After Recording Return To:

Oklahoma Housing Finance Agency

HDT AHTC Allocation

100 NW 63rd

Oklahoma City, OK 73116-0720

**Oklahoma Housing Finance Agency**

**REGULATORY AGREEMENT FOR**

**LOW-INCOME HOUSING TAX CREDITS**

**CREATING RESTRICTIVE COVENANTS**

**Between**

**OKLAHOMA HOUSING FINANCE AGENCY**

**(“OHFA”)**

**And**

 **Owner**

**NOTICE: THIS REGULATORY AGREEMENT CONTAINS RESTRICTIVE COVENANTS PERTAINING TO AND RESTRICTING THE USE OF THE SUBJECT PROPERTY WHICH RUN WITH THE LAND AND WHICH MAY NOT EXPIRE UNTIL DECEMBER 31, 20 XX.**

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**REGULATORY AGREEMENT FOR**

 **LOW-INCOME HOUSING TAX CREDITS**

 **CREATING RESTRICTIVE COVENANTS**

 **OKLAHOMA HOUSING FINANCE AGENCY**

 **OHFA NO. \_\_\_\_\_\_\_\_\_\_**

 **THIS REGULATORY AGREEMENT** For Low-Income Housing Tax Credits Restrictive Covenants (the "Agreement"), is made and entered into effective as of the 1st day of January, 2020, by and between , and its successors and Transferees (the "Owner"), and OKLAHOMA HOUSING FINANCE AGENCY, a public trust ("OHFA").

### RECITALS

**WHEREAS,** the United States Congress as part of the Tax Reform Act of 1986 created a federal income tax credit that may be claimed by owners of residential rental property (ies) which are to be occupied by Qualified Residents and which are Rent-Restricted, provided that Owner agrees that the residential rental property (ies) will be utilized for such low income use requirements throughout the Extended Use Period (the "Credit");

**WHEREAS,** the Credit provisions are codified at Code Section 42;

**WHEREAS**, the Code provides that Credit allocations shall be made by each state's housing credit agency (the "Housing Credit Agency");

**WHEREAS,** OHFA has been designated as the Housing Credit Agency for the State, for the purposes of allocating the State's Credit Authority and monitoring Code compliance;

**WHEREAS,** in accordance with the Code, OHFA has developed and duly adopted the State's Qualified Allocation Plan (“QAP”) to implement and administer the State's Credit Program;

**WHEREAS,** Owner, pursuant to Code Section 42 and the QAP, has made Application to OHFA for an Allocation respecting residential rental property identified and described with specificity on the attached Exhibit “A,” *Additional Certifications of Owner,* incorporated herein by reference.

**WHEREAS,** OHFA has determined, based upon the information contained in the Application, that the Development, if operated in accordance with the Code and the QAP and the representations made in, or pursuant to the Application, qualifies for an Allocation of Credits which is to be apportioned to each Building at such time the Building is Placed-In-Service;

**WHEREAS,** Owner has provided documentation to OHFA that the Development has been Placed-In-Service;

**WHEREAS,** the Trustees, by Resolution, have approved a final Allocation to Owner respecting the Development, subject to certain conditions, including the possible reduction of the amount of final Allocation pursuant to the final analysis of the Staff of OHFA prior to the issuance of IRS Form 8609;

**WHEREAS,** the Code requires, in connection with any Allocation of Credits, that Owner execute, deliver and record in the official land records of the county in which the Development is located an extended use agreement, such as this Agreement, in order to create covenants running with the Land for the purposes of (i) enforcing certain requirements of Code Section 42 and certain additional undertakings of Owner in connection with its Application for Credits, and (ii) regulating and restricting the use and occupancy of a Development;

**NOW, THEREFORE,** Owner does hereby impose upon the Development the following covenants, restrictions, charges, and easements, and are not merely personal covenants of Owner, which shall run with the Land and shall be binding and a burden upon the Development and all portions thereof, and upon any purchaser, Transferee, grantee, Developer, Owner or lessee (other than a lease with a Resident as contemplated in this Agreement) of any portion of the Development and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any Transferee, purchaser, grantee, Developer, Owner or lessee (other than a Resident) of any portion of the Development and any other person or entity having any right, title or interest therein, for the length of time and to the extent provided for in this Agreement.

### ARTICLE ONE – STATEMENT OF INTENT, RELIANCE

1.1 Statement of Intent. It is understood and agreed that:

**1.1.1** This Agreement is made and accepted by OHFA subject to the acknowledgments, agreements, covenants, conditions, restrictions, representations and warranties of Owner in this Agreement, the Application, and all conditions, restrictions and reservations set forth in the Resolution approving the Allocation, the Code, and the QAP;

**1.1.2** This Agreement and all amendments hereto, shall be filed of record by OHFA or Owner in the real estate property records of the county in which the Development is located, and as otherwise provided herein. Owner does hereby impose upon the Development and the Land, the covenants, conditions, restrictions, charges and easements, contained herein, which shall apply to and run with the Land and shall be binding upon and a burden upon the Development and the Land and all portions thereof, and upon any purchaser, grantee, Developer, Owner or lessee (other than a lease with a Resident as contemplated in the Code or in this Agreement) of any portion of the Development and the Land and any other person or entity having or acquiring any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, Developer, Owner or lessee (other than a Resident) of any portion of the Development and/or the Land and any other person or entity having or acquiring any right, title or interest therein, for the length of time and to the extent provided for in this Agreement, and the benefits of which shall inure to, respectively, Owner and its Transferees, successors and assigns and any and all subsequent Owners of the Development and/or the Land or any interest therein, OHFA and its successors and assigns, the United States government, and Qualified Residents (past, present and prospective), who are declared to be third party beneficiaries hereof, all as their interests may appear herein, for the term of this Agreement, or termination thereof pursuant to the provisions contained herein or in the Code. Owner shall pay all fees and charges incurred in connection with the filing of this Agreement and, upon recording, a certified copy of the recorded Agreement showing date, book and page numbers of record shall be transmitted to OHFA to remain on file; and

**1.1.3** Owner hereby agrees that any and all requirements of the laws of the State to be satisfied in order for the provisions of this Agreement to constitute restrictive covenants running with the Land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Land. During the term of this Agreement, provided, however, the covenants contained herein shall survive and be effective as to Transferees, successors and/or assigns of all or any portion of the Development and/or the Land, regardless of whether such contract, deed or other instrument hereafter executed conveying the Development and/or the Land or portion thereof provides that such conveyance is subject to this Agreement.

### ARTICLE TWO – DEFINITIONS

Capitalized terms herein shall have the meanings set forth in the Program Rules and the Code, as each may be amended throughout the term of this Agreement. In the event of a conflict between the Code and the QAP, the more restrictive definition, restriction, or requirement shall apply. All references to the "Code," the "QAP," and any other state or federal statute, or rules and regulations or any portion thereof, shall, by such reference, include any and all future amendments or replacements thereto, as may then be applicable to the Development, Owner and its assignees, and to OHFA. **Definitions are included as part of The Affordable Housing Tax Credit Program Rules at Title 330 Chapter 36.**

### ARTICLE THREE –DURATION OF AGREEMENT

3.1 Term.The terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement shall be effective with respect to each Building in the Development and the Land upon execution of this Agreement and continue in full force and effect throughout the Extended Use Period, unless sooner terminated with respect to a Building pursuant to Article Four or Article Five hereof or Section 3.2 of this Article Three.

**3.1.1** The eviction of any Qualified Resident occupying a Low-Income Unit or any increase in Gross Rent with respect to such Low-Income Unit is prohibited until the conclusion of the Three-Year Period following any termination of this Agreement or the Extended Use Period except for good cause.

**3.1.2** Notwithstanding the termination of this Agreement with respect to a Building pursuant to Article Four or Article Five, Article Twelve hereof shall survive and continue and is a personal obligation of Owner, each general partner to Owner, and any party to a joint venture.

3.2 Term – Tenant Right of First Refusal.The terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement shall be effective with respect to each Building in the Development and the Land upon execution of this Agreement and continue in full force and effect throughout the Extended Use Period, unless sooner terminated with respect to a Building pursuant to Article Four or Article Five hereof or OHFA has approved a right of first refusal in favor of low-income tenants exercisable at the end of the Compliance Period or at a time designated by the Owner. In the event a unit is to be acquired by a tenant exercising a right of first refusal, Owner must notify OHFA and provide such information as OHFA may reasonably request to determine that the requirements of Code Section 42(i) (7) and any applicable OHFA Rules have been met. Upon approval of the Transfer of the unit to an eligible tenant, OHFA will execute and deliver a partial release of this Regulatory Agreement with respect to the unit to be acquired by a tenant.

### ARTICLE FOUR – TERMINATION OF THIS AGREEMENT – QUALIFIED CONTRACT

The terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement may be terminated with respect to the Development as authorized under Section 42(h) (6) (F) of the Code, provided the conditions and requirements of this Article Four and all policies and procedures of OHFA in effect at the time of the request for a Qualified Contract are fully satisfied by the Owner. **The policies, rules and procedures of OHFA regarding a request for a Qualified Contract in effect at the time of making the request for a Qualified Contract shall be controlling in the event of any conflict with this Agreement and must be completely followed and complied with by the Owner.**

4.1 Purchase Request; Eligibility. Owner may submit to OHFA a written request that OHFA find an eligible purchaser for Owner's interest in said Development unless the Owner has waived this right in the Application and/or this Agreement. The written request shall be in the form prescribed by OHFA at the time of the making of the request. As a condition of eligibility, it is understood and agreed by Owner that (i) a complete, unconditional waiver of any and all purchase options, including a Nonprofit’s right of first refusal must be submitted with such written request and (ii) properties that do not meet the basic physical compliance standards, based upon OHFA’s monitoring, that are (or would be) necessary to claim some or all of the Allocation are ineligible to submit a request for a Qualified Contract. In determining the eligibility of a Development with multiple Allocations or Development Compliance Periods,

OHFA will only consider the last Allocation date. Owners may not submit a request for a Qualified Contract until after the 14th year of the last Compliance Period:

(1) for the last Building Placed-In-Service (Developments with Buildings that were Placed-In-Service in different years), or

(2) for the last Allocation to the Development or any Building therein (Developments with multiple Allocations).

4.2 OHFA Duties. Once an application for a Qualified Contract has been submitted to OHFA it will be reviewed by staff. The one year period (1YP) will not commence until OHFA determines that the Owner has met all of the submission requirements and OHFA and the Owner have agreed upon the Qualified Contract Price. In the event additional documentation is requested by OHFA at any time, the 1YP shall be tolled until the requested documentation is received and reviewed by OHFA. Upon presenting a Qualified Contract OHFA has no further duties hereunder. **The execution of a purchase contract by the Owner and the prospective purchaser is solely the responsibility of the Owner and said prospective purchaser. The execution of a purchase contract and the Transfer of the Development is NOT the responsibility of OHFA.**

4.3 Qualified Contract Presented. In the event OHFA presents a Qualified Contract in a timely manner and the Qualified Contract is not accepted by the Owner, Owner waives any and all rights to submit a future request for a Qualified Contract and this Agreement shall remain in full force and effect until the end of the Extended Use Period unless terminated under Article Five of this Agreement. If, during the one year period before OHFA presents a Qualified Contract, Owner withdraws the request made pursuant to Section 4.2: (i) Owner shall pay OHFA for its costs incurred in attempting to locate a purchaser, including but not limited to OHFA's advertising costs, broker fees and attorneys' fees; and (ii) the terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement shall not terminate with respect to such Building.

4.4 Failure to Present Qualified Contract. If OHFA does not present a Qualified Contract for a Development by the close of the One Year Period OHFAstaff will at the next scheduled board meeting submit a resolution requesting the Board of Trustees release the Regulatory Agreement for the Development. When the Regulatory Agreement is officially released the Three Year Period will begin for the Development.

4.5 No Obligation. Nothing in this Article Four shall be construed as imposing an obligation on OHFA to present a Qualified Contract for the acquisition of the Development during the One Year Period or otherwise.

4.6 Waiver of Article Four by Owner. **Any Owner who has, as an inducement to the ranking of the Application and the Allocation, represented that the Development's Extended Use Period will be greater than thirty (30) years hereby waives the right to terminate this Regulatory Agreement pursuant to the terms of this Article Four;** provided, however, the foregoing waiver of this right to terminate this Regulatory Agreement pursuant to the terms of this Article Four is subject and subordinate to the rights and remedies of the mortgagee set forth in Article Five of this Regulatory Agreement.

### ARTICLE FIVE – TERMINATION OF AGREEMENT – FORECLOSURE; CONDEMNATION

5.1 Foreclosure. Except as set forth below, in the event a Development is transferred during the term of this Agreement by reason of a bona fide foreclosure or forfeiture under a deed of trust, mortgage or by deed in lieu of bona fide foreclosure or forfeiture, this Agreement, excluding Article Twelve, shall automatically terminate with respect to such Building and any portion of Land so acquired with such Building located thereon. Notwithstanding the foregoing before the close of the Three-Year Period following the date of the acquisition of the Development by foreclosure or forfeiture, the Owner of the Development shall not permit (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or (ii) any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 of the Internal revenue Code of 1986, as amended (the “Code”) and regulations promulgated thereunder. The purpose of this Section shall be to comply with Section 42(h)(6)(E) of the code, and the foregoing restrictive covenants shall survive a foreclosure or forfeiture under a deed of trust, mortgage or by deed in lieu of a bona fide foreclosure or forfeiture.

 For purposes of this Section 5.1, the Three-Year Period shall begin on the date of the sheriff’s sale or Transfer of title to the property pursuant to a bona fide foreclosure or forfeiture. In the event a successor in title by reason of the foreclosure, forfeiture or deed in lieu of foreclosure desires to qualify for Credit for such Building, if any, such successor in interest shall (i) execute a revised Regulatory Agreement (extended use agreement) and/or Assumption Agreement with OHFA, as OHFA may require, (ii) shall perform such acts and execute such other and further contracts or agreements required by OHFA and (iii) pay the fees which would apply to a Transfer of the Development.

5.2 Related Party Transactions. Notwithstanding the foregoing, Section 5.1 shall not apply, and all provisions of this Agreement shall remain in full force and effect, with respect to a Building and portion of the Land described in such Section if after an acquisition, Owner or a Related Party [as defined in Code Sections 42(d)(2)(D)(iii), 267, 707(b) or 1563(a)] acquires an ownership interest (for federal income tax purposes) in such Building or such portion of the Land or if the Secretary of the Treasury determines that such acquisition is part of an arrangement with Owner, a purpose of which is to terminate this Agreement in whole or in part.

5.3 Condemnation. In the event of involuntary Transfer with respect to a Building arising as a consequence of seizure, requisition or condemnation by a governmental authority, this Agreement, excluding Article Twelve, shall automatically terminate with respect to such Building and any portion of Land seized, requisitioned or condemned by such governmental authority; and this Agreement shall thereafter be applied by excluding such Building and portion of Land from the Development.

5.4 Continuance of Agreement. This Agreement shall continue to apply in full to each Building and the Land which are not subject to the foreclosure, forfeiture, deed in lieu of foreclosure or involuntary noncompliance arising from seizure, requisition or condemnation by a governmental authority until otherwise terminated with respect to such Building and Land. Further, this Agreement shall resume full force and effect in the event of foreclosure, Transfer of title by deed-in-lieu of foreclosure or similar event if, at any time subsequent to such event and during the period set forth in Article Three, Owner or a Related Person (as defined in the Code) obtains an ownership interest in the Development.

5.5 Notification of Foreclosure or Condemnation Proceedings.The Owner shall notify OHFA in the event that foreclosure, forfeiture or condemnation proceedings are initiated against the Development or if any lender has requested a deed in lieu of foreclosure or forfeiture. For purposes of the Article Five such notice must be delivered to OHFA within five (5) business days of the Owner receiving notice of same. OHFA may intervene in such foreclosure proceedings and/or take such other actions(s) as OHFA deems appropriate.

### ARTICLE SIX – COVENANTS, REPRESENTATIONS AND WARRANTIES OF OWNER

In consideration of the Allocation of Credit to the Development and as a precondition to a Building being able to qualify for a portion of such Credit, Owner hereby agrees that each Building in the Development shall be owned, managed and operated as residential rental property in a manner consistent with the Code, the QAP and any other federal, state and local laws at all times beginning on the date such Building is Placed-In-Service and thereafter throughout the Extended Use Period until termination of each Three-Year Period which is in effect with respect to any Building in the Development. Owner acknowledges that this Agreement is subject to the terms and conditions of the Code, policies and procedures of OHFA as reflected in the QAP and the Resolutions of the Trustees respecting Owner or the Development, and hereby, on behalf of Owner and all Transferees, represents, covenants, acknowledges, warrants and agrees as follows:

6.1 Ownership. Owner is in possession of, and is the Owner of the Land and Buildings, structures and improvements that are part of the Development.

6.2 Reliance.The representations and covenants set forth in the Application and this Agreement may be relied upon by OHFA, Qualified Residents and all other persons interested in Development compliance under the provisions of the Code. In performing its duties and obligations hereunder, OHFA has and may rely upon statements and Certifications of Owner, including but not limited to those set forth in the Application as a basis for receiving Selection Criteria points for purposes of ranking and which are summarized on the Final Selection Criteria incorporated herein by reference, and uponOHFA's on-site inspections of the Developments and reviews of the books and records of the Development and Owner pertaining to the Development.

6.3 Authority.Owner (i) is a limited partnership, corporation, limited liability company or other legally recognized entity duly organized under applicable state law and is qualified to transact business under the laws of the State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as contemplated by this Agreement, (iii) has the full legal right, power and authority to execute and deliver this Agreement and to perform all the undertakings of Owner hereunder.

6.4 Minimum Low-Income Housing Set-Aside. Applicant made an irrevocable Commitment for the Minimum Low-Income Housing Set-Aside set forth in the attached Exhibit “A”, *Additional Certifications of Owner*, incorporated herein by reference. The irrevocable Minimum Low-Income Housing Set-Aside shall apply to all Housing Units, to the extent necessary to maintain the Applicable Fraction of Housing Units devoted to low-income housing).

6.5 Additional Low-Income Unit Set-Aside. In addition to the foregoing, if Applicant made a Commitment in the Application or otherwise that the Development will be subject to an additional Low-Income Unit set-aside as set forth in Exhibit “A”, Owner shall operate the Development in compliance with the additional Low-Income Unit set-aside.

6.6 Applicable Fraction. For each year, or portion thereof, in the Extended Use Period, the Applicable Fraction will not be less than the Applicable Fraction specified in Exhibit “A”.

6.7 Special Set-Asides or Commitments. In the event Applicant made a Commitment in the Application or otherwise that the Development will be subject to a special set-aside(s) or commitment, Owner shall, for each year in the Extended Use Period, operate the Development by renting the appropriate percentage of Housing Units to Residents who meet the eligibility requirements for the specific selected special set-aside(s) or commitment, as set forth in Exhibit “A”.

6.8 Recording of Agreement. This Agreement will be recorded in the County (ies) in which the Development is located. Notwithstanding order of recording or any other documents signed and or recorded, Owner, all assigns, lenders, and other parties understand that the Section 42 LIHTC requirements must be met throughout the Extended Use Period. The only exceptions are Article Four and Five of this Agreement.

6.9 Compliance with Laws. The execution and performance of this Agreement by Owner (i) will not violate or, as applicable, has not violated, any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which Owner is a party or by which it or its property is bound, and (iii) will not result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

6.10 Litigation.There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition or would have an adverse effect on title to or the use and enjoyment or value of the Development, or any portion thereof, or which could in any way interfere with performance of this Agreement by Owner and/or its Transferee(s) and/or successors in interest in the Land and/or the Development.

6.11 No Bankruptcy. There is not pending or, to Owner's best knowledge, threatened against Owner any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, or any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for Owner under any federal, state or other statute, law, or regulation relating to bankruptcy, insolvency or relief for debtors.

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

6.13 Technical Expertise Required.Owner understands that there are numerous technical rules governing a Building's qualification for the Credit as established under the Code and OHFA's Credit Program, the amount of such Credit, and an Owner's or investor's ability to utilize such Credit to offset federal income taxes. Owner further understands that Owner is solely responsible for qualifying each Building in the Development for Credit, for determining the amount of the Credit and Owner's ability to utilize the Credit, for maintaining each Building in compliance, and for notifying OHFA of any changes to a Building or the Development with respect to the information submitted in the Application. Owner has sought, had access to, and has relied solely upon Owner's advisors, Consultants and counsel, and has not relied upon any advice or consultations with any Trustee, officer, employee, advisor, consultant or counsel to OHFA.

6.14 Indemnification. Owner indemnifies and holds harmless OHFA and the Trustees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by OHFA or the Trustees as a result of any material inaccuracy in any of the representations, warranties, covenants, agreements and certifications contained in this Agreement.

6.15 No Guarantee of Credit by OHFA. OHFA has adopted procedures pursuant to Code Section 42(m)(1)(B)(iii) that it or its designee intends to follow in monitoring for noncompliance with provisions of the Code and the Credit Program and in notifying the IRS of such noncompliance. Such procedures and any regulations promulgated by the IRS now provided or which hereafter may be provided are expressly incorporated herein and shall be binding upon Owner. OHFA by performing such procedures for noncompliance or through the issuance and allocation of the original tax credits does not guarantee that any Building qualifies for the tax credits as identified in Section 42 of the Code.

6.16 No Representations by OHFA. OHFA does not and will not make any representation concerning the applicability of the Credit to a Building, the Development or a particular taxpayer. Owner acknowledges that Owner has been advised by OHFA to consult with Owner's own counsel and tax advisors in connection with this Agreement, Owner's federal income tax situation, Owner's participation in the Credit Program, whether the Development or any building therein qualifies for Credit, whether Credit may be utilized by Owner or any investor, and with regard to the commercial feasibility and viability of any Building in the Development. Owner fully understands the risks and issues of developing a Development, which will most likely constitute a tax shelter and the terms, conditions and obligations of participating in the Credit Program arising under the code, the QAP and other state and federal laws.

6.17 No Warranties by OHFA. Any determination by OHFA as to an Allocation of Credit to the Development, the apportionment of such Credit to any building within the Development or as to any other matter related to the Credit Program with respect to the Development does not constitute, and cannot be relied upon by Owner or any other person or entity, as a representation or warranty as to the qualification of any building within the Development for the Credit, the financial feasibility of the Development or viability as a low-income housing project or the ability of any investor to use the Credit.

6.18 Amount of Credit. The full amount of the Credit Reservation is believed to be necessary for the financial feasibility and viability of the Development throughout the Credit Period as a qualified low-income housing project within the meaning of Code Section 42. Owner hereby acknowledges that the terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement are necessary to ensure that the Development will be operated in accordance with the Code, the Credit Program, and the QAP, and that OHFA has relied on Owner's agreement to execute this Agreement as a recorded restrictive covenant that runs with the Land and that touches and concerns the Development and any portion thereof, in determining whether to issue a final Allocation to the Development, and whether each Building in the Development will qualify for Credit.

6.19 Nondiscrimination.Owner shall not discriminate on the basis of race, color, religion, national origin, sex, disability or familial status in the lease, use, or occupancy of any Housing Unit in the Development or in connection with the employment or application for employment of persons for the operation and management of the Development. Further Owner will not discriminate against any Resident or potential Resident on the basis of that Resident's or potential Resident's: (i) sources of income, including but not limited to public assistance, provided such sources of income were not in contravention of any federal, state or local law; or (ii) receipt of Section 8 or any comparable rental assistance.

6.20 Compliance with Laws. Owner shall at all times comply with all applicable federal, state and local laws, rules and regulations now provided or which may be hereafter provided, including but not limited to: (i) federal housing policy governing nondiscrimination and accessibility, as determined under the Americans with Disabilities Act, the Fair Housing Amendments Act of 1988; Architectural Barriers Act of 1968; Housing and Community Development Act of 1974; Civil Rights Act of 1964; Civil Rights Act of 1968; Age Discrimination Act of 1975; (ii) to the extent applicable, the Housing and Urban Development Act of 1968; the Uniform Relocation and Real Property Acquisition Act of 1970; and the Stewart B. McKinney Homeless Assistance Act; and (iii) the Oklahoma Landlord/Tenant Act. Owner will obtain all necessary state and local approvals and permits required for the Development and develop and operate such Development in conformance with the laws of the state of Oklahoma including state and local laws prohibiting discriminatory housing and employment practices. At all times throughout the Extended Use Period until termination of each Three-Year Period which is in effect with respect to any Building in the Development, each Building in the Development shall meet state and local building codes and standards and be suitable for occupancy and habitability. Owner shall comply with the laws of the State, all applicable ordinances, and the QAP and shall not knowingly take or permit to be taken any action which would have the effect, directly or indirectly, of causing Owner of the Development to be in noncompliance with the laws of the State, all applicable ordinances, and the published Rules and Regulations of OHFA, as promulgated now or in the future.

6.21 Development Use. The Development and each Building constitute and will continue to constitute residential rental property, as defined in Code Section 42, the Housing Units of which will be rented to or available for rental on a continuous basis to members of the general public. The Development consists of one or more proximate Buildings or structures, or Buildings under a common financing plan, containing one or more similarly constructed accommodations containing separate and complete facilities for living, sleeping, eating, cooking and sanitation which are to be used on other than a transient basis and facilities which are functionally related and subordinate to such accommodations. Owner shall use the Development as residential rental property and shall take no actions which will, in any way, affect the use of the Development therefore.

6.22 Prohibited Uses.Owner shall not:

**6.22.1** except pursuant to the provisions of this Agreement or except upon a sale, Transfer or conveyance of the Development in accordance with the terms of this Agreement, grant commercial leases relating to the Development (other than commercial leases with respect to an insubstantial portion of the Development) or permit the sale, Transfer, conveyance or encumbrance of the Development or any part thereof (except for unit leases) during the effective term of this Agreement, provided this covenant shall not apply to any encumbrance, conveyance or Transfer in connection with a sale, Transfer or other conveyance of the Development that complies with the requirements of this Agreement;

**6.22.2** demolish any part of the Development or substantially subtract from any real or personal property of the Development;

**6.22.3** permit the use of any residential rental unit for any purpose other than residential rental housing during the term of this Agreement; or

**6.22.4** Transfer, assign or otherwise dispose of any portion of a Building to which this Agreement applies unless all of the Building to which this Agreement applies is Transferred, assigned or otherwise disposed of.

6.23 Housing Unit Quality Control.Housing Units occupied by Qualified Residents shall be of comparable quality to other units in the Development. Owner shall maintain each Building in the Development such that all Housing Units are suitable for occupancy, taking into account federal, state, and local health, safety, and building codes and otherwise, in a manner satisfactory to OHFA and consistent with the Application and other materials submitted by Developer to OHFA.

6.24 Duty to Repair.Owner shall at all times keep, maintain and repair the Property and all Housing Units and common areas in the Development in a safe, sanitary and habitable condition, and shall maintain all electrical, water, gas, sewage, heating, air conditioning, fire, safety and other systems in the Development in good working order at all times. If the Development, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, Owner will use its best efforts to repair and restore the Development to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Development in accordance with the terms of the Code, the QAP and this Agreement.

6.25 Compliance With Code.Owner shall not knowingly take or permit any action that would result or have the effect of, directly or indirectly, causing Owner or the Development to be in noncompliance or violation of the requirements of OHFA's QAP, this Agreement or the Code. Owner shall take all lawful action, including amendment of this Agreement as may be necessary, in the sole opinion of OHFA, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Treasury or the IRS from time to time pertaining to Owner's obligations under the Code and affecting the Development.

6.26 Duty to Notify.If Owner becomes aware of any situation, event or condition which would result in noncompliance of the Development or Owner with Code Section 42 or any other terms, conditions, warranties, representations and covenants of this Agreement, Owner will promptly give written notice thereof to OHFA. Such notice shall specify the provision or provisions breached or violated and the condition creating the breach or violation, and shall state what corrective action if any, has been undertaken or attempted, and the anticipated time required to correct or cure the breach or violation.

6.27 Form 8609. OHFA will not provide an IRS Form 8609 to any person or entity other than the person or entity who owns the Development receiving such Allocation at the time each Building is Placed-In-Service. OHFA will not issue an IRS Form 8609 unless and until OHFA has received the executed and recorded original of this Regulatory Agreement, received all Final paperwork as outlined in the QAP and all requirements are met satisfactorily.

### ARTICLE SEVEN – TRANSFER RESTRICTIONS

7.1 Transfers Prohibited.Except as provided in Article Five of this Agreement,Owner shall not Transfer or Assign the Development, in whole or in part, prior to the termination of this Agreement without the prior written consent of the Trustees in the form of a Resolution. During the Extended Use Period, the disposition of less than the entire Development, which is subject to this Agreement, is prohibited. Failure by Owner or any subsequent Owner to comply with the requirements of this Section shall not terminate this Agreement or relieve Owner or any such subsequent Owner of the terms, conditions, burdens and restrictive covenants of this Agreement. **The removal, replacement, substitution or addition of a general partner of the Owner by the limited partners pursuant to the terms of the Partnership Agreement shall also require the written consent of the Trustees, which OHFA and the Trustees agree will not be unreasonably withheld or conditioned.** **Applicable transfer fees must also be paid to OHFA**.

7.2 Written Consent Not Required. Notwithstanding the foregoing Section 7.1, the written consent of the Trustees is not required: (i) to lease or rent Housing Units to qualified Residents for their use as contemplated by the Credit Program; (ii) for any other incidental use, to the extent permissible under all applicable federal, state and local laws and regulations; (iii) to grant a security interest junior to the interest of OHFA, or (iv) for a change in or addition to the limited partners of Owner limited partnership, if Owner is so organized.

7.3 Nonprofit Organizations. If the Owner filed an Application under the nonprofit Credit set-aside for qualified nonprofit organizations, as set forth on Exhibit “A”, the Owner and Development must continue to qualify under the nonprofit set-aside, as defined by Code Section 42 and the QAP, following the proposed Transfer. A thorough explanation of the proposed Transfer and an opinion of legal counsel that the proposed Transfer will not disqualify the Owner/Development for the nonprofit Credit set-aside must accompany the notice of transfer or assignment.

7.4 Requirements for Approval of Transfer.

 **7.4.1**  **Notice and Documentation.** At least thirty (30) days prior to any proposed Transfer or assignment of the Development, Building or any portion thereof, Owner must file a written notice of the proposed Transfer or assignment with OHFA. The applicable nonrefundable Transfer fee must accompany the Owner’s notice of the proposed Transfer or assignment. OHFA will provide Owner a Transfer Checklist and establish a timeline for compliance with same. The Owner must provide OHFA with any additional information that OHFA, in its sole discretion may request. Failure of the Owner and the proposed Transferee to provide any requested information or to comply with any of required provisions may result in disapproval of the Transfer or assignment request by the Trustees.

**7.4.2 OHFA Investigation.** OHFA will conduct such due diligence as it deems necessary or appropriate to determine that Owner is in compliance with the terms and conditions of this Agreement and that the proposed Transferee is qualified and can reasonably be expected to perform the terms and conditions of this Agreement.

 **7.4.3 Trustee Approval.** At the conclusion of OHFA’s due diligence and receipt of all documentation or information requested by OHFA, including any requested opinions of legal counsel to the Owner and legal counsel to the proposed Transferee, the recommendations of OHFA Staff will be presented to the Trustees for their consideration, approval, conditional approval, or denial.  Any approval of the Trustees shall be conditioned upon correction of any condition of default, breach or violation of any of the terms or conditions of this Agreement and will establish any additional information or documentation which may be required by the Trustees. At their sole discretion, the Trustees may conduct an individual proceeding under the Oklahoma Administrative Procedures Act to consider a requested Transfer.

7.5 Events of Default. Any Transfer or assignment of the Development or attempted Transfer or assignment of the Development without the expressed approval of OHFA and the Trustees will constitute an event of default under this Agreement. Failure of the Owner or any Transferee to comply with the requirements of this Article Seven or any additional requirements of OHFA or the Trustees will constitute an event of default. In the event of a default, OHFA may exercise its rights under this Agreement, including but not limited those set forth in Article Eleven. Any Trustees consent to the Transfer shall be null and void and of no effect if Owner or Transferee fails to comply with any and all conditions and requirements of the Trustees adopted by Resolution or this Agreement.

7.6 No Release of Owner. Any Transfer or assignment of the Development, Building or portion thereof or interest therein, in violation of the above requirements or those of the QAP or any Resolutions, shall be ineffective to relieve or otherwise release Owner, the Land, and/or any Building in the Development, as applicable, from obligations under the Credit Program, including but not limited to the Resolutions of the Trustees and this Agreement.

7.7 Continued Indemnity.The indemnity and hold harmless provisions of Article Twelve shall survive the termination of an interest in the Development of any Owner or Transferee and shall continue to be a personal obligation of such party, notwithstanding the termination of this Regulatory Agreement or a Transfer or assignment of any interest in the Development of such Owner or Transferee.

### ARTICLE EIGHT – CERTIFICATIONS OF OWNER

8.1 Notification Placed-In-Service. Upon execution and delivery of this Agreement, Owner shall notify OHFA of the date on which the Housing Units in the Development are first Placed-In-Service and deliver the following Certifications, opinions (all opinions and Certifications must be in a form satisfactory to OHFA and all opinions or Certifications of counsel or accountants must indicate that the professional has made an independent inquiry into the matters contained therein) or documents not previously provided:

**8.1.1** Original Certification from Owner of the actual cost of the Development and audited Certification prepared by an independent state licensed certified public accountant;

**8.1.2** Original Certification from Owner that, as of the Placed-In-Service date; (i) the Development is in full compliance with Code Section 42; (ii) that the Development will continue to comply with Code Section 42 during the Extended Use Period; (iii) that the information supplied in the Application is and will continue to be true and correct as of the time of Allocation; (iv) and that no change will occur in Owner or the general partner of Owner or ownership of the Development without the prior written consent of OHFA as provided in Article Seven.

**8.1.3** Pursuant to the QAP and the “Application Certification” the Owner of the tax credits agrees to release OHFA and the Trustees from any claim, loss, demand or judgment as a result of Allocation to the Development or the recapture of such Credit by the IRS; and to indemnify OHFA from any claim, loss, demand or judgment against OHFA as a result of Allocation of Credit to the Development or recapture of such Credit by the IRS; and

**8.1.4** Any and all other documents required by the Code, Oklahoma Statutes, QAP and any documents that OHFA or OHFA's counsel may require.

8.2 Annual Certification. Owner shall annually certify to OHFA, utilizing an "Annual Certification" or such other form as OHFA may from time to time require or approve, under penalties of perjury that, during the preceding twelve (12) month certification period, the following was true:

**8.2.1** The Development at all times during the certification period met the requirements of:

**8.2.1.1** the 20-50 test under Code Section 42(g) (1) (A), or the 40-60 test under Code Section 42(g)(1)(B), whichever Minimum Low-Income Housing Set-Aside test is applicable to the Development as set forth in this Agreement; and

**8.2.1.2** if applicable to the Development, the 15-40 test under Code Section 42(g) (4) and Code Section 142(d) (4) (B) for "deep rent skewed" projects.

**8.2.2** There was no change at any time during the period certified to, in the Applicable Fraction (as defined herein and in Code Section 42(c) (1) (B)) of any Building in the Development, or that there was a change, and a description of the change.

**8.2.3** Owner has received an annual "Income Certification" or initial “Income Certification” from each Qualified Resident, and documentation to support that Certification, or in the case of a qualifying low-income Resident receiving Section 8 housing assistance payments, a statement from the public housing authority described in Treasury Regulation Section 1.42-5(b)(1)(vii) for recertifications only.

**8.2.4** At all times during the period certified to, each Low-Income Unit in the Development was Rent-Restricted under Code Section 42(g) (2).

**8.2.5** At all times during the period certified to, all Housing Units in the Development were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under Code Section 42(i)(3)(B)(iii)).

**8.2.6** At all times during the period certified to, each Building in the Development and each rental unit in each Building was suitable for occupancy and habitability, taking into account local health, safety and building codes, and complies with the configuration, plans, specifications, quality standards as to the Building, Housing Units, common areas, furnishings, fixtures, amenities and the like, as represented to OHFA in the Application and materials and statements submitted to OHFA as part of the Application approval process before OHFA.

**8.2.7** At all times during the period certified to, there was no change in the Eligible Basis (as defined in Code Section 42(d)) of any Building in the Development, or if there was a change, the nature of the change).

**8.2.8** At all times during the period certified to, all functionally related and subordinate facilities included in the Eligible Basis under Code Section 42(d) of any Building in the Development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all Residents in the Building.

**8.2.9** At any time during the period certified to, if a Low-Income Unit in the Development became vacant, that reasonable attempts were or are being made to rent that Low-Income Unit or the next available Housing Unit of comparable or smaller size to Qualified Residents before any Housing Units in the Development were or will be rented to Residents not having a qualifying Income.

**8.2.10** At any time during the period certified to, if the Income of a Qualified Resident of a Low-Income Unit in the Development increased above the limit allowed in Code Section 42(g)(2)(D)(ii), the next available Housing Unit of comparable or smaller size in the Development was or will be rented to Qualified Residents.

**8.2.11** At all times during the period certified to, this Agreement was in effect.

**8.2.12** At all times during the period certified to, the Development was a residential rental property available for use by the general public which was in compliance with all applicable federal, state and local housing laws, regulations and policies governing nondiscrimination and accessibility, including but not limited to: the Americans with Disabilities Act; Fair Housing Amendments Act of 1988; Architectural Barriers Act of 1968; Civil Rights Act of 1964; and Age Discrimination Act of 1975 and no Resident or potential Resident was discriminated against on the basis of race, creed, color, sex, national origin, familial status, religion, marital status, age or disability. Furthermore, no Resident or potential Resident was discriminated against on the basis of that Resident's or potential Resident's: (i) sources of Income, including but not limited to public assistance, provided such sources of Income were not in contravention of any federal, state or local law; or (ii) receipt of Section 8 or any comparable rental assistance.

**8.2.13** As of the date of the Certification, Owner was in full and complete compliance with the terms and conditions of this Agreement, or in the alternative, specifies the information required by Section 6.26 hereof.

**8.2.14** At any time during the period certified to, no tenants in Low-Income units were evicted or had their leases terminated other than for good cause.

8.3 Quarterly Certifications.Owner will submit to OHFA a “Quarterly Certification” in such form as OHFA may require.  Owners must begin quarterly reporting the first full calendar quarter after the last Building is Placed-In-Service and continue to report for the subsequent three quarters.

8.4 Annual Report.Owner shall annually provide to the Secretary of the Treasury (the "Secretary"), or the designee of the Secretary, a Certificate of Continuing Program Compliance, at such times and in such form as shall be required by the Secretary. This Annual Report shall be simultaneously filed with OHFA along with any other documentation which may be required by OHFA to verify the Development's compliance with the Code, the QAP and/or this Agreement. OHFA may also require an "Annual Report" on forms developed and required by OHFA.

8.5 Reviews by OHFA.OHFA may: (i) review the Annual Certifications, the Annual Report and the Quarterly Certifications submitted by Owner of a Development for compliance with the requirements of Code Section 42 and with the requirements of this Agreement; (ii) obtain from Owner and review the documentation of the Residents who have occupied the Low-Income Units within the certification period, including a copy of the annual Income Certification and the documentation Owner has received to support that Income Certification; and (iii) conduct a physical inspection of the Land, the Development, the Buildings, and each of the Housing Units to determine whether they comply with the requirements of this Agreement.

### ARTICLE NINE – RECORD KEEPING, INSPECTION AND MONITORING

9.1 Requests for Information. Owner shall provide in writing all information requested by OHFA, its representatives or designees, within ten (10) business days of such request. Such information requested may include without limitation, all Certifications or other documentation as to the compliance of each Building in the Development with the terms of this Agreement, or reporting requirements and laws, ordinances, rules or regulations of the IRS, state, federal or local authorities and OHFA.

9.2 Access to Development.Owner shall grant OHFA and its representatives access to the Development for inspection, which shall include the right to inspect any or all of the Housing Units, common areas and structures, and to interview any Resident of the Development, to review Resident applications and financial information submitted to Owner, and to review information, including without limitation, Owner's books and records relating to the Development upon seven (7) days advance notice. Owner shall comply with the compliance monitoring, record keeping, Certification and reporting requirements described in the QAP and the requirements set forth in this Article Nine.

9.3 Record Keeping.Owners shall keep records for each Qualified Building in the Development showing the following:

**9.3.1** The total number of Housing Units in the Building (including the number of bedrooms and size in square feet of each Housing Unit);

**9.3.2** The percentage of Housing Units in the Building that are Low-Income Units;

**9.3.3** The Gross Rent charged on each Housing Unit in the Building (including any utility allowance);

**9.3.4** The number of Residents in each Low-Income Unit, but only if the Gross Rent is determined by the number of Residents in each Low-Income Unit under Code Section 42(g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989);

**9.3.5** The Low-Income Unit vacancies in the Building and information that shows when, and to whom, the next available Housing Units were rented;

**9.3.6** The annual Income Certification of each Qualified Resident;

**9.3.7** Documentation to support each Resident's Income Certification;

**9.3.8** The Eligible Basis and qualified basis of the Building determined in compliance with the Code at the end of the first year of the Credit Period;

**9.3.9** The date that a Qualified Resident initially occupies a Low-Income Unit; and

**9.3.10** The character and use of the nonresidential portion of the Building included in the Building's Eligible Basis under Code Section 42(d) (e.g., Resident facilities that are available on a comparable basis to all Residents and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the Development).

**9.3.11** Such other information, as OHFA staff may require, from time to time, in order for OHFA to be assured, in its discretion, that the Development is being operated in a manner which complies with all requirements of the Code, the Credit Program, the QAP, and this Agreement.

9.4 Income Certifications. As a condition to occupancy, each person who is intended to be a Qualified Resident or an eligible Resident (as determined by reference to the Code) shall be required to sign and deliver to Owner an Income Certification in such form as OHFA may require. All Qualified Residents occupying a Low-Income Unit in the Development shall be required to execute a new Income Certification and provide acceptable verification of current anticipated Income at the time of the expiration of the anniversary date of move-in, if applicable.

9.5 Form of Lease.The form of lease to be utilized by Owner in renting any Housing Units in the Development must provide that any Resident who is intended to be a Qualified Resident shall provide for termination of the lease and for consent by such Resident to immediate eviction as a result of any material misrepresentation made by such person with respect to the Income Certification or of the failure by such Resident to annually execute an Income Certification.

9.6 Record Retention. Owner shall retain the records described in this Agreement, including Section 9.3 above, and the QAP at least six (6) years after the Due Date (with extensions) for filing the federal income tax return for that year, except that the records for the first year of the Credit Period as defined under Code Section 42(f)(1), must be retained for at least six (6) years beyond the Due Date (with extensions) for filing the federal income tax return for the last year of the Compliance Period as defined under Code Section 42(i)(1) with respect to each Building in the Development.

9.7 On-Site Inspections. Owner shall grant, throughout the term of this Agreement, during normal business hours and upon reasonable notice, to any duly authorized representative of OHFA, the right and opportunity to inspect all books and records of Owner [and of Owner's property management agent(s)] concerning the Development and Incomes of Qualified Residents which may relate to Owner's or the Development's compliance with the provisions of this Agreement, the Code, and the QAP of OHFA, and the right and opportunity to inspect the Land, the Development, the Building(s), the rental units, etc., as referred to in Article 8 hereof. OHFA shall at all times during the Extended Use Period have the right, without prior notice to Owner, to conduct such on-site inspections of the Development and to contact such persons or parties, whether Affiliated with Owner or not, and government agencies, local, state and federal, as OHFA deems necessary to confirm, from time to time, compliance with Code and the QAP of OHFA and the warranties, representations, and covenants contained herein, in the Application, or other filing with OHFA, in regard to Owner and the Development.

9.8 Maintenance of Documents. All books, contracts, records, computerized data, documents, and other papers relating to compliance of Owner and the Development with the Code, the QAP and with this Agreement and to the eligibility of Owner to claim Credits with respect to the Development, including but not limited to, all Resident lists, application, leases, waiting lists, Income examinations and reexaminations relating to the Development, shall at all times be maintained at the Development, or at Owner's principal place of business in the state, and shall be kept separate and identifiable from any other business of Owner which is unrelated to the Development, and shall be maintained in a reasonable condition for proper audit and subject to examination, inspection and copying during business hours by representatives of OHFA.

9.9 Additional Information.In addition to the information required by this Article Nine and elsewhere in this Agreement, Owner shall promptly submit any other information, documents or Certifications requested by OHFA which OHFA deems necessary to substantiate Owner's continuing compliance with the provisions of this Agreement, the Code, and the QAP.

9.10 Amendments to Reporting and Record Keeping Requirements. Owner hereby acknowledges and agrees that the reporting requirements and obligations contained in this Article Eight and Article Nine may be amended from time to time by OHFA, in its sole discretion, to the extent necessary to meet the requirements of the Code and the Credit Program. Such amendments may be made either through an amendment of this Agreement or the QAP and shall be binding on Owner and any successor in interest.

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### ARTICLE TEN – COMPLIANCE: OWNER'S OBLIGATION

10.1 Owner's Diligence. Owner shall exercise reasonable diligence to comply with the requirements of this Agreement, the Code, and the Credit QAP and shall correct any noncompliance within a period determined by OHFA.

10.2 Written Notice of Code Violations.Owner shall inform OHFA by written notice of any violation of Owner's obligations hereunder within thirty (30) days of Owner's first discovering any such violation. OHFA, upon receipt of a notice of default or breach, or if OHFA does not receive any Certification required hereunder, or OHFA does not receive or is not permitted to inspect the records of Owner and the Development, or discovers by inspection, review or in any other manner that the Development is not in compliance with Code Section 42, or of the default by Owner of any of Owner's obligations under this Agreement or of any breach by Owner of any covenant, warranty, representation, agreement or restriction set forth herein, shall promptly notify Owner in writing of said breach or default and specify in such notice a period of time within which OHFA requires that Owner correct such violation. In the event Owner does not commence correction of the default or breach of compliance within the correction period, or does not diligently pursue the same to completion within the correction period or extension thereof, without further notice, OHFA shall declare a default under this Agreement, effective on the date of such declaration of default, and OHFA may thereupon apply to any court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or any other remedies at law or in equity or any such other action as shall be necessary or desirable so as to correct noncompliance with this Agreement. OHFA shall be entitled to its reasonable attorneys' fees in any such judicial action in which OHFA has justifiable cause for commencement of such proceedings, or in which OHFA shall prevail.

10.3 Payment of Fees. Owner shall pay, when due, all fees (including escalations thereto) assessed by OHFA, including all fees and costs incurred by OHFA in connection with monitoring any Building's and the Development's compliance with the requirements of the Code, this Agreement and the QAP. In the event Owner fails to pay such fees when due, OHFA may exercise its rights under this Agreement, including but not limited to those set out in Article Eleven.

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### ARTICLE ELEVEN – ENFORCEMENT AND REMEDIES

11.1 OHFA's Right to Enforce. OHFA shall have the right to specific enforcement, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Agreement. Failure by OHFA to enforce any covenant or restriction contained in this declaration shall, in no event, be deemed a waiver of rights of OHFA or of any duties, terms or conditions imposed upon Owner and Transferee by this Agreement.

11.2 Specific Performance. Owner and OHFA each acknowledges that the primary purposes for requiring compliance by Owner with the restrictions provided in this Agreement are to assure compliance of the Development and Owner with Code Section 42, the Credit Program, the QAP, the Resolution(s), and the representations made to OHFA in the Application and other materials and statements as a part of the Application process, **AND, BY REASON THEREOF, OWNER IN CONSIDERATION FOR RECEIVING CREDITS FOR THIS DEVELOPMENT, HEREBY AGREES AND CONSENTS THAT OHFA AND THE QUALIFIED RESIDENT(S) AND ELIGIBLE RESIDENT(S) (OR EITHER OR ALL OF THEM) SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN A STATE COURT OF COMPETENT JURISDICTION, AND/OR FORECLOSURE AS SET FORTH IN SECTION 11.1,** Owner hereby further specifically acknowledging that the beneficiaries of Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

11.3 No Obligation. Nothing in this Agreement shall impose any duty or obligation on OHFA to take any action, including without limitation any duty or obligation to find a purchaser for any Building, the Development or any portion thereof or to bring any action enforcing this Agreement. OHFA may exercise its rights under this Agreement solely in its own discretion.

11.4 Discretion of OHFA. In determining whether any default or lack of compliance by Owner exists under this Agreement, OHFA shall not be required to conduct any investigation or review of operations by Owner, and may rely solely upon any notice or other information delivered to OHFA or obtained by OHFA pursuant to this Agreement with respect to the occurrence or absence of a default.

11.5 Residents' Rights. In the event of a violation of any of the provisions hereof, OHFA, its successors, designees and assigns, and any individual who is or intends to become an Oklahoma resident, who meets the Income limitations set forth in this Agreement (such individual may be a former, present or prospective Resident of the Development) may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, or to recover monetary damages caused by such violation or attempted violation. The provisions hereof are imposed upon and made applicable to the Development and shall run with the Land and shall be enforceable against Owner and each Transferee, assignee, successor in interest, purchaser, grantee or lessee (but not including Residents) of the Development or any portion thereof at any time and from time to time, and the respective heirs, legal representatives, successors and assigns of Owner and each such Transferee, Assignee, successor in interest, purchaser, grantee or lessee. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the same or obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

11.6 Payment of Costs. OHFA shall be entitled to cause Owner to pay OHFA an amount equal to all monies received by Owner with respect to Low-Income Units from the time such Low-Income Units were knowingly or negligently occupied by persons who are determined not to meet the income limitations applicable to such Low-Income Units until the Development is brought back into compliance with the provisions of this Agreement.

11.7 Residents' Right of Refund. Any individual who meets the Income limitation set forth in this Agreement (such individual may be a former or present Qualified Resident of the Development), shall be entitled to cause Owner to pay such individual an amount equal to the difference between the monies received by Owner from such individual with respect to a Low-Income Unit and the amount which should have been received by Owner if the rent collected by Owner for such Low-Income Units was in compliance with the provisions of this Agreement.

11.8 Notification of IRS. In the event that OHFA becomes aware of any noncompliance with the requirements of the Code by Owner, any Building or the Development, including the failure to provide OHFA with all Certifications required from Owner or the Development, OHFA may notify the IRS. OHFA is required to notify the IRS of same no later than forty-five (45) days following the correction period, or extensions thereof, whether or not the noncompliance or failure to certify is corrected. Owner acknowledges that such noncompliance may result in the loss and recapture of Credit and that OHFA is not responsible for such loss and recapture.

11.9 Notification. In the event that OHFA becomes aware of any noncompliance with the requirements of the Code, the QAP, or this Agreement, OHFA may, at its discretion, notify any or all members of the Development Team, the Development's lenders and financial sources, including syndicators, or their successors, of said noncompliance.

11.10 Development Decertification. Notwithstanding anything in this Agreement to the contrary, failure of Owner to comply fully with the Code, the covenants and agreements contained herein or with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Treasury or the IRS or OHFA pertaining to the obligations of Owner as set forth therein or herein, OHFA may, and in addition to all of the remedies provided by law or in equity, notify the IRS of such noncompliance and recommend that the IRS decertify the Development for Credit and commence recapture of such Credit heretofore allocated to Owner. Owner acknowledges that such noncompliance may result in the loss and recapture of Credit and that OHFA is not responsible for such loss and recapture.

**11.11 Costs.** All costs and all expenses incurred by OHFA to enforce any term or condition of this Agreement shall be at the expense of Owner (and any Transferee in the case of a violation of Article Seven of this Agreement) and for the benefit of the Development, and each such amount(s) shall constitute a lien against the Development and Land, until paid, and each such lien may be enforced in such manner as the court may order, including foreclosure.

### ARTICLE TWELVE – INDEMNIFICATION

12.1 Indemnify and Hold Harmless. Owner, any Transferee, each general partner of Owner and any party to a joint venture, if Owner is a joint venture (the "Indemnifying Parties"), shall jointly and severally at all times indemnify and hold harmless all Trustees and any member, officer, employee, agent or representative, successor assign of OHFA (collectively the "Indemnified Parties") from and against any and all claims, suits, losses, damages, costs, expenses and liabilities of whatsoever nature or kind (including, but not limited to attorneys' fees, litigation and court costs, amounts paid in settlement, amounts paid to discharge judgment(s), and any disallowance of tax benefits) directly or indirectly resulting from, arising out of, or related to: (i) acceptance, consideration and approval or disapproval of the Application; (ii) use of the information in the Application; (iii) the participation of any person in the Credit Program in connection with the Development; (iv) any Credit Reservation or Allocation with respect to the Development; (v) the financing, acquisition, construction and/or rehabilitation, syndication, sale, management or operation of such Development; (vi) OHFA's acting as a party to any agreement entered into in connection with a Development; (vii) any enforcement by OHFA of any agreement entered into by an Owner and OHFA; (viii) any claim or suit arising because of an Owner's, Developer's or any other party's failure to comply with any federal, state, or local environmental, labor, income tax, excise tax, transfer tax, employment tax, housing and employment discrimination, permitting, zoning, or land use law, regulation or requirement; and/or (ix) any claim or suit by an investor in the Development or by a lender to the Development or purchaser, Transferee, or assignee.

12.2 Costs. The Indemnifying Parties, as defined in Section 12.1 of this Agreement, shall promptly reimburse the Indemnified Party for all attorneys' fees, litigation and court costs, amounts paid in settlement and other such sums as described above which are incurred by the Indemnified Party in connection with this Agreement or the Credit Program. Indemnifying Parties agree to pay, indemnify and hold all Indemnified Parties harmless from any and all costs, expenses and fees, including all attorneys' fees which may be incurred by any Indemnified Party in enforcing or attempting to enforce this Agreement following any event of default on the part of Owner hereunder, as determined by OHFA, in its sole discretion, whether the same shall be enforced by suit or otherwise; together with all costs, fees and expenses which may be incurred in connection with any amendment to this Agreement by OHFA at the request of Owner (including the fees and expenses of Counsel to OHFA in connection with any opinion to be rendered hereunder).

12.3 Waiver. The Indemnifying Parties, as defined in Section 12.1 of this Agreement, waive any right to bring legal action, on their own behalf or on behalf of any other party, against OHFA as to any matter for which the Indemnifying Parties have agreed to indemnify and hold harmless OHFA.

12.4 Joint and Several; Survival. The obligation to indemnify set forth in this Article Twelve are joint and several obligations which are separate agreements which shall survive any foreclosure action, Transfer, attempted Transfer or Assignment or termination of an Owner's or other Indemnifying Party's (as defined in Section 12.1 of this Agreement) interest in the Development and such agreements are a personal obligation of such party, and action may be brought thereon independently of any other remedy provided for in this Agreement. The obligations to indemnify set forth in this Article Twelve with respect to Owner, any and all Transferees and other Indemnifying Parties, are intended to cover actions or events which occur and give rise to the indemnification provisions of this Article Twelve during the period of such party's interest in the Development, irrespective of when such claim or suit is brought.

12.5 Limited Liability for Subsequent Owner.Except for accrued compliance fees, no successor in interest to the Owner (“Successor Indemnitor”) shall be liable under this Article Twelve for (1) acts or omissions of persons or entities other than the Successor Indemnitor that occurred before the earlier of the date the Successor Indemnitor obtained control or became the Owner of the Development; or (2) events or conditions on or related to the Development or any Building, or defaults under this Agreement or any other program document, occurring or existing prior to the earlier of the date such Successor Indemnitor obtained control or became the Owner of the Development. Notwithstanding the foregoing, if a noncompliance or other default exists under this Agreement or any other program document that arose before and is continuing after such Successor Indemnitor either obtains control or becomes Owner of the Development (each a “Continuing Default”), then such Continuing Default shall exist under this Agreement.

### ARTICLE THIRTEEN – GENERAL PROVISIONS

13.1 Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified mail, return receipt requested, to the parties hereto at the addresses set forth on the execution page of this Agreement. OHFA, and Owner, may, by notice given hereunder, designate any reasonable further or different addresses to which subsequent notices, certificates or other communications shall be sent.

13.2 Recording of Agreement. This Agreement shall be placed of record in the real property records of the County (ies) set forth in the legal description of the Development (Exhibit A).

13.3 Duration; Survival. All of the respective representations, warranties, covenants, and duties of OHFA and Applicant hereunder or contained in any document given in connection herewith or contemplated hereby, shall survive throughout the Extended Use Period until termination of the Three-Year Period, except as they may be fully performed prior to the termination of such periods.

13.4 Waiver. No action or failure to take action pursuant to this Agreement on the part of OHFA, including without limitation, any investigation by or on behalf of OHFA, shall constitute a waiver by OHFA of Owner's compliance with the terms, conditions, obligations, restrictions, covenants, representations and warranties contained in this Agreement. No waiver, modification or change shall be binding unless in writing and signed by OHFA. A waiver or breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

13.5 Further Assurances. Owner agrees to execute any and all documents and writings which may be necessary or expedient and to do other acts as will further the purposes hereof.

13.6 Section Titles.Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

13.7 Amendment Further Assurances of Owner. This Agreement may be amended with the prior written approval of OHFA to reflect changes in the Code, the QAP, and any revenue ruling promulgated under the Code. No amendment to this Agreement may be made without the prior written approval and a duly adopted Resolution of the Trustees of OHFA. Owner will enter into all amendments hereto which, in the opinion of OHFA's counsel, are reasonably necessary or desirable for maintaining compliance under applicable provisions of the Code.

13.8 Severability and Partial Invalidity. Invalidation of any clause, provision, warranty, covenant, or restriction contained in this Agreement by any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term(s) or provision(s) to persons or circumstances other than those to which it is held invalid or unenforceable shall, in no way, affect any other clause, provision, covenant, warranty, or restriction which shall remain in full force and effect, and shall be enforced to the greatest extent permitted by law. Each and every term of this Agreement shall be valid and enforceable to the fullest extent possible.

13.9 Gender. Whenever in this Agreement the context requires, references to person shall mean any individual or entity including but not limited to any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association and references to the masculine shall be deemed to include the feminine and neuter, and references to the singular shall be deemed to include the plural.

13.10 Survival of Obligations. The obligations of Owner as set forth herein and in the Application shall survive the Allocation of Credit and will not be deemed to terminate or merge with the awarding of the Allocation.

13.11 Governing Law. This Agreement shall be governed by the laws of the State of Oklahoma for state law issues, without reference to the laws of any other state or jurisdiction, and, where applicable, the laws of the United States of America.

 **IN WITNESS WHEREOF**, the parties have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

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**Name of the development, LURA**

**OKLAHOMA HOUSING FINANCE AGENCY**

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

 Deborah Jenkins, Executive Director

**OHFA'S NOTICE ADDRESS:** OKLAHOMA HOUSING FINANCE AGENCY

HDT AHTC ALLOCATION

P.O. BOX 26720

OKLAHOMA CITY, OK 73126-0720

STATE OF OKLAHOMA )

) SS:

COUNTY OF )

The foregoing Regulatory Agreement was acknowledged before me this day of , 20 , by Deborah Jenkins, Executive Director of the Oklahoma Housing Finance Agency, a public trust, on behalf of the trust.

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

My Commission Expires:

 Notary Public

Commission #

[S E A L]

**THE APPROPRIATE SIGNATURES, TITLES, ENTITY NAMES, AND NOTARIES MUST BE PROVIDED BY THE OWNER IN ACCORDANCE WITH OKLAHOMA LAW.**

OWNER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a (n) (Oklahoma or other state)

 (Limited partnership, Limited Liability Company or other entity type)

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a (n) (Oklahoma or other state) , its (general partner, managing member or other entity type)

 By:

 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**OWNER'S NOTICE ADDRESS:**

STATE OF )

) SS:

COUNTY OF )

Before me, the undersigned Notary Public in and for said County and State, on this \_\_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, personally appeared \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a/an , to me known to be the identical person who subscribed the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an , to the foregoing document as its and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of such partnership, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

My Commission Expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

Commission #

[S E A L]

### EXHIBIT "A"

### ADDITIONAL CERTIFICATIONS OF OWNER

The Owner, with a taxpayer identification number of \_\_\_\_\_\_\_\_\_\_\_\_\_, in consideration of Oklahoma Housing Finance Agency's entering into a Regulatory Agreement Creating Restrictive Covenants for Low-Income Housing Tax Credits (the "Agreement") effective as of January 1, 201\_\_, respecting an allocation of low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended for the Development identified below (the "Development"), does hereby certify, represent, warrant and acknowledge, under oath and penalty of perjury, that this Exhibit "A" and the statements and representations of the Owner contained herein, are specifically incorporated and made a part of and condition precedent to said Agreement, and that as of the date of its execution, all information contained herein is accurate and may be relied upon by OHFA.

## Development Name:

## Development Address:

## Development Legal Description:

Development’s Extended Use Period Ending Date: This date must be a minimum of fifteen (15) years, following the close of the Compliance Period. During the Extended Use Period each Qualifying Building in the Development must satisfy all requirements of the Code and the Credit Program. The Extended Use Period set forth herein and may not be revoked or terminated prior to said date. **December 31, 20XX**

**Development was awarded out of the \_\_\_\_ \_\_\_\_ Set-Aside.**

**Applicable Fraction for the Development: \_\_\_\_\_\_\_\_ Number of Tax Credit Buildings within Development: \_\_\_\_**

## Building Information:

**Fill out a line for each Building.**

| **Address** | City | County | BIN | Date Expected to Be Placed-In-Service |
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**Attach additional sheets as required.**

Minimum Low-Income Housing Set-Aside Election: For each year in the Extended Use Period, Owner shall operate the Development as a qualified Development by maintaining the irrevocable Minimum Low-Income Housing Set-Aside. The Owner agrees to the following Minimum Low-income Housing Set-aside: **Owner to select one:** \_\_\_ Income Average of **60%** or less of the Area Median Income \_\_\_ **20%** of the units serving households at **50%** of the Area Median Income **OR** \_\_\_ **40%** of the units serving households at **60%** of the Area Median Income. **In addition,** the Owner agrees further for each year, or portion thereof, in the Extended Use Period, at least \_\_\_\_\_ Housing Units, which constitute at least \_\_\_\_\_\_\_ percent (\_\_\_\_%) of all Housing Units in the Development, will be occupied by households whose Income is \_\_\_\_\_\_ percent (\_\_\_\_\_%) or less of the Area Median Gross Income and the remaining \_\_\_\_\_ Housing Units, which constitute at least \_\_\_\_\_\_ percent (\_\_\_\_\_%) of all Housing Units in the Development, will be occupied by households whose Income is \_\_\_\_\_\_\_ percent (\_\_\_\_\_\_%) or less of the Area Median Gross Income, and each of said Units will satisfy the requirements of suitability for occupancy and nontransient residency.

**NOTE:** **The Owner must complete the elected Minimum Low-Income Housing Set-Aside and the excess of the Minimum Low-Income Housing Set Aside; said election must be set forth above.**

Special Set-Aside or Commitment:For each year in the Extended Use Period, Owner shall operate the Development as a qualified Development by maintaining the irrevocable special Set-Aside or Commitment. The Owner agrees to the following:  **.**

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### EXHIBIT B

### FINAL SELECTION REVIEW REPORT