of his property, or the making by him of any assignment for the benefit of creditors, or the taking of action by the Person in furtherance of any of the foregoing.

“Existing Equipment” shall have the meaning set forth in Section 8.4.

“Expiration Date” shall have the meaning set forth in Section 3.1(a).

“Federal Housing Tax Credits” means the low income housing tax credit allowable under Section 42 of the Code as further described in the Recitals.

“F&E” shall have the meaning set forth in Section 8.6.

“FIFRA” shall have the meaning set forth in Section 27.1(b).

“Financing Documents” means the various documents evidencing and securing financing arrangements by mortgage lenders to Landlord and Tenant with respect to the Project or the Demised Premises, as applicable, as the same shall exist from time to time.

“Governmental Authority” means any state, federal, local, municipal or other governmental authority, agency, or licensing authority of any kind whatsoever, including any so-called “business improvement district” or similar Entity or organization.

“Hazardous Materials” shall have the meaning set forth in Section 27.1(c).

“HDC” means the New York City Housing Development Corporation.

“HDC Loan” means collectively, (i) a first priority mortgage loan from the New York City Housing Development Corporation (“HDC”) in the approximate aggregate amount of \$99,925,000, which loan will be funded with the proceeds from the sale of tax-exempt bonds issued by HDC (the “HDC First Loan”) (ii) a second priority mortgage loan from HDC in the approximate aggregate amount of \$20,000,000 (the “HDC Second Loan”); (iii) a third priority mortgage loan from HDC in the approximate amount of \$45,093,086 (the “HDC Third Loan”), (iv) a fourth priority mortgage loan from HDC in the approximate amount of \$500,000 (the “HDC Fourth Loan”) and (v) a fifth priority mortgage loan from HDC in the approximate amount of \$8,000,000 (the “HDC Fifth Loan”).

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

“HPD” means the City of New York, acting by and through its Department of Housing Preservation and Development.

“Impositions” shall have the meaning set forth in Section 5.1.

“Investor Member” means GSB LIHTC Investor LLC and its successors and assigns, the investor member of Tenant.

“Landlord” shall have the meaning set forth in the heading of this Master Lease.

“Laws” shall mean all applicable laws, statutes, ordinances, resolutions, codes, rules, requirements, regulations, orders or similar items of any Governmental Authority having or

asserting jurisdiction over the ownership, operation, occupancy, maintenance or use of the Property.

“Lease Year” shall mean the period commencing on the Commencement Date and ending on the first December 31 thereafter and each succeeding twelve (12) month period thereafter which falls in whole or in part during the Term.

“Lender” means any mortgagee under the Loan, and so long as any Letter of Credit is outstanding issued by the Bank, shall also include the Bank.

“Limited Rental Source Limitation” shall have the meaning set forth in Section 4.2(b).

“Loan” means, collectively, the following loans: (i) the HDC Loan; and (ii) the Sponsor Loans.

“Manage” shall have the meaning set forth in Section 27.1(d).

“Managing Member” means SV-A Associates LLC, a New York limited liability company.

“Master Lease” shall have the meaning set forth in the heading of this Master Lease.

“Mortgage” shall have the meaning set forth in Section 19.1(a).

“Non-LIHTC Condo Units” shall mean, collectively, the Non-LIHTC Unit, CF Unit 3 and the Retail Unit.

“Owner” shall have the meaning set forth in the heading of this Master Lease.

“Permitted Alterations” shall have the meaning set forth in Article XIII.

“Permitted Use” shall have the meaning set forth in Article 6.

“Person” means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so admits; and, unless the context otherwise requires, the singular shall include the plural, and the masculine gender shall include the feminine and the neuter and vice versa.

“Project” shall mean a mixed use building which is comprised of approximately one (1) thirty-four (34) story building containing an aggregate of three hundred and forty-seven (347) rental units, plus one (i) superintendent’s unit, approximately 22,801square feet of community facility space and approximately 6,213 of retail space.

“Project Reserves” has the meaning set forth in Section 7.5.

“Project Systems Equipment” shall have the meaning set forth in Section 8.4.

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

“Property Manager” shall mean the property manager retained by Owner and Tenant to manage the Residential Project, including the Demised Premises.

“Property Management Agreement” means the property management agreement to be executed by and among Landlord, Tenant and the Property Manager with respect to the management of the Property, as the same may be amended from time to time.

“Regulatory Agreement” means, collectively, the Regulatory Agreement dated as of the date hereof among HDC, HPD, HDFC, Landlord and Tenant; and (ii) the Inclusionary Housing Regulatory Agreement dated as of the date hereof between HDFC, Landlord, Tenant and HPD, encumbering, among other things, the Demised Premises.

“Rent” shall have the meaning set forth in Section 4.1.

“Rental Income” means all rents, income and profits of any kind arising from the Residential Leases and any renewals or extensions thereof (including, without limitation, any amounts that are payable as a result of the early termination or surrender of any Residential Leases).

“Reserve Deposits” shall have the meaning set forth in Section 7.5.

“Residential Leases” shall have the meaning set forth in the Recitals.

“Residential Project” shall mean, collectively, the Demised Premises and the Non-LIHTC Condo Units.

“Response” shall have the meaning set forth in Section 27.1(f).

“Restrictions” shall mean any restrictions of any Governmental Authority having jurisdiction over the Condominium, including the Residential Project, and the Demised Premises, as applicable, and shall include without limitation, the Regulatory Agreement, the Credit Conditions and any laws or regulations pertaining to the receipt by Landlord of the Tax Exemption.

“Retail Condo Units” shall mean, collectively, CF Unit 3 and Retail Unit.

“Security Agreement” shall have the meaning set forth in Section 18.8.1(d).

“Sponsor Loans” means that certain subordinate construction and permanent loan from Acacia Real Estate Development, Inc., in the approximate aggregate amount of \$662,500.

“Start Date” shall have the meaning set forth in Section 16.1.

“Substantial Completion” shall have the meaning set forth in Section 3.1(b).

“Tax Exemption” means the real property tax exemption provided with respect to the Residential Project, CF Unit 1 and CF Unit 2 pursuant to Article XI of the New York State Private Housing Finance Law.

“Tenant Operating Agreement” means the Amended and Restated Operating Agreement of Tenant dated as of the date hereof, as the same may be amended from time to time.

“Tenant Operating Expenses” shall have the meaning set forth in Section 7.3(a).

“Tenant Operating Shortfall” means a deficiency of funds occurring when the amount of Tenant Operating Expenses and Additional Rent exceed the revenues available to Tenant such that Tenant does not have sufficient funds to pay the full amount of Additional Rent.

“Tenant’s Share” shall mean 58.14% with respect to the Building, subject to correction upon the filing of the Declaration, which percentage represents the ratio of the area of the Demised Premises to the area of the remaining units comprising the Condominium. Notwithstanding the foregoing, the tenant’s share of Loans shall be set forth in the Allocation Agreement. Further, the tenant’s share of the management fee paid to the Property Manager shall be equal to the sum of 6% Gross Rental Receipts (as such term is defined in the Property Management Agreement) for the residential units in the LIHTC Project and 2% of Gross Rental Receipts for the Community Facility Space (as defined in the Tenant’s Operating Agreement).

“Term” has the meaning set forth in Section 3.1.

ARTICLE II

GRANT OF LEASE

Section 2.1 Lease. Landlord hereby leases and demises to Tenant, and Tenant hereby leases from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions set forth herein, the Demised Premises, including without limitation Landlord’s interest in the improvements appurtenant thereto.

Section 2.2 Condominium. Landlord and Tenant acknowledge and agree that Landlord intends to subject the Project to a “No-Action” condominium regime consisting of six (6) condominium units, and that upon the formation the Condominium, the Demised Premises shall consist of the LIHTC Unit, CF Unit 2 and CF Unit 2 and the Common Elements appurtenant thereto, and this Lease shall terminate upon such Condominium formation. The reasonable consent of the Tenant and the Investor Member to the Condominium Documents shall be required prior to formation of the Condominium, the scope of which consent shall include ensuring that the Condominium Documents do not change the intended use and operation of the Demised Premises or materially and adversely increase the Tenant’s obligations as established hereunder.

ARTICLE III

TERM; POSSESSION

Section 3.1 Term; Condominium Conversion.

(a) This Master Lease shall have a term (the “**Initial Term**”) commencing on the date hereof (such date being referred to herein as the “**Commencement Date**”) and shall end on the sixty-fifth (65th) annual anniversary of the date hereof, as the same may be extended pursuant to the terms hereof (hereinafter referred to as the “**Expiration Date**”), unless sooner terminated as provided herein, including pursuant to Section 2.2 above.

(b) Delivery of the Demised Premises/Construction of Initial Tenant Improvements. Tenant, as a party to that General Contract, shall be permitted to construct, improve, and equip the Demised Premises substantially in accordance with the approved Plans including F&E attributable to the Demised Premises (the improvements to be constructed in substantially in accordance with the approved Plans being the “**Initial Improvements**”). Tenant shall be responsible for its allocable share of development costs as set forth in Allocation Agreement from tenant’s share of the Loan proceeds as set forth in the Allocation Agreement and from the capital contributions of the Tenant’s Investor Member in the amounts set forth in Section 5.1 of the Tenant Operating Agreement, which payments shall be subject to adjustment in accordance with Section 5.2 of the Tenant Operating Agreement, and such other amounts as may be made available to Tenant for the purposes of paying for such Tenant Improvements, all of which shall be treated as a payment toward Tenant’s construction of the Demised Premises for federal income tax purposes (collectively, such payments the “**Initial Improvement Payments**”).

ARTICLE IV

RENT

Section 4.1 Base Rent. The base rent (the “Base Rent”) due and payable by Lessee in connection with the leasing of the Demised Premises is One Dollar (\$1.00) per year of the Term of this Lease, with the Base Rent payment for the entire Term due on the Commencement Date.

(a) Additionally, Tenant acknowledges and agrees that Landlord’s right to receive such Base Rent has been collaterally assigned and pledged by the Owner to the Lender under the Financing Documents and such Base Rent may be used by the Lender under the Financing Documents and applied to pay for development costs in connection with the Condominium and to make a partial prepayment to the Lender under the Financing Documents to the extent required by the Financing Documents. Landlord and Tenant acknowledge and agree that the provisions of this Section 4.1 are for the benefit of the Lender under the Financing Documents and may not be modified or superseded without the prior written consent of the Lenders under the Financing Documents. After the obligation to pay Base Rent has been satisfied, during the entire Term, Landlord shall not be entitled to rent or charges other than Additional Rent (as hereinafter defined in Section 4.2). Base Rent and Additional Rent becoming due from Tenant to Landlord hereunder (hereinafter collectively referred to as “**Rent**”) shall be paid in lawful money of the United States to Landlord at the office of Landlord, or as otherwise designated from time to time by written notice from Landlord to Tenant.

Section 4.2 Net Lease.

(a) This Master Lease is what is commonly called a “net lease,” it being understood that Landlord shall receive the Rent set forth in Section 4.1 hereof free and clear, after the Commencement Date, of Tenant’s Share of Impositions (as defined in Section 5.1 below), assessments, liens, charges or expenses of any nature whatsoever in connection with the ownership, maintenance, repair and operation of the Demised Premises, except as otherwise provided herein, including, without limitation, Section 8.1 herein.

(b) From and after the date hereof, Tenant shall pay Tenant’s Share of (i) all Impositions assessed against the Project; (ii) Common Charges; (iii) insurance premiums in connection with the Project; (iv) utilities (except for utility expenses separately allocated to Tenant by reason of such utility expenses being separately metered) in connection with the Project; (v) Reserve Deposits; and (vi) any other typical operating and maintenance charges, costs and expenses of Landlord pertaining to the Project or, following formation, the Condominium, which arise or may be contemplated under any provisions of this Master Lease during the Term to the extent of available “Net Cash Flow” (as defined in the Tenant Operating Agreement) in accordance with Section 7.3(a) of the Tenant Operating Agreement (the payment described in this sentence being referred to herein as “**Additional Rent**”, even though not necessarily payable to Landlord). Nothing contained in this Master Lease shall obligate Tenant for the payment of any portion of the items in the preceding sentence that are not required to be paid by the Tenant hereunder, or any income or franchise taxes payable by Landlord under applicable law. Notwithstanding the foregoing, Additional Rent that is payable by the Tenant may be less than the amount that would be payable if such Additional Rent were to be allocated in accordance with Tenant’s Share, with the balance accruing in accordance with Section 18.1, where such lesser Additional Rent is necessary to ensure that the aggregate Additional Rent and Tenant Operating Expenses required to be paid by the Tenant do not exceed Tenant’s Rental Income (the “**Limited Rental Source Limitation**”). The Limited Rental Source Limitation shall limit the amount of Additional Rent due from Tenant, so that such amount does not cause a Tenant Operating Shortfall. To the extent the Limited Rental Source Limitation is implemented to reduce the amount of the Additional Rent that would otherwise be payable by the Tenant, the Landlord shall be obligated to pay such amounts.

(c) The following shall be undertaken in determining and paying Additional Rent pursuant to Section 4.2(b)(A):

(i) Promptly following the Commencement Date, and thereafter within ninety (90) days preceding the termination of a Lease Year, but not later than the end of such Lease Year, Landlord shall furnish to Tenant a statement setting forth Landlord’s reasonable estimate of Additional Rent for such Lease Year which shall include a statement setting forth the Landlord’s reasonable estimate of any Impositions for such Lease Year and a Development Budget including the Common Charges of the Project (as may adjusted pursuant to (iii) below, the “**Additional Rent Estimate**”). Tenant shall have the right to review and comment on the budgets and underlying assumptions regarding Additional Rent set forth in the Additional Rent Estimate, and Landlord shall reasonably cooperate with Tenant in connection therewith.

(ii) Upon completing (i), but no greater than fifteen (15) days following completion of the review and comment period set forth in (i) above, Landlord and Tenant shall agree upon the estimated amount of Additional Rent that Tenant is to pay with respect to such Lease Year. If they shall fail to agree such determination shall be made by an arbitrator appointed by the Chairman of the New York Real Estate Board, which arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The amount finally agreed upon by Landlord and Tenant or such arbitrator shall for purposes of this Section be the Additional Rent Estimate for purposes of determining the monthly payments of Additional Rent payable by Tenant pursuant to (iii) and (iv) below.

(iii) Following the completion of the determination of the Additional Rent Estimate, Tenant shall be required to pay with respect to such Lease Year monthly estimated payments of Additional Rent equal to the Additional Rent Estimate (the “**Estimated Additional Rent**”), which Estimated Additional Rent shall be payable in arrears on or prior to the last business day preceding the end of each calendar month (the “**Additional Rent Payment Date**”) during such Lease Year in equal amounts of 1/12 of the Estimated Additional Rent for such Lease Year if such Estimated Additional Rent has been determined prior to the commencement of a Lease Year.

(iv) If Estimated Additional Rent is determined subsequent to the commencement of a Lease Year, then (a) until the month following the month in which the Estimated Additional Rent is determined, Tenant shall pay to Landlord on or before the Additional Rent Payment Date of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Section 4.2(c) during the last month of the preceding Lease Year, and (b) promptly after the Estimated Additional Rent is determined, Landlord shall give notice to Tenant stating whether the installments of Additional Rent previously made for such Lease Year were greater or lesser than the Estimated Additional Rent installments to be made for such Lease Year and (x) if there shall be a deficiency, Tenant shall pay the amount thereof within ten (10) business days after demand therefor, or (y) if there shall have been an overpayment, Landlord shall credit the amount thereof against subsequent payments of Estimated Additional Rent due hereunder, and (z) on or before the Additional Rent Payment Date of the month following the month in which the Estimated Additional Rent is determined, and on the Additional Rent Payment Date thereafter throughout the remainder of such Lease Year, Tenant shall pay to Landlord an amount equal to 1/12 of the Additional Rent Estimate.

As soon as reasonably practicable but not greater than ninety (90) days after the end of each Lease Year, Landlord and Tenant will conduct a reconciliation with respect to Additional Rent (the “**Annual Reconciliation**”) with respect to such preceding Lease Year. Landlord shall furnish to Tenant a statement setting forth in reasonable detail the actual Additional Rent for such Lease Year, which shall include a description of how such Additional Rent has been calculated. If the Annual Reconciliation shall show that the sums of Estimated Additional Rent paid by Tenant under Section 4.2(b) exceeded the sum of the actual amount of Additional Rent for such Lease Year, Landlord shall credit the amount of such excess against the Additional Rent for the following year or, if the Term has expired, Landlord shall promptly pay such amount to Tenant (net of any sums then owed by Tenant to Landlord). If the Annual Reconciliation for such Lease Year shall

show that the sums of Estimated Additional Rent paid by Tenant under Section 4.2(b) were less than the sum of the actual amount of Additional Rent for such Lease Year, Tenant shall pay the amount of such deficiency within ten (10) business days after such amounts are determined.

Section 4.3 No Termination; Exception.

(a) Except as otherwise expressly provided herein, Tenant agrees that it will remain obligated under this Master Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Master Lease, solely by reason of (i) the Bankruptcy of Landlord or any assignee of Landlord, and (ii) any action with respect to the Master Lease which may be taken by any trustee or receiver of Landlord or of any assignee of Landlord in any such proceeding or by any court in any such proceeding; provided that this Master Lease is not rejected or disaffirmed in such proceedings nor are Tenant's rights of use, occupancy or quiet enjoyment of the Master Leasehold Interest abridged, disturbed or otherwise adversely affected and Tenant receives reasonable assurance thereof within a reasonable period of time following the commencement of such proceedings.

Section 4.4 Compliance with Restrictions and Credit Conditions. Tenant covenants and agrees that: (i) each of the provisions of this Master Lease shall be subject to, and the Tenant covenants to act and operate the Demised Premises in accordance with, the Regulatory Agreement and Restrictions including the Credit Conditions and all applicable Laws; (ii) the Restrictions including the Credit Conditions and all such laws and regulations, as amended or supplemented, shall govern the rights and obligations of the Tenant, its successor and assigns, and they shall control as to any terms in this Master Lease which are inconsistent therewith, and any such inconsistent terms in this Master Lease shall be unenforceable by or against Tenant; (iii) upon any dissolution of the Tenant or any transfer of the Master Lease, no right to the possession and control of the Demised Premises and no right to collect rent under the Residential Leases shall pass to any Person who is not, or does not become, bound by the Restrictions including the Credit Conditions; and (iv) any conveyance or transfer of Tenant's interest in all or any portion of the Demised Premises required or permitted under this Master Lease shall in all respects be subject to the Restrictions including the Credit Conditions and all conditions, approvals or other requirements of the rules and regulations of any Governmental Authority applicable thereto.

ARTICLE V

IMPOSITIONS

Section 5.1 Landlord to Pay Impositions. Landlord shall pay all Impositions for the Project and Tenant shall pay Tenant's Share of such Impositions to Landlord as Additional Rent. The term "**Impositions**" shall mean all taxes or payments in lieu of taxes and assessments, general and special, water rates (to the extent not based on usage) and all other impositions, ordinary and extraordinary, of every kind and nature whatsoever, which may be levied, assessed, charged or imposed during the Term of the Master Lease with respect to the Project or any part thereof. Impositions shall also include fees and costs incurred by Landlord during the Master Lease Term for the purpose of contesting or protesting tax assessments or rates, to the extent such fees and

costs relate to savings anticipated by Landlord during the Term of the Master Lease that would also reduce Tenant's Share of the Impositions. Impositions "for" a given calendar year shall mean Impositions that are due for payment in such calendar year, regardless of when such Impositions are actually paid.

Section 5.2 Challenge of Impositions. Only Landlord may institute proceedings to reduce tax assessments or rates. If Landlord receives a refund of Impositions for any Lease Year, Landlord shall, at the election of Tenant, either pay to Tenant an amount equal to Tenant's Share of such refund or credit against subsequent payments of Additional Rent due hereunder, net of any expenses incurred by Landlord in achieving such refund, which amount shall not exceed Tenant's payment of Impositions with respect to such Lease Year.

Section 5.3 Tax Exemption Maintenance. Landlord and Tenant shall be obligated to cause the Demised Premises to comply with the Tax Exemption, under the laws as currently in effect. Landlord and Tenant shall further be obligated to use commercially reasonable efforts to (x) cause the Demised Premises to comply with the Tax Exemption, and (y) seek any extension of the Tax Exemption that may reasonably be available.

ARTICLE VI

USE OF PREMISES

Section 6.1 Use of Premises. Tenant shall use and occupy the Demised Premises for purposes of operation of a residential rental property qualifying for Federal Housing Tax Credit (the "**Permitted Use**") and for no other use or purpose. Tenant and Landlord covenants and agrees the Demised Premises will be used and occupied in conformity with the Restrictions including the Credit Conditions, the terms and provisions of the Condominium Declaration, all applicable Laws, subject to Section 4.4. Tenant shall not use any materials that are hazardous or toxic, nor shall Tenant create any offensive or toxic emissions or effluents to emanate from the Demised Premises, except to the extent reasonable or appropriate in connection with the lawful use of the Demised Premises in the ordinary course of Tenant's business, and Tenant shall comply with all legal requirements in connection with such use. At all times during the Term, Tenant shall to the extent within its control cause all of the Demised Premises to remain in compliance with all legal requirements and, to the extent that Tenant should fail to do so beyond any applicable notice and grace or cure period, Landlord shall have the right to take all actions required or necessary to bring the Demised Premises into compliance with all legal requirements, and all sums paid by Landlord, including, without limitation, any reasonable legal fees and disbursements, incurred by Landlord as a result of Tenant's failure shall constitute Additional Rent. Tenant shall use commercially reasonable efforts to cause the subtenants under Residential Leases to comply with all Laws and Restrictions to the extent such action is within the control of such subtenant. Tenant shall not be in default of this Master Lease if after taking such commercially reasonable efforts such residential unit is in violation of Laws and the Restrictions, and the cause of such violation was not directly caused by Tenant.

ARTICLE VII

UTILITIES AND SERVICES;
OPERATING EXPENSES; DEBT SERVICE

Section 7.1 Electric and other Utilities. If any utility charges are incurred by the Project which are also supplied to the Tenant and which are not otherwise included in Additional Rent then, to the extent such utility charges are based upon usage (and are not otherwise separately metered for the Demised Premises), Tenant shall be obligated to reimburse Landlord for that portion of such utility services that were used by Tenant or the subtenants under the Residential Leases in the Demised Premises as Rent, which payments shall be made on the Additional Rent Payment Date for the month following the month of receipt of a statement of the amount of such assessment together with Landlord's method of allocating such utility charges between Landlord and Tenant.

Section 7.2 Regulations Regarding Utilities and Services. Tenant agrees to cooperate fully, at all times, with Landlord in abiding by all rules, regulations and requirements which Landlord may prescribe for the proper functioning and protection of all utilities and services necessary for the operation of the Project, provided that Landlord has provided such rules, regulations and requirements to Tenant beforehand and subject to the limitations described in Section 4.4 hereunder. Throughout the Term of this Master Lease, Landlord and its contractors, agents and designees shall have access after advance notice (in any emergency situation no such notice shall be necessary) to any and all building systems which right of access shall be exercised in such manner as will minimize interference with the use and occupancy of the Demised Premises and in a manner consistent with the residential leases of the Demised Premises, and Tenant agrees that there shall be no construction of partitions or other obstructions which might interfere with access to or the moving of servicing equipment to or from the enclosures containing said building systems. Tenant further agrees that neither Tenant nor its employees, agents, licensees, invitees or contractors shall at any time tamper with or otherwise take any action which would in any manner adversely affect the building systems.

Section 7.3 Operating Expenses.

(a) To the extent applicable, Tenant shall pay all separate expenses of its operation of the Demised Premises including, without limitation, electric and other utility charges, pro rata share of maintenance and repair charges, costs for repairs and replacements (to the extent not paid from Project Reserves), management fees and all other charges, whether or not contemplated under this Master Lease, that are unique to the operation of the Demised Premises and not to the operation of the Project as a whole (collectively, "**Tenant Operating Expenses**"). Tenant Operating Expenses are exclusive of and do not constitute Additional Rent.

(b) Landlord shall be obligated to pay (i) all operating expenses of the Project except those Operating Expenses for which the Tenant is responsible pursuant to this Master Lease and, upon formation of the Condominium (and this Lease not yet being terminated) operating expenses attributable to the other portions of the Condominium and Common Charges attributable to the Demised Premises, (ii) any and all Debt Payments, subject to the Allocation Agreement (each as defined below) and any and all other charges, premiums and amounts on account of any Financing Documents, (iii) all costs including Common Charges incurred in connection with the operation of any commercial, retail or other residential space in the Project outside of the Demised

Premises, if any, (iv) all Impositions due on the Project, and (v) all costs for which the Landlord is responsible pursuant to this Master Lease (except to the extent expressly agreed to be paid directly by Tenant). The obligation of Landlord to make such payments shall be absolute and unconditional, provided that such obligation shall not eliminate any claims Landlord has against Tenant for breach of its obligations under this Lease or any rights of offset or counterclaim. In the event of the failure by Landlord to pay any such amounts within any applicable grace or cure period under the Financing Documents or otherwise, Tenant, upon prior notice and subject to any applicable provisions of the Financing Documents, shall have the right to pay such amounts on behalf of Landlord and Landlord shall be obligated to reimburse Tenant for the costs thereof and, in addition, so long as Tenant is not in default hereunder, Tenant shall have the right to set off against the next Rent payable hereunder such amounts as are advanced by Tenant on behalf of Landlord hereunder.

Section 7.4 Debt Service. Landlord shall pay any principal, interest, prepayment premiums or other amounts due in connection with the Loan (“**Debt Payments**”) as set forth in that certain Allocation Agreement by and between Landlord and Tenant dated as of the date hereof (“**Allocation Agreement**”). Tenant shall pay its share of Debt Payments, as set forth in the Allocation Agreement.

Section 7.5 Reserves. Landlord shall maintain a replacement reserve account and an operating reserve account for the Residential Project (the “**Project Reserves**”) and shall fund the Project Reserves in accordance with the requirements of the Financing Documents (“**Reserve Deposits**”). Tenant shall pay Tenant’s Share of all Reserve Deposits as Additional Rent. Use of funds in the Project Reserves shall be as set forth in the Financing Documents. Tenant acknowledges and agrees that the Landlord may, in its sole discretion, pledge the Project Reserves to any lender providing financing to the Residential Project and Tenant shall cooperate in executing any necessary pledge agreement and/or deposit account control agreement, in form and substance reasonably acceptable to Tenant as required by any such lender to effectuate the foregoing pledges. In the event that the Tenant requires a disbursement from the Project Reserves up to the amount of Tenant’s Share of the Reserve Deposits, in order to (i) with respect to the replacement reserve, make repairs authorized under this Master Lease with respect to the Demised Premises or (ii) with respect to the operating reserve, to pay other cost and expenses of the Tenant, then Tenant shall request a disbursement from its portion of such reserve from Landlord and Landlord shall promptly make a request under the Financing Documents for a release of such amount to Tenant pursuant to the Financing Documents. In no event shall Tenant be entitled to draw more than Tenant’s Share of the Reserve Deposits nor shall Landlord be entitled to draw more than its share of Reserve Deposits, in each case based on the deposits actually made by Tenant or Landlord, respectively.

Section 7.6 Title Insurance Proceeds. The Allocation Agreement shall provide the method by which any proceeds resulting from a title insurance claim related to Landlord or Tenant’s ownership in the Demised Premises is to be allocated between Landlord and Tenant.

ARTICLE VIII

CONDITION AND CARE OF PREMISES

Section 8.1 **Landlord Obligations.**

(a) Notwithstanding any provision to the contrary contained herein (other than as set forth in Section 8.2 hereof), Landlord agrees, throughout the Term, to maintain the Property as required by the Regulatory Agreement and the Financing Documents, including (i) taking good care of the Project, the Common Elements, all building systems whether or not located within the Demised Premises; (ii) keeping the same in good order and condition; and (iii) making and performing all maintenance thereof and all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, of every nature, kind and description, including, without limitation, any maintenance required under the Financing Documents as may be necessary for the purpose of not unreasonably interfering with the Tenant's quiet enjoyment of the Demised Premises.

(b) Landlord shall cause the Project and all building systems and structural elements thereof (including the structural elements of the exterior and interior of the Demised Premises such as walls, ceilings, windows, doorways, bathrooms, closets and hallways), to comply with all applicable Laws and shall obtain, comply with and maintain all necessary licenses, permits, certificates and other permissions required from time to time by any Governmental Authority having jurisdiction over the Project, for the proper and lawful operation and use thereof. Landlord shall operate the Project in compliance with all Laws and the Regulatory Documents.

(c) In connection with the foregoing, except to the extent caused by or the responsibility of Tenant pursuant to this Master Lease, Landlord agrees to hold harmless, defend and indemnify Tenant against all claims, actions, causes of action, demands, rights, damages, actual costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which any party now has or which may in the future arise or in either case pertain to:

(i) The Project, including without limitation the Demised Premises, for claims arising due to conditions which existed at the Project on or prior to the date hereof, including, without limitation, any alleged defect in the design, construction or maintenance of the Project including without limitation the Demised Premises or any hazardous materials in, at, under, or related to the Project or any violation of any Law, including without limitation Environmental Laws; and

(ii) Any claims of any individual tenants under Residential Leases with regard to a claim pursuant to Section 8.1(a)(i) above.

(d) The obligations of Landlord under this Section 8.1 shall survive the expiration of the Term or sooner termination of this Master Lease.

Section 8.2 **Tenant Obligations.**

(a) Other than as set forth in Section 8.1 herein, Tenant shall at its sole cost and expense throughout the Term, (i) take good care of the Demised Premises; (ii) keep the same in good order and condition; and (iii) make and perform all maintenance thereof and all necessary repairs thereto, of every nature, kind and description; provided, however if such action is required to be undertaken by the Landlord then Tenant shall reimburse the costs thereof to the Landlord (if Landlord expends funds for such purpose). When used in this Section 8.2, the term “repairs” shall include all necessary replacements, renewals, alterations, additions and betterments. All repairs made by Tenant shall be in accordance with all Laws and the Restrictions. The necessity for or adequacy of maintenance and repairs shall be measured by the standards which are appropriate for improvements of similar construction and class, provided that Tenant shall in any event make all repairs reasonably necessary to avoid any structural damage or other damage or injury to the Demised Premises and the occupants thereof.

(b) Other than as set forth in Section 8.1 herein or elsewhere expressly provided in this Master Lease, Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in, about or to the Demised Premises. Other than as set forth in Section 8.1 herein or elsewhere expressly provided in this Master Lease, Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Demised Premises. Notwithstanding the foregoing, Landlord and Tenant acknowledge that a qualified property manager (the “**Property Manager**”) will be retained by both Landlord and Tenant to manage the entire Residential Project, including the Demised Premises. Landlord agrees that a default by Tenant under any provision of this Lease that is caused in whole or in part by the actions of the Affiliated Property Manager shall not constitute a Default for which Landlord can take action against Tenant.

Section 8.3 Compliance With Rules and Regulations; Compliance with Covenants.

Tenant shall at its sole cost and expense:

(a) Other than as set forth in this Master Lease, comply with (i) all federal, state, county, municipal and other governmental and quasigovernmental statutes, laws, rules, orders, regulations and ordinances affecting the Demised Premises or any part thereof, or the use thereof, including compliance with the requirements of any Governmental Authority relating to the operation of the Demised Premises for the Permitted Use, and (ii) all rules, orders and regulations of the National Board of Fire Underwriters or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Demised Premises. Tenant shall comply with the requirements of all policies of public liability, fire and other insurance that at any time may be in force with respect to the Demised Premises.

(b) Comply with the requirements of the Restrictions to the extent applicable to Tenant and all amendments thereto to the extent adopted with the consent of the Tenant, to the extent required herein; except to the extent that such obligation hereunder is expressly required to be performed by Landlord pursuant to the terms of this Master Lease.

(c) Observe and not interfere with the rights reserved to Landlord under this Master Lease.

(d) In the event of Tenant's failure to comply with the provisions of this Section 8.3 (without limitation of any other rights or remedies of Landlord hereunder), Landlord may, if such failure continues beyond the applicable notice and grace period hereunder, pay such amounts or perform such obligations as are necessary in order to comply therewith. The amounts reasonably expended by Landlord on account thereof shall constitute Rent, which Tenant shall pay to Landlord.

Section 8.4 Existing Equipment. Tenant acknowledges that Tenant is accepting possession of the Demised Premises inclusive of any and all fixtures, equipment and other moveable items located therein or to be located therein pursuant to the plans and specification for the construction of the Project (collectively, the "**Existing Equipment**"). Subject to Section 8.1, Landlord makes no representations or warranties whatsoever as to the condition of the Existing Equipment. In the event that the Existing Equipment is removed, whether by Tenant or any other party, during or at the end of the Term hereof, Tenant shall be responsible for restoring any and all damage to the Demised Premises and the Project caused by such removal, at Tenant's sole cost and expense, and, with respect to the Project Systems Equipment (as hereinafter defined), Tenant shall replace or pay for the replacement of, any such equipment so removed with like equipment of equal or better quality that shall be in good working order and of sufficient size and capacity as is required to serve the Demised Premises and the Project. Further, Tenant shall indemnify Landlord and its respective employees, agents and other representatives, from and against any and all costs, expenses, liens, damages, or other claims resulting from the removal of any such Existing Equipment. As used herein, the term "**Project Systems Equipment**" shall mean all plumbing, electrical, mechanical, heating, ventilation and air conditioning and life safety equipment in or serving the Demised Premises and the Project, or that will serve the Demised Premises and the Project upon completion of the construction of the Project. Notwithstanding the foregoing, nothing herein shall be deemed to amend or modify the obligations of the Managing Member or the Guarantors under the terms of the Tenant's Operating Agreement (as such terms are defined in the Tenant's Operating Agreement) or the Guarantees executed in connection therewith.

Section 8.5 Tax Credits; Title to Demised Premises.

(a) At all times during the Term of this Master Lease, the Demised Premises and the Existing Equipment shall be owned for income tax purposes by Tenant and during the Term, Tenant alone shall be entitled to all of the tax attributes of ownership, including, without limitation, the right to claim depreciation or cost recovery deductions, and the right to claim Federal Housing Tax Credits and Tenant shall have the right to amortize capital costs and to claim any other federal or state tax benefits attributable to the Demised Premises. Landlord and Tenant further agree and acknowledge that Financing Documents will be secured by, among other things, the Demised Premises. Landlord and Tenant will take such other steps as may be reasonably requested by either party to further this agreement on income tax treatment.

- (i) Notwithstanding the foregoing:
1. it is anticipated that the Project will qualify for New York State Brownfield Redevelopment Tax Credits (the "BRTCs") and Owner and Tenant undertake to cooperate and coordinate the claim of the BRTCs with respect to the Project so that BRTCs in excess of the limitations

imposed by the New York State Tax Law are not claimed. Owner and Tenant hereby agree that Tenant will have priority in the claim of BRTCs and be entitled to claim BRTCs to the greatest extent legally permissible, to the exclusion of Owner claiming BRTCs, and that (ii) Owner shall only claim BRTCs to the extent that any amount of such BRTCs cannot be claimed by Tenant.

2. it is anticipated that the Project will qualify for the energy tax credits provided for under Section 48 of the Code (the “Energy Credits”) and Owner and Tenant undertake to cooperate and coordinate the claim of the Energy Credits with respect to the Project so that Energy Credits in excess of the limitations imposed by the Code are not claimed. Owner and Tenant hereby agree that Tenant will have priority in the claim of Energy Credits and be entitled to claim Energy Credits to the greatest extent legally permissible, to the exclusion of Owner claiming Energy Credits, and that (ii) Owner shall only claim Energy Credits to the extent that any amount of such Energy Credits cannot be claimed by Tenant.

(b) Landlord and Tenant further agree that, (i) solely for federal and applicable state income tax purposes, this Lease will be treated as a sale of the Demised Premises to Tenant in consideration for payment of the Base Rent; (ii) the Tenant shall be treated as directly paying for the construction of the Demised Premises using its share of the Debt Payments under the Allocation Agreement and not as acquiring the completed units from the Landlord; (iii) any Additional Rent (including Impositions and utilities) shall be treated as a payment by Tenant of its share of the costs associated with the ownership of the Demised Premises. Landlord and Tenant will take such steps as may be reasonably requested by either party to further this agreement on income tax treatment and neither party or their respective Affiliates will take any position for federal and applicable state income tax purposes inconsistent with the provisions of Section 8.5.

Section 8.6 Initial F&E. Notwithstanding anything to the contrary herein, the Landlord and the Tenant agree that the initial fixtures and equipment (“F&E”) for the Demised Premises will be provided by Landlord, if not otherwise a part of the Initial Improvement obligations. No additional rent beyond that set forth in Article IV hereof shall be payable by Tenant with respect to the F&E provided by Landlord. Following the installation of the initial F&E, all replacement F&E shall be provided by Tenant as and when needed with funds that have been first made available pursuant to the Project Reserves accounts required under the Tenant Operating Agreement, and such replacement shall occur in compliance with the provisions of this Master Lease.

Section 8.6 Property Management. Landlord and Tenant acknowledge and agree that the property manager for the Demised Premises and the rest of the Residential Project shall at all times be the same entity. The initial property manager shall be as set forth in the Property Management Agreement. In the event that the property manager is required to be terminated pursuant to the Financing Documents, Tenant shall cooperate in such termination and acknowledges that the replacement property manager shall be subject to the approval of the holders of any Mortgages as set forth in the Financing Documents and the Investor Member as set forth in the Tenant Operating Agreement. In the event that the property manager is required to be

terminated pursuant to the Tenant Operating Agreement, Landlord shall cooperate in such termination and acknowledges that the replacement property manager shall be subject to the approval of the holders of any Mortgages as set forth in the Financing Documents and the Investor Member as set forth in the Tenant Operating Agreement.

ARTICLE IX

RETURN OF DEMISED PREMISES

Section 9.1 Surrender of Possession. At the termination of this Master Lease by lapse of time or otherwise, Tenant shall surrender possession of the Demised Premises to Landlord and deliver all keys to the Demised Premises to Landlord, and shall, subject to the following Section 9.2, return the Demised Premises and all equipment and fixtures of Landlord therein to Landlord in as good condition as when Tenant originally took possession, ordinary wear, loss or damage by fire or other insured casualty, and damage resulting from the act of Landlord or its employees and agents excepted, failing which Landlord may restore the Demised Premises and such equipment and fixtures to such condition and Tenant shall pay the reasonable cost thereof to Landlord on demand.

Section 9.2 Installations and Additions. All installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements, temporary or permanent, which are atypical of a residential installation, except movable furniture and equipment belonging to Tenant, in or upon the Demised Premises, whether placed there by Tenant or Landlord, shall be Landlord's property and shall remain upon the Demised Premises at the termination of this Master Lease, all without compensation, allowance or credit to Tenant; provided, however, that if prior to such termination Landlord so directs by notice, Tenant, at Tenant's sole cost and expense, shall promptly remove such of the installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements placed in the Demised Premises by Tenant as are designated in such notice and repair any damage to the Demised Premises caused by such removal, failing which Landlord may remove the same and repair the Demised Premises, and Tenant shall pay the reasonable cost thereof to Landlord on demand. Tenant may request, prior to making the atypical installations, additions or other improvements provided hereinabove that Landlord determine whether Tenant shall be obligated to remove such installations, additions or other improvements (in which case Landlord shall make such determination in a reasonable manner within five (5) days following such request); provided, however, that Landlord shall not be limited from exercising its right to require such removal, notwithstanding a prior manifestation of the contrary intent, if the condition of such installations, additions or other improvements have deteriorated and constitute in Landlord's reasonable determination, unreasonable wear and tear. Landlord may waive the Tenant's obligations under this provision at its discretion.

Section 9.3 Trade Fixtures and Personal Property. Tenant shall also remove Tenant's furniture, and other items of movable personal property of every kind and description belonging to Tenant from the Demised Premises and restore any damage to the Demised Premises caused thereby, such removal and restoration to be performed prior to the end of the Term (whether by lapse of time or by earlier termination of this Master Lease). If Tenant fails to remove such items, Landlord may do so and thereupon the provisions of Section 18.6 shall apply, and Tenant

shall pay to Landlord upon demand the reasonable cost of removal and of restoring the Demised Premises. Landlord may waive the Tenant's obligations under this provision at its discretion.

ARTICLE X

HOLDING OVER

Section 10.1 Holding Over. For each day Tenant retains possession of the Demised Premises or any part thereof after termination of this Master Lease, or of Tenant's right to possession of the Demised Premises, by lapse of time or otherwise, Tenant shall continue to pay all Additional Rent, plus Tenant shall also pay Landlord its actual out-of-pocket costs, expenses and damages sustained by Landlord by reason of such retention. Nothing contained in this Section shall be construed or operate as a waiver of Landlord's right of reentry or any other right or remedy of Landlord. Any such holding over shall be a tenancy at sufferance.

ARTICLE XI

RIGHTS RESERVED TO LANDLORD

Landlord reserves the following rights, exercisable after reasonable advance notice and in such manner as will minimize interference with the use and occupancy of the Demised Premises and the Project and in a manner that is in compliance with the Residential Leases:

- (a) to retain at all times, and to use in appropriate instances, pass keys to the Demised Premises and Tenant shall provide such keys;
- (b) to exhibit the Demised Premises at reasonable hours;
- (c) to enter the Demised Premises (and permit the Authority and any holders of any mortgages on the Project and their respective representatives) at reasonable hours for inspection; and
- (d) to enter the Demised Premises in the event of an emergency (without advance notice) and take all steps deemed reasonably necessary by it to respond to such emergency.

ARTICLE XII

REGULATORY COMPLIANCE

Section 12.1 Compliance with Restrictions. Tenant hereby covenants and agrees to at all times comply with the terms and conditions of any and all Restrictions (including, but not limited to the Regulatory Agreement) affecting the Demised Premises.

Section 12.2 HDC Requirements. Anything contained in this Master Lease to the contrary notwithstanding, Tenant shall not, without the prior written consent (x) of HDC (during

any time when HDC the holds a mortgage on the Project), or (y) the Bank, for so long as the letter of credit issued by the Bank is outstanding or for so long as Bank holds a mortgage on the Project: (i) assign, transfer, pledge, hypothecate or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this Master Lease or any interest under it; (ii) allow to exist or occur any transfer of or lien upon this Master Lease or Tenant's interest herein by operation of law; (iii) sublet the Demised Premises in whole, or in part (except for the Residential Leases pursuant to the provisions hereof); (iv) permit the use or occupancy of the Demised Premises or any part thereof for any purpose not provided for under Article VI of this Master Lease (including, without limitation, the Restrictions (including the Credit Conditions)) or by anyone other than Tenant and Tenant's employees and permitted subtenants pursuant to the Residential Lease; or (v) modify or amended this Master Lease so as to reduce or postpone payment of the Rent or shorten the Term provided hereunder or increase Landlord's obligations or decrease Tenant's obligations or so as to otherwise adversely affect in any other respect any material extent the rights of Landlord and obligations of Tenant.

ARTICLE XIII

ALTERATIONS

Subject to any applicable limitations set forth in the Financing Documents, Tenant shall not, without the prior written consent of Landlord, which as to the consent of the Landlord shall not be unreasonably withheld, delayed or conditioned, make any alterations, additions or improvements to the Demised Premises, other than: alterations, additions, or improvements to the Demised Premises which are (x) cosmetic in nature, or (y) which are required in order for the Demised Premises to comply with Section 42 of the Code and/or to obtain the maximum rental value of the residential units within the Demised Premises, subject to the Restrictions (the "**Permitted Alterations**", provided such alterations, additions or improvements, including the Permitted Alterations, are permitted to be made without the prior approval of any Authority, if applicable. Any alterations, additions or improvements shall continue to be subject to the remaining terms and conditions set forth in this Master Lease.

ARTICLE XIV

ASSIGNMENT AND SUBLETTING

Section 14.1 Assignment and Subletting. Except as otherwise herein provided, Tenant shall not, without the prior written consent of Landlord and in conformance with the Restrictions, if any, in each instance, (i) assign, transfer, pledge, hypothecate or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this Master Lease or any interest under it; (ii) allow to exist or occur any transfer of or lien upon this Master Lease or Tenant's interest herein by operation of law; (iii) sublet the Demised Premises in whole, or in part (except as permitted pursuant to the Restrictions and Financing Documents and except for the Residential Leases pursuant to the provisions hereof, the sublease from Tenant to Harlem Children's Zone, Inc. for CF Unit 1 and East Harlem Council for Community Improvement, Inc. for CF Unit 2); or (iv) permit the use or occupancy of the Demised Premises or any part thereof for any purpose not provided for under Article VI of this Master Lease (including, without limitation, the Restrictions

(including the Credit Conditions)) or by anyone other than Tenant and Tenant's employees and permitted subtenants pursuant to the Residential Leases. Notwithstanding the foregoing, Landlord hereby consents to the subleasing of (x) the relevant residential portions of the Demised Premises to various tenants pursuant to the Residential Leases, and to the other tenants upon termination of any of such subleases or successor subleases, provided in each case that the sublease (i) complies with all applicable requirements, including any consent provisions, of the Financing Documents, the Property Management Agreement and (ii) is subject at all times to the Restrictions, including, the Credit Conditions. After a Default by Tenant hereunder, Landlord may collect rent or any other amounts due under a Residential Lease from the tenant thereunder and shall apply such amounts to Rent or any other sums due under this Master Lease. No such subletting or collection or rent or any other amount from a tenant under a Residential Lease shall be deemed to be a waiver of any provision of this Master Lease or acceptance by Landlord of any tenant under a Residential Lease as a tenant hereunder.

Section 14.2 Tenant To Remain Obligated. Consent by Landlord to any assignment, subletting, use, occupancy or transfer shall not operate to relieve Tenant from any covenant or obligation hereunder except to the extent, if any, expressly provided for in such consent, or be deemed to be a consent to or relieve Tenant from obtaining Landlord's consent to any subsequent assignment, transfer, lien, charge, subletting, use or occupancy. This provision shall not apply to a transfer of interests in the Tenant.

Section 14.3 Landlord's Consent. Landlord will not unreasonably withhold or delay its consent to Tenant's assignment of this Master Lease or subletting the space leased hereunder wherever such consent is required hereunder. Landlord shall not be deemed to have unreasonably withheld its consent to a sublease of the entire Demised Premises or an assignment of this Master Lease if its consent is withheld because: (i) Tenant is then in default beyond any applicable grace period; (ii) any notice of termination of this Master Lease or termination of Tenant's possession shall have been given under Article 18 hereof; (iii) the proposed use of the Demised Premises by the subtenant or assignee does not conform with the Permitted Uses; (iv) in the reasonable judgment of Landlord, the proposed subtenant or assignee is not sufficiently financially responsible to perform its obligations under the proposed sublease or assignment or the proposed assignee does not have experience in complying with the Restrictions, including the Credit Conditions or (v) such assignment or subletting is not permitted under the Financing Documents; provided, however, that the foregoing are merely examples of reasons for which Landlord may withhold its consent and shall not be deemed to be exclusive of any permitted reasons for reasonably withholding consent, whether similar to or dissimilar from the foregoing examples. Any consent by Landlord to a proposed assignment or sublease shall in any event be subject to the terms of Section 14.1 and Section 14.2 above.

Section 14.4 Assignee To Assume Obligations. If Tenant shall assign this Master Lease as permitted herein, the assignee shall expressly assume all of the obligations of Tenant hereunder in a written instrument reasonably satisfactory to Landlord and furnished to Landlord not later than fifteen (15) days prior to the effective date of the assignment. If Tenant shall sublease the Demised Premises as permitted herein, Tenant shall obtain and furnish to Landlord, not later than fifteen (15) days prior to the effective date of such sublease and in form satisfactory to Landlord, the written agreement of such subtenant stating that the subtenant will attorn to Landlord, at

Landlord's option and written request, in the event this Master Lease terminates before the expiration of the sublease.

Section 14.5 Change of Ownership or Control of Tenant. Notwithstanding anything to the contrary in this Article XIV, if during the Term of this Master Lease, Tenant contemplates that the ownership of the membership interests in Tenant shall change pursuant to the terms of the Tenant Operating Agreement, such proposed change shall not constitute a proposed assignment of this Master Lease or otherwise be governed by the terms of this Article XIV. Landlord agrees to the subsequent transfer of Investor Member or Managing Member interests in Tenant pursuant to the terms of the Tenant Operating Agreement without consent. However, such changes shall be subject to the provisions of the Restrictions and the Financing Documents, if applicable. Notwithstanding the foregoing, Tenant shall advise Landlord of any such changes.

ARTICLE XV

WAIVER OF CERTAIN CLAIMS; INDEMNITY BY TENANT

Section 15.1 Waiver of Certain Claims; Release by Tenant. To the extent not expressly prohibited by law or provided in Section 8.1 herein, Tenant releases Landlord and its beneficiaries, if any, and their agents, servants and employees, from and waives all claims for damages to person or property sustained by Tenant, or by any other person, resulting directly or indirectly from fire or other casualty, or any existing or future condition, defect, matter or thing in or about the Demised Premises or Tenant's use of the Project or the Common Elements of the Project, or from any equipment or appurtenance therein, or from any accident in or about the Demised Premises or Tenant's use of the Project or the Common Elements of the Project, or from any act or neglect of any other person, including Landlord's agents and employees and contractors; provided, however, that the foregoing release shall not operate in the event of the gross negligence or willful misconduct of Landlord's agents, employees or contractors. This Section 15.1 shall apply especially, but not exclusively, to damage caused by water, snow, frost, steam, excessive heat or cold, wind, sewerage, gas, odors or noise, or the bursting or leaking of pipes or plumbing fixtures, broken glass, sprinkling or air conditioning devices or equipment, or flooding of basements, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the acts specifically enumerated above or from any other thing or circumstance, whether of a like nature or of a wholly different nature. Notwithstanding the foregoing, nothing herein shall act to amend or modify the obligations of the Managing Member or the Guarantors under the Tenant's Operating Agreement or the Guarantees executed in connection therewith.

Section 15.2 Damage Caused by Tenant's Neglect. If any damage to the Demised Premises, the Project or the Project Common Elements, or any equipment or appurtenance thereon, results from any act or neglect of Tenant, its employees, agents, contractors, licensees or invitees, or the subtenants under the Residential Leases, Tenant shall be liable therefor, and Landlord may at its option following expiration of the applicable grace period repair or cause the repair of such damage, and Tenant shall upon demand by Landlord reimburse Landlord for all reasonable costs of repairing such damage. Tenant shall receive a credit towards Rent for any insurance proceeds actually paid with regard to such damage.

Section 15.3 Tenant Responsible for Personal Property. All personal property on the Demised Premises belonging to Tenant shall be there at the risk of Tenant, and Landlord shall not be liable for damage thereto or theft or misappropriation thereof.

Section 15.4 Indemnification. To the extent not expressly prohibited by law, Tenant agrees to hold Landlord and its beneficiaries, if any, and their agents, servants and employees, harmless and to indemnify each of them against Adverse Consequences arising from injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Demised Premises, the Project or the Common Elements, arising from Tenant's occupancy of the Demised Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Tenant in or about the Demised Premises, the Project or the Common Elements, or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Master Lease, or due to any other act or omission of Tenant, its agents, contractors, invitees, licensees or employees, but Tenant shall receive a credit towards Rent for any insurance proceeds paid with regard to such damages, provided, however, that the foregoing indemnification shall not operate in the event and to the extent that the Adverse Consequences result from the act or neglect of Landlord or Landlord's agents, servants or employees. Tenant's obligation to indemnify Landlord hereunder shall include the duty to defend against any claims creating such Adverse Consequences and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, reasonably incurred in connection therewith. For such purpose, Tenant shall be entitled to the use of an attorney designated by it or its insurer, subject to Landlord's approval which approval shall not be unreasonably withheld, delayed or conditioned. In addition, Landlord agrees to hold Tenant and its beneficiaries, if any, and their agents, servants and employees, harmless and to indemnify each of them against Adverse Consequences arising from injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Demised Premises, the Development or the Development Common Elements, arising from Landlord's actions with respect to the Demised Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Landlord in or about the Demised Premises, the Development or the Development Common Elements, or from any breach or default on the part of Landlord in the performance of any covenant or agreement on the part of Landlord to be performed pursuant to the terms of this Master Lease or due to any other act or omission of Landlord, its agents, contractors, invitees, licensees or employees, provided, however, that the foregoing indemnification shall not operate in the event and to the extent that the Adverse Consequences result from the act or neglect of Tenant or Tenant's agents, servants or employees. Landlord's obligation to indemnify Tenant hereunder shall include the duty to defend against any claims creating such Adverse Consequences and to pay any judgments, settlements, costs, fees and expenses, including attorney's fees, reasonably incurred in connection therewith. For such purpose, Landlord shall be entitled to the use of an attorney designated by it or its insurer, subject to Tenant's approval which approval shall not be unreasonably withheld, conditioned or delayed.

ARTICLE XVI

DAMAGE OR DESTRUCTION BY CASUALTY

Section 16.1 Damage or Destruction by Casualty.

(a) If the Demised Premises shall be damaged by fire or other casualty and if such damage does not render all or a substantial portion of the Demised Premises untenantable, then Landlord shall proceed to repair and restore or cause to be repaired and restored any Common Elements of the Project or Condominium, as applicable, serving or supporting the Demised Premises (the repair and restoration of the portions of the Demised Premises that are not Common Elements shall be the responsibility of the Tenant) with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control. If any such damage renders all or a substantial portion of the Demised Premises untenantable (a "**Substantial Casualty**"), Landlord shall, with reasonable promptness after the occurrence of such damage, provide a reasonable estimate of the length of time that will be required to substantially complete the repair and restoration of such damage and shall by notice advise Tenant of such estimate. If the Tenant reasonably determines that such repair and restoration schedule and the start date of the repair and restoration (the "**Start Date**") will prevent the Tenant from complying with the Credit Conditions (such determination to be accompanied by an opinion of counsel nationally recognized in matters affecting the Credit Conditions), then Tenant shall have the right to terminate this Master Lease as of the date of such damage upon giving notice to the Landlord at any time within twenty (20) days after Landlord gives Tenant the notice containing said estimate. Unless this Master Lease is terminated as provided in the preceding sentence, Landlord shall proceed with reasonable promptness to repair and restore or cause to be repaired and restored any Common Elements of the Project or Condominium, as applicable, serving or supporting the Demised Premises (the repair and restoration of the portions of the Demised Premises that are not general Common Elements shall be the responsibility of the Tenant), subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control, and also subject to zoning laws and building codes then in effect. If the damages are not repaired or restored within the time period estimated by Landlord (as the same may be extended by notice to Tenant to the extent that additional time is required on account of Landlord's inability to timely perform as more specifically provided in Section 29.10 below or due to insurance adjustment or matters beyond the Landlord's control), after the Start Date, then either party may terminate this Master Lease, effective as of the date of such fire or other casualty, by written notice to the other party not later than thirty (30) days after the expiration of said period, but prior to substantial completion of repair or restoration. Notwithstanding anything to the contrary herein set forth, (a) Landlord shall have no duty pursuant to this Article XVI to expend for any repair or restoration amounts in excess of insurance proceeds paid to Landlord and available for repair or restoration (without limiting Tenant's right to terminate this Master Lease as aforesaid); (b) Tenant shall not have the right to terminate this Master Lease pursuant to this Article XVI if the damage or destruction was caused by the gross negligence or willful misconduct of Tenant or its agents, contractors or employees; and (c) if any such damage rendering all or a substantial portion of the Demised Premises untenantable shall occur during the last year of the Term, either party shall have the option to terminate this Master Lease by giving written notice to the other within sixty (60) days after the date such damage occurred, and, if such option is so exercised, this Master Lease shall terminate as of the date of such notice. During the period when all or a portion of the Demised Premises are not available for their intended use as a result of casualty and this Master Lease is not terminated, Additional Rent shall not be reduced as to the portion of the Demised Premises not affected by such casualty.

(b) If this Master Lease is terminated as a result of a casualty, all net insurance proceeds made available to Landlord and Tenant on account of such casualty shall be apportioned between Tenant and Landlord based upon the agreed-upon fair market value of Landlord's and Tenant's respective interests in the Demised Premises.

(c) The provisions of this Article XVI shall be deemed an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and any law providing for such a contingency in the absence of an express agreement, now or hereafter in force, shall have no application in such case. The provisions of this Article XVI shall be subject to the Restrictions and the Financing Documents.

ARTICLE XVII

EMINENT DOMAIN

Section 17.1 Eminent Domain.

(a) If the Demised Premises, or a substantial part thereof, shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, subject to the provisions of the Restrictions and the Financing Documents including the rights of lenders set forth therein, the following shall apply. The Term of this Master Lease shall end upon and not before the earlier of (i) the date when the possession of the part so taken shall be required for such use or purpose or (ii) the effective date of the taking, and (except as otherwise herein provided) without apportionment of the award to or for the benefit of Tenant. In the event of the foregoing, Rent at the then current rate shall be apportioned as of the date of the termination. A "substantial part" of the Demised Premises shall be deemed taken or condemned if, as Tenant may reasonably determine, such part taken shall materially interfere with the economic utilization of the Demised Premises, taken as a whole. Landlord and Tenant shall each be entitled to receive the award or payment in connection with any taking as their interests may appear based upon the agreed-upon fair market value of Landlord's and Tenant's respective interests so taken. In the event that the Term of this Master Lease shall not be terminated as aforesaid in the event of a taking or condemnation, Landlord shall utilize the net proceeds from condemnation for the purpose of restoring or causing the restoration of the Demised Premises to an economic whole within such a period of time as shall be reasonably necessary under the circumstances.

ARTICLE XVIII

DEFAULT

Section 18.1 Events of Default. The occurrence of any one or more of the following matters constitutes a default ("**Default**") by Tenant under this Master Lease:

(a) failure by Tenant to pay, within thirty (30) days after written notice of failure to pay on the due date from Landlord to Tenant, Base Rent, Additional Rent or other moneys required to be paid by Tenant under this Master Lease;

(b) failure by Tenant to cure within a reasonable time after receipt of written notice from Landlord of any hazardous condition which Tenant has created in violation of law or of this Master Lease but not longer than the later of (i) the date for correction of such violation set by any Authority or Governmental Authority, provided if Tenant is diligently pursuing such cure and Governmental Authority permits additional time or forebears from further action then Tenant shall not be in default until and unless Governmental Authority determines in writing that the violation of law or hazardous condition can no longer be cured, or (ii) thirty (30) days from receipt of notice from the Landlord, unless the violation cannot be cured in thirty (30) days and Tenant is diligently pursuing such cure, then for such further period as is reasonably necessary to cure such condition;

(c) failure by Tenant to observe or perform any other covenant, agreement, condition or provision of this Master Lease, if such failure shall continue for thirty (30) days after notice thereof from Landlord to Tenant, or such longer period as is reasonably necessary to cure such condition, provided Tenant is acting diligently to cure same, if such failure cannot reasonably be corrected within said thirty (30) day period;

(d) the levy upon, under writ of execution, or the attachment by legal process of the Master Leasehold Interest, or the filing or creation of a mechanic's lien in respect of such leasehold interest, which lien shall not be released, bonded or discharged within sixty (60) days from the date of such filing;

(e) Tenant abandons the Demised Premises whether or not Tenant thereafter continues to pay the Rent due under this Master Lease;

(f) Tenant makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Tenant or for the major part of its property;

(g) a trustee or receiver is appointed for Tenant or for the major part of its property and is not discharged or stayed within one-hundred (120) days after such appointment; or

(h) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted (i) by Tenant or (ii) against Tenant and are allowed against it or are consented to by it or are not dismissed or stayed within one-hundred twenty (120) days after such institution.

Notwithstanding the foregoing, if a Tenant Default occurs which is a result of Tenant's lack of funds to pay Additional Rent or other amounts due hereunder other than Base Rent after application of gross revenues of the Demised Premises to Tenant's Operating Expenses as reasonably determined by Landlord, then, Tenant shall not be deemed to be in Default at such time and the unpaid portion of the Additional Rent or other amounts due hereunder shall be deferred ("**Deferred Additional Rent**") until such time as Tenant either has sufficient funds with which to pay such Deferred Additional Rent; provided, however, the entire outstanding amount of the Deferred Additional Rent shall be due and payable to Landlord upon the earlier to occur of (i) the

end of the Term, or (ii) a sale or assignment of the Tenant's interest in the Demised Premises hereunder.

Section 18.2 Rights and Remedies of Landlord. If a Default occurs and during its continuance, subject to Section 19.2 below, Landlord shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Landlord of any other right or remedy allowed it by law:

(a) Landlord may terminate this Master Lease by giving to Tenant notice of Landlord's election to do so, in which event the Term of this Master Lease shall end, and all right, title and interest of Tenant hereunder shall expire on the date stated in such notice; and

(b) Landlord may enforce the provisions of this Master Lease and may enforce and protect the rights of Landlord hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Master Lease.

(c) If the Default is with respect to payment of Base Rent, Landlord may proceed against the Collateral under the security interest granted to it under Section 18.8 and take any and all actions permitted to a secured party under the laws of New York, including the Uniform Commercial Code as in effect in the State.

Section 18.3 Right To Reenter. If Landlord exercises either of the remedies provided for in subparagraphs (a) and (b) of Section 18.2, Tenant shall surrender possession and vacate the Demised Premises and immediately deliver possession thereof to Landlord, and Landlord may reenter and take complete and peaceful possession of the Demised Premises, pursuant to applicable legal proceedings, full and complete license so to do being hereby granted to Landlord, and Landlord may remove all occupants and property therefrom, without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.

Section 18.4 Intentionally Deleted.

Section 18.5 Final Damages. If this Master Lease is terminated by Landlord as provided for by subparagraph (a) of Section 18.2, Landlord shall be entitled to recover from Tenant all Rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant or for which Tenant is liable or in respect of which Tenant has agreed to indemnify Landlord under any of the provisions of this Master Lease (including any Deferred Additional Rent), which may be then owing and unpaid, and all costs and expenses, including court costs and attorneys' fees, reasonably incurred by Landlord in the enforcement of its rights and remedies hereunder, and, in addition, Landlord shall be entitled to recover as damages for loss of the bargain and not as a penalty: (i) the aggregate sum which at the time of such termination represents the excess, if any, of the present value of the aggregate rents which would have been payable after the termination date had this Master Lease not been terminated, including, without limitation; and (ii) any damages in addition thereto, including reasonable attorneys' fees

and court costs, which Landlord shall have sustained by reason of the breach of any of the covenants of this Master Lease other than for the payment of Rent.

Section 18.6 Removal of Personal Property. All property of Tenant removed from the Demised Premises by Landlord pursuant to any provisions of this Master Lease or of law may be handled, removed or stored or thrown out by Landlord at the cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay Landlord for all expenses reasonably incurred by Landlord in such removal and storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. All such property not removed from the Demised Premises by the Tenant on or before the end of the Term, however terminated (i.e. whether by lapse of time or otherwise), or on or before the earlier termination of Tenant's right of possession of the Demised Premises, shall, at Landlord's option, be conclusively deemed to have been conveyed by Tenant to Landlord as by bill of sale without further payment or credit by Landlord to Tenant. Notwithstanding the foregoing, nothing herein shall be deemed to amend or modify the Managing Member's or the Guarantors' obligations under the Tenant's Operating Agreement or any Guaranty executed in connection therewith.

Section 18.7 Costs and Attorneys' Fees. Tenant shall pay all of Landlord's costs, charges and expenses, including court costs and reasonable attorneys' fees, reasonably incurred in enforcing Tenant's obligations under this Master Lease, reasonably incurred by Landlord in any action brought by Tenant in which Landlord is the prevailing party, or reasonably incurred by Landlord in any litigation, negotiation or transaction in which Tenant causes Landlord, without Landlord's fault, to become involved or concerned. Landlord shall pay all of Tenant's costs, charges and expenses, including court costs and attorneys' fees reasonably incurred by Tenant in connection with the enforcement of Landlord's obligations under this Master Lease, reasonably incurred by Tenant in any action brought by Landlord in which Tenant is the prevailing party, or reasonably incurred by Tenant in any litigation, negotiation or transaction in which Landlord causes Tenant, without Tenant's fault, to become involved or concerned.

Section 18.8 Grant of Security Interest by Tenant.

18.8.1 Security Interest.

(a) To secure its obligations under this Master Lease to pay Base Rent, Tenant hereby grants to Landlord a security interest in all of Tenant's right, title and interest in, to and under the following-described property (the "**Collateral**"):

(i) All of Tenant's interest (whether presently existing or hereafter acquired) in all F&E which is or becomes attached to, installed in, or used on or in connection with the Demised Premises;

(ii) Tenant's right, title and interest to rent and other payments under the Residential Leases;

(iii) The Tenant's Share of the Project Reserve;

(iv) Tenant's revenues, incomes, proceeds, profits and other sums or benefits paid or payable to Tenant in connection with Tenant's operation of the Demised Premises;

(v) The membership interests of the Managing Member of the Tenant and the capital contributions to be received by the Tenant;

(vi) All proceeds, including insurance or condemnation proceeds, that arise out of the sale, liquidation, or other transfer of, or damage to, condemnation of, or destruction of, or sale, use or enforcement of the above-described Collateral, or any proceeds thereof, including cash proceeds; and

(vii) Tenant's rights under the Property Management Agreement and any sub-management agreement or other managing agent.

(b) Tenant shall execute and deliver to Landlord, in form and substance satisfactory to Landlord, such financing statements as Landlord may consider reasonably necessary to create, protect and preserve Landlord's security interest herein granted, and Landlord may cause such statements to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

(c) The security interest granted pursuant to this Section 18.8 is a collateral security interest only, and Tenant shall have full use of and control over the Collateral prior to the occurrence of, and following the cure of, any Default hereunder.

(d) If requested to do so by Landlord, Tenant shall enter into separate security agreements with Landlord to provide in greater detail the details of the security interest in the Collateral (collectively, the "**Security Agreement**") and consent to the filing of associated UCC-1 Financing Statements at the sole cost and expense of Landlord. Such Security Agreement and UCC-1 Financing Statements shall contain terms and conditions reasonably satisfactory to a mortgagee providing or about to provide financing to Landlord with respect to the Project.

18.8.2 Collateral Assignment of Leases and Rental Income.

(a) To secure its obligations to pay Base Rent under this Master Lease, Tenant hereby presently, irrevocably, absolutely and unconditionally grants, transfers and assigns to Landlord, for its benefit, all of Tenant's present and future right, title and interest in, to and under: (i) all Residential Leases, (ii) all Rental Income, and (iii) all proceeds of the foregoing. This is a present assignment and transfer of title, and is not intended to be merely a collateral assignment for purposes of security.

(b) Upon the occurrence of a Default and at any time thereafter during the continuance thereof, upon written notice by Landlord, Tenant shall promptly deliver to Landlord all Rental Income then held by Tenant and Landlord shall thereafter be entitled to enforce the Residential Leases, to collect and receive, without deduction or offset, all Rental Income and to apply all such Rental Income to Tenant's then outstanding and thereafter accruing obligations under this Master Lease.

(c) If requested to do so by Landlord, Tenant shall enter into a separate collateral assignment of Residential Leases and Rental Income with Landlord to provide in greater detail the specifics of the assignment of the Residential Leases and Rental Income (the “**Collateral Assignment**”) at the sole cost and expense of Landlord. Such Collateral Assignment shall contain terms and conditions reasonably satisfactory to a mortgagee providing or about to provide financing to Landlord with respect to the Condominium.

Section 18.9 Investor Member Rights.

(a) Landlord shall give Investor Member a duplicate copy of all notices of Default or other material notices (including but not limited to notices received pursuant to the Declaration or By-Laws) that Landlord may give to or serve in writing upon Tenant pursuant to the terms of this Master Lease. No such notice by Landlord to Tenant under this Master Lease shall be effective unless or until a copy of such notice has been provided to the Investor Member in accordance with the provisions hereof.

(b) The Investor Member may, at its option and during the time specified for the Tenant to cure any Default hereunder, either pay any amount or do any act or thing required of Tenant by the terms of this Master Lease. All payments made and all acts performed by the Investor Member during the cure period shall be effective to cure a Default hereunder and prevent a termination of this Master Lease to the same extent as if they had been performed by Tenant. Tenant authorizes the Investor Member to take any such action at the Investor Member’s option and does hereby authorize entry upon the Demised Premises by the Investor Member for such purpose.

(c) In addition to all other rights of the Investor Member hereunder, if, within thirty (30) days of receipt of said written notice of Default from the Landlord: (i) the Investor Member shall have commenced exercising its right to remove the Managing Member under the Tenant Operating Agreement pursuant to the provisions of the Tenant Operating Agreement, (ii) the substitute Managing Member is admitted to the Tenant’s limited liability company, and (iii) the substitute Managing Member within thirty (30) days of being admitted to the Tenant’s limited liability company either has cured such Default or, with respect to a non-monetary Default, has commenced to cure and thereafter diligently and continuously pursues same, if such non-monetary Default is capable of being cured by the substitute Managing Member, then the Tenant shall not be considered in default or breach hereunder.

(d) Following formation of the Condominium, Landlord will not consent to, waive or exercise any right under the Declaration or the By-Laws without the prior written consent of the Investor Member for so long as the Investor Member is a member of the Tenant, and any such purported action shall not be valid or effective without such prior written consent.

(e) Landlord shall not voluntarily convey or transfer its fee and beneficial interest in the Demised Premises without the prior written consent of the Investor Member.

(f) Landlord represents and warrants for the benefit of the Investor Member that there are no actions, whether voluntary or otherwise, pending against Landlord under any

insolvency, bankruptcy or other debtor relief laws of the United States or any state and that Landlord has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against the Demised Premises.

ARTICLE XIX

SUBORDINATION; NONDISTURBANCE

Section 19.1 Subordination.

(a) Landlord may have previously and may hereafter from time to time execute and deliver one or more mortgages (hereinafter referred to as a “**Mortgage**”) against the Property or any interest therein including the Demised Premises. This Master Lease shall be subordinate to the Mortgage and, no further documentation shall be necessary to evidence such subordination; provided however, that if requested by the mortgagee under any Mortgage, Tenant will enter into a subordination, nondisturbance and attornment agreement with the mortgagee, in such form as may be reasonably approved by Tenant, with the consent of the Investor Member.

(b) In addition, upon request by any such mortgagee, as security for Landlord’s obligations under Financing Documents, Landlord may grant such mortgagee a security interest in and assignment of (i) Landlord’s interest in the Collateral in which Landlord has a security interest pursuant to Section 18.8 (including the therein referenced Security Agreement and associated UCC-1 Financing Statements) and (ii) Landlord’s interest in the Residential Leases and Rental Income which have been assigned to Landlord pursuant to Section 18.8 (including the therein referenced Collateral Assignment). In such case, in the event of any foreclosure under any such security interest, Landlord shall be obligated to pay to Tenant any damages suffered by Tenant as a result of such foreclosure including, without limitation, the fair market value of all Collateral lost by Tenant in such transaction; provided, however, the amounts due Tenant under this paragraph shall be offset by any amounts owed by Tenant to Landlord as a result of any default under this Lease.

Section 19.2 Modification; Termination. Landlord will not enter into any agreement with Tenant to terminate, cancel, surrender, amend, alter, modify, or extend the Master Lease without the prior written consent of the Investor Member, so long as the Investor Member is a member of the Tenant, and any such purported agreement shall not be valid or effective without such prior written consent. Without limiting the generality of the foregoing, the Investor Member’s prior written consent shall be required prior to Tenant being permitted to terminate the Master Lease following the occurrence of damage, destruction or a taking.

Section 19.3 Liability of Holder of Mortgage; Attornment. It is further agreed that (i) if any Mortgage shall be foreclosed (or title is conveyed pursuant to a deed-in-lieu of foreclosure thereof), (A) the holder of the Mortgage or its grantee, or a purchaser at any foreclosure sale (or grantee in a deed in lieu of foreclosure), as the case may be, shall not be (x) liable for any act or omission of any prior landlord (including Landlord unless such act or omission is continued by such entity subsequent to such foreclosure or deed in lieu of foreclosure and then only from the date of such entity’s act), or (y) subject to any offsets or counterclaims which Tenant may have against a prior landlord (including Landlord) except for offsets provided for herein; (B) the liability

of the mortgagee hereunder or the purchaser at such foreclosure sale or the liability of a subsequent owner designated as Landlord under this Master Lease shall exist only so long as such mortgagee, purchaser or owner is the owner of the Property, and such liability shall not continue or survive with respect to claims accruing after further transfer of ownership; and (C) subject to the terms of any then-existing subordination, nondisturbance or attornment agreement, upon request of the mortgagee, if the Mortgage shall be foreclosed, Tenant will, at the mortgagee or purchaser's election, attorn, as Tenant under this Master Lease, to the purchaser at any foreclosure sale under any Mortgage, and Tenant will execute such instruments as may be necessary or appropriate to evidence such attornment; and (ii) this Master Lease may not be modified or amended so as to reduce or postpone payment of the Rent or shorten the Term provided hereunder or increase Landlord's obligations or decrease Tenant's obligations or so as to otherwise adversely affect in any other respect any material extent the rights of Landlord and obligations of Tenant without the consent of the holder of the Mortgage. The provisions of this Section shall not apply if the holder of the Mortgage or such grantee or purchaser is the Landlord or its Affiliates.

Section 19.4 Modification Required by Mortgagee. Should any prospective mortgagee require a modification or modifications of this Master Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially change the rights and obligations of Tenant hereunder, Tenant agrees that this Master Lease may be so modified and agrees to execute whatever documents are required therefor and deliver the same to Landlord within ten business (10) days following the request therefor.

Section 19.5 Short Form Lease or Notice of Lease. Should any prospective mortgagee require execution of a short form of lease for recording (containing the names of the parties, a description of the Demised Premises and the Term of this Master Lease) in such form as may be reasonably required by a prospective mortgagee, Tenant agrees to promptly execute such short form of lease and deliver the same to Landlord within ten (10) days following the request therefor, whereupon Landlord shall join in the execution of such short form lease and arrange for the recordation thereof. In addition, at the request of Landlord or Tenant, the parties shall execute a short form of lease or notice of lease for recording containing the names of the parties, a description of the Demised Premises and the Term of this Master Lease or any other information required to be contained therein to record the same.

ARTICLE XX

MORTGAGEE PROTECTION

Tenant agrees to give any holder of any Mortgage against the Property, or any interest therein, by certified mail, a copy of any notice or claim of Default served upon Landlord by Tenant, provided that prior to such notice Tenant has been notified in writing (by way of service on Tenant of a copy of an assignment of Landlord's interests in leases, or otherwise) of the address of such Mortgage holder. Tenant further agrees that if Landlord shall have failed to cure such Default within twenty (20) days after such notice to Landlord (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if Landlord has commenced within such twenty (20) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default), then the holder of the Mortgage shall have an additional

thirty (30) days within which to cure or correct such Default (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if such holder of the Mortgage has commenced within such thirty (30) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default, including the time necessary to obtain possession if possession is necessary to cure or correct such Default) provided that no material adverse effects occur to Tenant's use, occupancy and operations during the Mortgagee's prosecution of the same.

ARTICLE XXI

ESTOPPEL CERTIFICATE

Tenant agrees that, from time to time upon not less than ten (10) days' prior request by Landlord or the holder of any Mortgage, Tenant (or any permitted assignee) will deliver to Landlord, or to the holder of any Mortgage, a statement in writing signed by Tenant certifying (i) that this Master Lease is unmodified and in full force and effect (or if there have been modifications, that this Master Lease as modified is in full force and effect and identifying the modifications); (ii) the payments of Base Rent that have been made and may be payable in the future; (iii) that to the best of Tenant's knowledge, Landlord is not in Default under any provision of this Master Lease, or, if in Default, the nature thereof in detail; (iv) that Tenant is in occupancy and paying Rent on a current basis with no rental offsets or claims (or the nature thereof in detail); (v) that there has been no prepayment of Rent other than that provided for in this Master Lease (or the nature thereof in detail); (vi) that there are no actions, whether voluntary or otherwise, pending against Tenant under the bankruptcy laws of the United States or any state thereof (or the nature thereof in detail); and (vii) such other matters as may be reasonably required by Landlord or the holder of the Mortgage. Landlord shall provide a statement of similar certifications if and as requested by Tenant.

ARTICLE XXII

SUBROGATION AND INSURANCE

Section 22.1 Waiver of Subrogation. Landlord and Tenant agree to have all fire and extended coverage and other property damage insurance which may be carried by either of them endorsed with a clause (if commercially reasonably available) providing that any release from liability of, or waiver of claim for, recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder and providing further that the insurer waives all rights of subrogation which such insurer might have against the other party. Without limiting any release or waiver of liability or recovery set forth elsewhere in this Master Lease, and notwithstanding anything in this Master Lease which may appear to be to the contrary, each of the parties hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance policies. Notwithstanding the foregoing or anything contained in this Master Lease to the contrary, any release or any waiver of claims shall not be operative, nor shall the foregoing endorsements be required, in any case where the effect of such release or waiver is to invalidate insurance coverage or invalidate the right of the insured to recover thereunder or to

increase the cost thereof (provided that in the case of increased cost the other party shall have the right, within ten (10) days following written notice, to pay such increased cost keeping such release or waiver in full force and effect).

Section 22.2 Insurance Required by Landlord and Tenant.

(a) Landlord's Required Insurance. Landlord shall procure and maintain, policies of insurance, including, without limitation, liability, casualty for the Project and rental interruption insurance for the other portions of the Project during the entire Term hereof, which insurance shall comply with terms and coverages and companies required and meeting the conditions imposed under any Financing Documents or the Restrictions. Landlord shall add Tenant as an additional insured on all insurance policies, and where possible by Landlord's insurance underwrite as a named insured on Landlord's property insurance. Tenant shall be responsible to pay Tenant's Share of the cost of such insurance.

(b) Tenant's Required Insurance.

(i) Subject to Section 22.2(b)(ii), Landlord shall procure and maintain on behalf of Tenant policies of insurance, including, without limitation, liability, casualty and rental interruption insurance for the Demised Premises, during the entire Term hereof with terms and coverages and companies consistent with the terms and coverages of insurance maintained by Landlord pursuant to Section 22.2(a), including all insurance required and meeting the conditions imposed under any Financing Documents or the Restrictions and the Tenant Operating Agreement. Tenant, pursuant to Section 4.3 hereof, shall reimburse Landlord for the cost of any insurance obtained on behalf of Tenant pursuant to this Section 22.2 as Additional Rent. Such reimbursement shall be equal to the Tenant's Share of the premiums payable by Landlord for the Project, but subject to the Limited Rental Source Limitation.

(ii) In the alternative, Tenant may, by delivery of written notice to Landlord stating the time it elects to commence any such insurance, the insurance being obtained by Tenant, and such other information that may be required in order to comply with the provisions of this Master Lease, the Financing Documents or the Restrictions, elect to procure and maintain such insurance on its own behalf, and its sole cost and expense, in which event such insurance shall comply with the provisions of Section 22.2(b) and shall be required to be paid for and maintained by Tenant for not less than ninety (90) days following delivery of written notice to Landlord that Tenant has determined that Landlord should maintain such insurance on behalf of Tenant, and given Landlord at least ninety (90) days prior to the date such insurance coverage shall terminate.

(c) All policies of insurance required hereunder which insure against loss or damage to the Demised Premises, the Project and the Common Elements and other units of the Condominium shall provide that the proceeds thereof (or so much of such proceeds as pertain to loss or damage to the Demised Premises, the Condominium and the Common Elements) shall be payable to Landlord and Tenant or their respective designees and shall also be payable to any holder of a Mortgage, as the interest of such holder of a Mortgage appears pursuant to a standard named insured or mortgagee clause. Tenant shall not, on Tenant's own initiative or pursuant to request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required hereunder, unless Landlord is included therein

as named insured with loss payable as in this Section provided, and Tenant shall immediately notify Landlord whenever any such separate insurance is taken out and shall deliver to Landlord duplicate originals thereof or original certificates evidencing the same with true copies of such insurance policies attached. All such policies of insurance shall provide that any loss shall be payable to Landlord notwithstanding any act or omission of Tenant which might otherwise result in a forfeiture or reduction of such insurance.

Section 22.3 Certificates of Insurance. Prior to the commencement of the Term (unless Tenant has elected or is required to procure the policies of insurance as provided above), Landlord shall furnish to Tenant policies or certificates evidencing such coverage, which policies or certificates shall state that such insurance coverage may not be reduced, cancelled or not renewed without at least thirty (30) days' prior written notice to Landlord and Tenant (unless, in the event that such insurance has been obtained by Tenant, such cancellation is due to nonpayment of premium, and, in that case, only ten (10) days' prior written notice shall be sufficient).

ARTICLE XXIII

NONWAIVER

Section 23.1 Nonwaiver. No waiver of any condition expressed in this Master Lease shall be implied by any failure of either party to enforce any remedy on account of the violation of such condition whether or not such violation be continued or repeated subsequently, and no express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated. Without limiting Landlord's rights under Article X, it is agreed that no receipt of monies by Landlord from Tenant after the termination in any way of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given to Tenant prior to the receipt of such monies. It is also agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Demised Premises, Landlord may receive and collect any monies due, and the payment of said monies shall not waive or affect said notice, suit or judgment.

ARTICLE XXIV

AUTHORITY OF LANDLORD AND TENANT

Landlord and Tenant are each a limited liability company and each represents and warrants to the other that all of the Persons who are managers or managing members in such limited liability company have executed this Master Lease on behalf of Landlord or Tenant, as applicable, or that this Master Lease has been executed and delivered pursuant to and in conformity with a valid and effective authorization therefor by all of the managers or managing members of such company and is and constitutes the valid and binding agreement of the company enforceable in accordance with its terms.

ARTICLE XXV

REAL ESTATE BROKERS/TRANSFER TAX

Section 25.1 Real Estate Brokers. Each party represents that it has not dealt with any broker in connection with this Master Lease, and agrees to indemnify and hold the other harmless from all Adverse Consequences arising from any claims or demands of any broker or brokers or finders for any commission alleged to be due such broker or brokers or finders in connection with the Demised Premises or dealing with such party in the negotiation of this Master Lease.

Section 25.2 Transfer Tax. Landlord shall be obligated to pay any New York State or City of New York transfer tax which may occur due to the execution of the Master Lease and shall indemnify Tenant for any amounts assessed against or incurred by it arising out of the failure of Landlord to make any such payment.

ARTICLE XXVI

NOTICES

All notices, approvals, consents or other communications to be delivered under this Master Lease shall be in writing and signed by the party giving the same, and shall be (i) sent by certified mail, postage prepaid, return receipt requested; (ii) deposited in the United States mail; (iii) deposited with FedEx or a similar overnight delivery service of national standing; (iv) delivered by hand; or (v) sent by telecopier or other electronic or facsimile medium, transmission confirmed, in each case, to the parties as follows or to such other address or to such other members of the parties as may be designated by Notification by it or them:

If to the Landlord at:
SV-A MODERATE OWNERS LLC
551 Fifth Avenue, 23rd Floor
New York, New York 10176

With a copy to:
Hirschen Singer & Epstein, LLP
902 Broadway, 13th Floor
New York, New York 10013
Attention: Russell A. Kivler, Esq.

If to the Tenant at:
SV-A OWNERS LLC
551 Fifth Avenue, 23rd Floor
New York, New York 10176

With copies to:
Hirschen Singer & Epstein, LLP
902 Broadway, 13th Floor

New York, New York 10013
Attention: Russell A. Kivler, Esq.

And

Goldman Sachs Bank USA
200 West Street
New York, New York 10282

with a copy to:

GSB LIHTC Investor LLC
Urban Investment Group
c/o Goldman Sachs Bank USA
200 West Street
New York, NY 10282
Attention: Yarojin Robinson
Email: yarojin.robinson @gs.com

with a copy to:
gs-uig-docs@gs.com

with a copy to:

Sidley Austin LLP
787 7th Avenue
New York, New York 10019
Attention: Steve Koppel, Esq.

with a copy to:

NYC Housing Development Corporation
110 William Street
New York, New York 10038
Attention: General Counsel

For the purposes of determining whether notification has been received, a notification will be deemed to have been received by recipient on the earlier of (a) the date of personal delivery or (b) the date which is three (3) days after the date of mailing thereof when it is sent via the U.S. mail or (c) the date which is the next business day after the date it is sent by overnight delivery service when it is sent via overnight delivery service or (d) the next business day after the date it is sent by telecopier or other facsimile or electronic transmission, when it is sent via such medium, provided that such receipt is confirmed or it is followed by a writing sent either by US Mail or overnight delivery service to the recipient.

ARTICLE XXVII

HAZARDOUS SUBSTANCES

Section 27.1 Defined Terms. As used in this Article XXVII, the following terms shall have the meanings set forth below:

(a) “**Claim**” shall mean and include any demand, cause of action, proceeding or suit (i) for damages (actual or punitive), losses, injuries to person or property, damages to natural resources, fines, penalties, interest, contribution or settlement, (ii) for the costs of site investigations, feasibility studies, information requests, health or risk assessments or Response actions, and (iii) for enforcing insurance, contribution or indemnification agreements.

(b) “**Environmental Laws**” shall mean and include all existing and future federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and cleanup, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act (“**FIFRA**”), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act (“**RCRA**”), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act (“**CERCLA**”), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act (“**TSCA**”), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and state super lien and environmental cleanup statutes, with implementing regulations and guidelines. Environmental Laws shall also include all existing and future state, regional, county, municipal and other local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

(c) “**Hazardous Materials**” shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, byproduct or constituent regulated under CERCLA; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos containing materials, PCBs and other substances regulated under the TSCA; source material, special nuclear material, byproduct material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. § 1910.1200 et seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of RCRA, together with any and all other hazardous or toxic materials regulated from time to time under any other Environmental Laws.

(d) **“Manage”** or **“Management”** means to generate, manufacture, process, treat, store, use, reuse, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of or abandon Hazardous Materials.

(e) **“Release”** or **“Released”** shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment, as “environment” is defined in CERCLA.

(f) **“Response”** or **“Respond”** shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess or abate the Release of a Hazardous Material.

Section 27.2 Tenant’s Obligations with Respect to Environmental Matters. Subject to the provisions of Section 27.7 and Section 27.8, during the Term of this Master Lease: (i) Tenant shall at its own cost comply with all Environmental Laws relating to the conditions of the Demised Premises during the Term; (ii) Tenant shall not conduct or authorize the Management of any Hazardous Materials on the Demised Premises and/or the Property without prior written disclosure to and approval by Landlord, provided, however, that the use by Tenant of cleaning solvents and other materials used in the ordinary course of the operation of the Demised Premises shall be deemed disclosed to and approved by Landlord, as long as such use is not in violation of any Environmental Laws; (iii) Tenant shall not take any action that would subject the Demised Premises and the Property to permit requirements under RCRA or any other Environmental Laws for storage, treatment or disposal of Hazardous Materials; (iv) Tenant shall not dispose of Hazardous Materials in the Demised Premises or the Property; (v) Tenant shall not discharge Hazardous Materials into drains or sewers; (vi) Tenant shall not cause or knowingly allow the Release of any Hazardous Materials on, to or from the Demised Premises or the Property; (vii) Tenant shall at its own cost arrange for the lawful transportation and offsite disposal of all Hazardous Materials that is generated by the operation of the Demised Premises following the date hereof; and (viii) without limiting the foregoing, Tenant shall comply with the applicable provisions of the Financing Documents relating to Hazardous Materials. In no event shall Tenant be required to incur any cost or expense under this Article XXVII arising with respect to conditions that have occurred prior to the Commencement Date or with respect to any conditions caused by Landlord or its Affiliates.

Section 27.3 Copies of Notices. During the term of this Master Lease, Tenant shall promptly provide Landlord with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, or other federal, state or local agency or authority, or any other entity or individual, in each case received by Tenant, concerning (i) any Release of a Hazardous Material on, to or from the Demised Premises or the Property; (ii) the imposition of any lien on the Demised Premises or the Property; or (iii) any alleged violation of or responsibility under Environmental Laws. Landlord and Landlord’s agents, contractors, beneficiaries and employees (and the agents, contractors,

employees or representatives of any such parties) shall have the right subject to the rights of subtenants and the other applicable provisions of this Master Lease to enter the Demised Premises and conduct appropriate inspections or tests in order to determine Tenant's compliance with Environmental Laws.

Section 27.4 Tests and Reports. Upon written request by Landlord, if Landlord has a reasonable basis to believe that a Release has occurred, Tenant shall provide Landlord with the results of appropriate reports and tests, with transportation and disposal contracts for Hazardous Materials, with any permits issued under Environmental Laws, and with any other applicable documents to demonstrate that Tenant complies with all Environmental Laws relating specifically to the Demised Premises, and if such reports, tests or other items reveal any failure of the Demised Premises to so comply with all Environmental Laws, and such failure is due to the failure of Tenant to comply with the obligations under Section 27.2, then, in addition to other rights and remedies of Landlord hereunder, Tenant shall reimburse Landlord for the reasonable cost of such reports, tests and other investigations but otherwise Landlord shall pay for the same.

Section 27.5 Access and Inspection. Landlord and its agents and representatives shall have access to the Demised Premises and to the books and records of Tenant (and any occupant of the Demised Premises claiming by, through or under Tenant, subject to the rights of such occupants) relating to Hazardous Materials for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind and quantity of all products, materials and substances brought onto the Demised Premises or made or produced thereon. Landlord and its agents and representatives shall have the right to take samples in quantity sufficient for scientific analysis of all Hazardous Materials present on the Demised Premises, including, but not limited to, samples of products, materials or substances brought onto or made or produced on the Demised Premises by Tenant or an occupant claiming by, through or under Tenant (other than tenants under Residential Leases) or otherwise present on the Demised Premises. And, further, notwithstanding any provision of this Master Lease or applicable statutes or judicial decisions to the contrary, with respect to any assignment, subletting, grant of license, concession or any other permission to use the Demised Premises by any Person other than Tenant, Landlord shall have the right to withhold Landlord's consent thereto if, the assignee, subtenant, licensee, concessionaire or such other Person is not capable of performing or is not sufficiently qualified to perform in accordance with the requirements of this Article (other than tenants under Residential Leases). Any assignment, sublease, license or other permission to use the Demised Premises from which Landlord withholds its consent as provided in this Section 27.5 shall be voidable at the Landlord's sole option.

Section 27.6 Tenant's Obligation To Respond. If Tenant's Management of Hazardous Materials at the Demised Premises (i) gives rise to liability or to a Claim under any Environmental Law, (ii) causes a significant public health effect, or (iii) creates a nuisance, Tenant shall promptly take all applicable action in Response.

Section 27.7 Landlord's and Tenant's Obligations with respect to Environmental Matters. Notwithstanding the foregoing, Landlord and Tenant shall cause the Demised Premises to be in compliance with all Environmental Laws and, without limitation of the foregoing, shall cause removal of Hazardous Materials on or about the Demised Premises and all remediation work

contemplated under those certain agreements executed by and between Landlord and Tenant, as applicant for the “Brownfield Cleanup Program” and the New York State Department of Environmental Conservation (“**Brownfield Cleanup Agreement**”) with respect to the Demised Premises, among other aspects, pursuant to the provisions of, and in accordance with, the Environmental Conservation Law Section 27-1409 and 6 NYCRR Section 375-3.5 and relating, among other aspects, to the Demised Premises, as amended, or any additional, substitute, successor, or supplemental agreement entered into by DEC with respect to the Brownfield Cleanup Program and relating, among other aspects, to the Demised Premises, with respect to existing violation of Environmental Laws to be performed in accordance with the recommendations contained in the Environmental Report, if any, and shall provide satisfactory evidence of same to Tenant.

Section 27.8 Indemnification

(a) Subject to Section 8.1 above and Section 27.7, to the fullest extent permitted by law, Tenant shall indemnify, defend and hold harmless Landlord, its partners or members, its beneficiaries, its lenders, any managing agents and leasing agents of the Demised Premises, and their respective beneficiaries, agents, partners, officers, directors and employees, from all Claims (other than those arising from a breach by Landlord of its obligation under Section 27.7 or from such indemnified parties gross negligence or willful misconduct) arising from or attributable to: (i) the presence of Hazardous Materials in or on the Demised Premises or the subsurface thereof or the violation of any Environmental Laws (including, without limiting the generality thereof, any cost, claim, liability or defense expended in remediation required by a governmental authority or by reason of the release, escape, seepage, leakage, discharge or migration of any Hazardous Material on or from the Demised Premises), which arises after obtaining the certificate of completion (as described in the BCA), or (ii) any breach by Tenant of any of its warranties, representations or covenants in this Article. Tenant’s obligations hereunder shall survive the termination or expiration of this Master Lease. The foregoing indemnification excludes, however, an obligation on Tenant to indemnify the Landlord for site preparation and remediation obligations under the Brownfield Cleanup Agreement, as more specifically set forth in Section 27.7.

(b) Landlord shall indemnify, defend and hold harmless Tenant, its partners or members, its beneficiaries, its lenders, any managing agents and leasing agents of the Demised Premises, and their respective beneficiaries, agents, partners, officers, directors and employers, from all claims arising from or attributable to any breach by Landlord of any of its representations, warranties or covenants in Section 27.7 unless such breach was occasioned by the gross negligence or willful misconduct of Tenant or its agents. Landlord’s obligations hereunder shall survive the termination or expiration of this Master Lease.

ARTICLE XXVIII

TITLE AND COVENANT AGAINST LIENS

Section 28.1 Title. Landlord’s title in and to the Project including the Demised Premises is and always shall be paramount to the title of Tenant, and nothing in this Master Lease contained shall empower Tenant to do any act, without the consent of Landlord, which can, shall or may

encumber the title of Landlord in and to the Project including the Demised Premises. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialmen created through the activities of Tenant or those claiming by or through Tenant to be placed upon or against the Project or against Tenant's Leasehold Interest in the Demised Premises and, in case of any such lien attaching, promptly to pay and remove or bond over same. Tenant has no authority or power to cause or knowingly permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon the Project including the Demised Premises and any and all liens and encumbrances created by Tenant shall attach only to Tenant's Leasehold Interest in the Demised Premises. If any such liens so attach and Tenant fails to pay and remove or bond over same within thirty (30) days after notice thereof, Landlord, at its election, may pay and satisfy or bond the same, and in such event the sums so paid by Landlord shall accrue with interest from the date of payment at the rate set forth in Section 29.7 hereof for amounts owed to Landlord by Tenant. Such sums shall be deemed to be Additional Rent due and payable by Tenant at once without notice or demand.

Section 28.2 Covenants Against Liens. Landlord hereby covenants that Tenant, upon performing all of its obligations in this Master Lease, shall quietly and exclusively have and enjoy the Demised Premises during the Term, without hindrance or molestation by Landlord or any party claiming rights by, on behalf of or through Landlord, subject however in all events to the terms and conditions set forth in this Master Lease.

ARTICLE XXIX

MISCELLANEOUS

Section 29.1 Successors and Assigns. Each provision of this Master Lease shall extend to and shall bind and inure to the benefit not only of Landlord and Tenant, but also their respective heirs, legal representatives, successors and assigns, but this provision shall not operate to permit any transfer, assignment, mortgage, encumbrance, lien, charge or subletting contrary to the provisions of this Master Lease.

Section 29.2 Modifications in Writing. No modification, waiver or amendment of this Master Lease or of any of its conditions or provisions shall be binding upon either party unless in writing signed by such party. This Lease may only be modified, amended or changed by an agreement in writing signed by the Tenant and the Landlord. No waiver of any term, covenant or provision of this Lease shall be effective unless given in writing by the Tenant and if so given by the Tenant shall only be effective in the specific instance in which given.

Section 29.3 No Option; Irrevocable Offer. Submission of this instrument for examination shall not constitute a reservation of or option for the Demised Premises or the Residential Project or in any manner bind Landlord, and no lease or obligation of Landlord shall arise until this instrument is signed and delivered by Landlord and Tenant.

Section 29.4 Definition of Tenant. The word "Tenant" whenever used herein shall be construed to mean Tenants or any one or more of them in all cases where there is more than one Tenant; and the necessary grammatical changes required to make the provisions hereof apply either

to corporations or other organizations, partnerships or other Entities, or individuals, shall in all cases be assumed as though in each case fully expressed herein. In all cases where there is more than one Tenant, the liability of each shall be joint and several.

Section 29.5 Definition of Landlord. The term “**Landlord**” as used in this Master Lease means only the owner or owners at the time being of the Property and the Demised Premises so that in the event of any assignment, conveyance or sale, once or successively, of said Property and the Demised Premises, or any assignment of this Master Lease by Landlord, said Landlord making such sale, conveyance or assignment shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder accruing after such sale, conveyance or assignment, and Tenant agrees to look solely to such purchaser, grantee or assignee with respect thereto. This Master Lease shall not be affected by any such assignment, conveyance or sale, and Tenant agrees to attorn to the purchaser, grantee or assignee.

Section 29.6 Headings. The headings of Articles and Sections are for convenience only and do not limit, expand or construe the contents of the Sections.

Section 29.7 Default Rate of Interest. All amounts (including, without limitation, Rent and Additional Rent) owed by Tenant to Landlord pursuant to any provision of this Master Lease and not paid within ten (10) days from the date when due shall bear interest from the date due until paid at the annual rate of one percent (1%) in excess of the Designated Prime Rate, unless a lesser rate shall then be the maximum rate permissible by law with respect thereto, in which event said lesser rate shall be charged. Notwithstanding the foregoing, no default interest shall accrue, or be due or payable, so long as the Managing Member is the managing member of the Tenant.

Section 29.8 Severability. The invalidity of any provision of this Master Lease shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Master Lease.

Section 29.9 Entire Agreement. All understandings and agreements, oral or written, heretofore made between the parties hereto are merged in this Master Lease, which alone fully and completely expresses the agreement between Landlord (and its beneficiary, if any, and their agents) and Tenant.

Section 29.10 Force Majeure. If either party fails to timely perform any of the terms, covenants and conditions of this Master Lease on its part to be performed (other than relating to the payment of money) and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by the other party (or the other party’s agents, employees, contractors, licensees or invitees) or any other cause beyond the reasonable control of such party, then such party shall not be deemed in default under this Master Lease as a result of such failure and any time for performance by such party provided for herein shall be extended by the period of delay resulting from such cause.

Section 29.11 Waiver of Trial by Jury. It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall, and they hereby do, waive trial by jury in any

action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Master Lease, the relationship of Landlord and Tenant, Tenant's use of or occupancy of the Demised Premises or any claim of injury or damage and any emergency statutory or any other statutory remedy.

Section 29.12 Relationship of Parties. Nothing contained in this Master Lease shall be deemed or construed by the parties to this Master Lease, or by any third party, to create the relationship of principal and agent, partnership, joint venture, lender and borrower, or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computing Rent hereunder nor any other provisions contained in this Master Lease nor any acts of the parties to this Master Lease shall be deemed to create any relationship between Landlord and Tenant, other than the leasehold relationship contemplated hereby.

Section 29.13 No Merger. The parties agree that absent the express written consent of Landlord and Tenant, the fee estate and the leasehold estate created by this Master Lease shall not merge during the Term, regardless whether the same persons or entities are the owners of both estates.

Section 29.14 Third Party Beneficiary. The parties agree that the Investor Member shall be a third-party beneficiary of the Master Lease.

ARTICLE XXX

EXCULPATORY PROVISIONS

Section 30.1 Landlord. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Landlord (or default through, under or by any of its agents or representatives), Tenant shall look solely to the interests of Landlord in the Demised Premises or the proceeds of the sale thereof and any other assets of Landlord, including, without limitation, the Property, the remaining portions of the Project, and that none of Landlord's partners, members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief. It is further acknowledged and agreed that in accordance with the terms and conditions of that certain Declaration of Interest and Nominee Agreement dated as of the date hereof between Owner and HDFC, the rights of Landlord shall be exercised and the obligations of Landlord shall be performed solely by Owner and Tenant will look solely to Owner with respect to the exercise of Landlord's rights hereunder and the performance of Landlord's obligations hereunder.

Section 30.2 Tenant. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Tenant (or default through, under or by any of its agents or representatives), Landlord shall look solely to the interest of Tenant in the Demised Premises or the proceeds of the sale thereof and any other assets of Tenant and none of Tenant's partners, members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or

implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief.

**REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.
SIGNATURE PAGE TO FOLLOW.**

IN WITNESS WHEREOF, the parties hereto have caused this Master Lease to be executed as of the date first written above.

LANDLORD:

SV-A MODERATE OWNERS LLC,
a New York limited liability company

By: SV-A Owners LLC, its Managing Member

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its Sole Member

By: SV Managers A LLC, its Managing Member

By: 
Name: Spencer Orkus
Title: Authorized Signatory

TENANT:

SV-A OWNERS LLC,
a New York limited liability company

By: SV-A Associates LLC, its Managing Member

By: SV-A Partners LLC, its Sole Member

By: SV Managers A LLC, its Managing Member

By: 
Name: Spencer Orkus
Title: Authorized Signatory

SCHEDULE A
Description of the Property

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

BEGINNING at the corner formed by the intersection of the southerly side of East 112th Street (80 feet wide) with the easterly side of Madison Avenue (80 feet wide);

RUNNING THENCE easterly along the southerly side of East 112th Street, 100 feet to a point;

RUNNING THENCE southerly at right angles with the southerly side of East 112th Street, 140 feet 11 inches to a point;

RUNNING THENCE westerly at right angles to the last mentioned course, 100 feet to the easterly side of Madison Avenue;

RUNNING THENCE northerly along the easterly side of Madison Avenue, 140 feet 11 inches to the corner of the point or place of BEGINNING.

TOGETHER with the benefits of that certain Light and Air Easement Agreement by and among ACACIA SENDERO VERDE II HOUSING DEVELOPMENT FUND COMPANY, INC., SV-B OWNERS LLC, ACACIA SENDERO VERDE HOUSING DEVELOPMENT COMPANY, INC., SV-A OWNERS LLC and SV-A MODERATE OWNERS LLC, dated 6/24/2021 and to be recorded in the Office of the New York City Register, New York County.

TOGETHER with the benefits of that certain Shared Facilities and Easement Agreement by and among ACACIA SENDERO VERDE HOUSING DEVELOPMENT FUND COMPANY, INC., SV-A OWNERS LLC, SV-A MODERATE OWNERS LLC, ACACIA SENDERO VERDE II HOUSING DEVELOPMENT FUND COMPANY, INC. and SV-B OWNERS LLC, dated 6/24/2021 and to be recorded in the Office of the New York City Register, New York County.