

CLOSING ITEM NO.: A-6 (A)

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

AND

CLINTON AVENUE APARTMENTS II LLC AND CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION

RESIDENTIAL PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF JANUARY 1, 2023

RELATING TO THE PREMISES LOCATED AT 78, 133, 163, 303, 307
AND 236 CLINTON AVENUE (RESPECTIVELY TAX MAP NUMBERS:
65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, AND 65.73-2-
14.1) IN THE CITY OF ALBANY, ALBANY COUNTY, NEW YORK.

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RESIDENTIAL PAYMENT IN LIEU OF TAX AGREEMENT

THIS RESIDENTIAL PAYMENT IN LIEU OF TAX AGREEMENT dated as of January 1, 2023 (the “Residential Payment in Lieu of Tax Agreement”) by and between CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (the “Agency”), and CLINTON AVENUE APARTMENTS II LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 700 Clinton Square, Rochester, New York and CLINTON AVENUE APARTMENTS II HOUSING DEVELOPMENT FUND CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 75 S. Clinton Avenue, Suite 700, Rochester, New York (collectively, the “Company”);

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “Enabling Act”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “State”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 325 of the Laws of 1974 of the State (collectively, with the Enabling Act, the “Act”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, in August, 2020, Home Leasing, LLC (the “Original Company”), a limited liability company duly organized and validly existing under the laws of the State of New York, presented an application (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Original Company, said Project to include the following: (A) (1) the acquisition of an interest in approximately 6 parcels of land totaling approximately one (1) acre located at 78, 133, 163, 303, 307 and 236 Clinton Avenue (respectively Tax Map numbers: 65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, and 65.73-2-14.1) in the City of Albany, Albany County, New York (collectively, the “Land”) together with approximately four buildings located thereon (collectively, the “Existing Facility”), (2) the renovation of the Existing Facility, (3) the construction of a 3-story mixed use building on the Land (the “New Facility” and collectively with the Existing Facility, the “Facility”), and (4) the acquisition and installation therein and thereon of certain

machinery, equipment and other personal property (collectively, the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); all of the foregoing to be owned by the Original Company and operated as an approximately 61 unit residential apartment buildings, with approximately 12,320 square feet of commercial/retail space and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Original Company or such other person as may be designated by the Original Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on December 17, 2020 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on December 29, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on December 29, 2020 on a public bulletin board located at City Hall in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on December 31, 2020 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) as a result of the ban on large meetings or gatherings pursuant to Executive Order 202.1, as supplemented, and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, as supplemented, each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, conducted the Public Hearing on January 13, 2021 at 12:00 o’clock p.m. local time, electronically via conference call rather than in person, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on January 21, 2021 (the “SEQR Resolution”), the Agency (A) concurred in the determination that the City of Albany Planning Board (the “Planning Board”) is the “lead agency” with respect to the New Facility portion of the Project, (B) acknowledged receipt of a negative declaration from the Planning Board issued on August 11, 2020 (the “Negative Declaration”), in which the Planning Board determined that the New Facility portion of the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the New Facility portion of the Project, and (C) determined that the Existing Facility portion of the Project Facility is a “Type II Action” under SEQRA and that no further action with respect to the Existing Facility portion of the Project Facility is needed; and

WHEREAS, by further resolution adopted by the members of the Agency on January 21, 2021 (the “Commercial/Retail Finding Resolution”), the Agency (A) determined that the Project constituted a “commercial project” within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of

the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York and (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the Mayor of City of Albany, as chief executive officer of City of Albany, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on January 21, 2021 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Agency's uniform tax exemption policy with respect to the Project; and

WHEREAS, pursuant to the Pilot Request, the Agency will enter into two (2) separate payment in lieu of tax agreements, each payment in lieu of tax agreement attributable to the residential portion of the Project and the commercial portion of the Project. The residential portion of the Project (the "Residential Project") will consist of the 61 unit residential apartments within the Facility (the "Residential Facility") and the acquisition and installation of the portion of the Equipment attributable to the Residential Facility (the "Residential Equipment" and collectively with the Land and the Residential Facility, the "Residential Project Facility"). The commercial portion of the Project (the "Commercial Project") will consist of the approximately 12,320 square feet of the leaseable commercial space within the Facility (the "Commercial Facility") and the acquisition and installation therein and thereon of the portion of the Equipment attributable to the Commercial Facility (the "Commercial Equipment" and collectively with the Land and the Commercial Facility, the "Commercial Project Facility"); and

WHEREAS, pursuant to a resolution adopted by the members of the Agency on January 21, 2021 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of January 1, 2023 (the "Lease Agreement") between the Agency and the Original Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Original Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Original Company. The Lease Agreement grants to the Original Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, by certificate dated April 5, 2021 (the "Public Approval"), the Mayor, as chief executive officer of the City of Albany, New York, confirmed the proposed action to be taken by the Agency with respect to the Project for the purposes of Section 862(2)(c) of the Act; and

WHEREAS, by resolution adopted by the members of the Agency on January 20, 2022 (the "Resolution Approving the Extension of Approving Resolution"), the Agency determined to extend the expiration date of the Approving Resolution from January 21, 2022 to August 21, 2022; and

WHEREAS, by resolution adopted by the members of the Agency on August 18, 2022 (the "Resolution Approving the Second Extension of Approving Resolution and Designation of the Company"), the Agency determined to (A) extend the expiration date of the Approving Resolution from August 21, 2022 to December 21, 2022 and (B) designate Clinton Avenue Apartments II LLC ("Clinton II") as the Company; and

WHEREAS, by resolution adopted by the members of the Agency on December 15, 2022 (the "Resolution Approving the Third Extension of Approving Resolution"), the Agency determined to extend

the expiration date of the Approving Resolution, as amended, from December 21, 2022 to February 28, 2023; and

WHEREAS, the Agency has been requested to add Clinton Avenue Apartments II Housing Development Fund Corporation, a New York State not-for-profit corporation ("HDFC"), as a party to the Project (Clinton II and HDFC being referred to as the "Company"); and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of January 1, 2023 (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); and (2) a certain license agreement dated as of January 1, 2023 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; (B) the Company and the Agency will execute and deliver (1) certain payment in lieu of tax agreements dated as of January 1, 2023 (collectively, the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, and (2) a certain uniform agency project agreement dated as of January 1, 2023 (the "Uniform Agency Project Agreement") relating to the granting of the Financial Assistance by the Agency to the Company; and (C) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), upon the filing by the Agency of the Real Property Tax Exemption Form, the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, pursuant to the provisions of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of taxes with respect to the Project Facility in an amount equivalent to normal taxes, provided that, so long as this Residential Payment in Lieu of Tax Agreement shall be in effect, the Company shall during the term of this Residential Payment in Lieu of Tax Agreement make payments in lieu of taxes in the amounts and in the manner provided in this Residential Payment in Lieu of Tax Agreement, and during such period the provisions of Section 6.6 of the Lease Agreement shall not control the amounts due as payment in lieu of taxes with respect to that portion of the Project Facility which is covered by this Residential Payment in Lieu of Tax Agreement; and

WHEREAS, all things necessary to constitute this Residential Payment in Lieu of Tax Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Residential Payment in Lieu of Tax Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into the transactions contemplated by this Residential Payment in Lieu of Tax Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement hereunder.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Residential Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Residential Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Residential Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 1.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. Clinton II is a limited liability company and HDFC is a not-for-profit corporation, both, are duly organized and validly existing under the laws of the State of New York, are duly authorized to do business in the State of New York and have the power under the laws of the State to enter into this Residential Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on their part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement, and by proper action of their members and board of directors have been duly authorized to execute, deliver and perform this Residential Payment in Lieu of Tax Agreement.

(B) Authorization. The Company is authorized and has the power under its operating documents and the laws of the State to enter into this Residential Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement. By proper action of its members and board of directors, the Company has duly authorized the execution, delivery and performance of this Residential Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Residential Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement by (and the execution, delivery and performance of this Residential Payment in Lieu of Tax Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Residential Payment in Lieu of Tax Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its governing corporate documents or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Residential Payment in Lieu of Tax Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Residential Payment in Lieu of Tax Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Residential Payment in Lieu of Tax Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Residential Payment in Lieu of Tax Agreement by the Company or as a condition to the validity of this Residential Payment in Lieu of Tax Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. TAX-EXEMPT STATUS OF THE RESIDENTIAL PROJECT FACILITY. (A) Assessment of the Residential Project Facility. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of the Residential Project Facility by the Agency and the filing by the Agency of a New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Residential Project Facility, and for so long thereafter as the Agency shall own the Residential Project Facility, the Residential Project Facility shall be assessed by the various taxing entities having jurisdiction over the Residential Project Facility, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Residential Project Facility is located (such taxing entities being sometimes collectively hereinafter referred to as the "Taxing Entities", and each of such Taxing Entities being sometimes individually hereinafter referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of the leasehold interest to the Residential Project Facility created by the Underlying Lease and the filing of the Real Property Tax Exemption Forms. The Company shall, promptly following acquisition by the Agency of the leasehold interest to the Residential Project Facility created by the Underlying Lease, take such action as may be necessary to ensure that the Residential Project Facility shall be assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Agency, including ensuring that a Real Property Tax Exemption Form shall be filed with the appropriate officer or officers of each respective Taxing Entity responsible for assessing properties on behalf of each such Taxing Entity (each such officer being hereinafter referred to as an "Assessor"). For so long thereafter as the Agency shall own such leasehold interest in the Residential Project Facility, the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Entity. The parties hereto understand that the Residential Project Facility shall not be entitled to such tax-exempt status on the tax rolls of any Taxing Entity until the first tax year of such Taxing Entity following the tax status date of such Taxing Entity occurring subsequent to the date upon which the Agency becomes the owner of record of such leasehold interest in the Residential Project Facility and the Real Property Tax Exemption Forms are filed with the Assessors. Pursuant to the provisions of the Lease Agreement, the Company will be required to pay all taxes and assessments lawfully levied and/or assessed against the Residential Project Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Residential Project Facility shall be entitled to exempt status on the tax rolls of the respective Taxing Entities. The Agency will cooperate with the Company to obtain and preserve the tax-exempt status of the Residential Project Facility.

(B) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Residential Project Facility.

SECTION 2.02. PAYMENTS IN LIEU OF TAXES. (A) Agreement to Make Payments. The Company agrees that it shall make annual payments in lieu of property taxes in the amounts hereinafter provided to the respective Taxing Entities entitled to receive same pursuant to the provisions hereof. The Company also agrees to give the Assessors a copy of this Residential Payment in Lieu of Tax Agreement. The payments due hereunder shall be paid by the Company to the respective appropriate officer or officers of the respective Taxing Entities charged with receiving payments of taxes for such Taxing Entities (such officers being collectively hereinafter referred to as the "Receivers of Taxes") for distribution by the

Receivers of Taxes to the appropriate Taxing Entities entitled to receive same pursuant to the provisions hereof.

(B) Valuation of the Residential Project Facility. (1) The value of the Residential Project Facility for purposes of determining payments in lieu of taxes due hereunder (hereinafter referred to as the "Assessed Value") shall be determined by the appropriate Assessors. The Company agrees to give the Assessors a copy of this Residential Payment in Lieu of Tax Agreement. The parties hereto agree that the Assessors shall (a) appraise the Existing Facility, the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law in the same manner as other similar properties in the general area of the Residential Project Facility, and (b) place an Assessed Value upon the Land, the Existing Facility, the Equipment and the Facility, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial determination of the Assessed Value of the Land, the Existing Facility, the Equipment and the Facility and of any change in the Assessed Value of the Land or the Land, the Existing Facility, the Equipment and the Facility.

(2) If the Company is dissatisfied with the amount of the Assessed Value of the Residential Project Facility as initially established or as changed by the Assessors, the Company shall be entitled to challenge the Assessed Value in accordance with the terms and conditions contained in Article 7 of the Real Property Tax Law. The Company shall be entitled to take any actions under Article 7 of the Real Property Tax Law notwithstanding the fact that the Agency has an interest in the Land pursuant to the Lease to Agency.

(3) Any payments in lieu of taxes due upon such Residential Project Facility pursuant to Section 2.02(C) hereof may not be withheld by the Company pending determination of the Assessed Value.

(C) Amount of Payments in Lieu of Taxes. (1) (a) For a period ending on the earlier to occur of (I) December 31, 2053, or (II) the date on which the City of Albany (the "City") shall determine that the Residential Project Facility no longer is being used as housing facilities for persons of low income, the Company will pay to the Treasurer of the City, for distribution among the Albany City School District, the County of Albany and the City, annual payments in lieu of taxes in an amount equal to five percent (5%) of the aggregate collected annual tenant paid rents generated by the Residential Project Facility (the "Rent"). The Rent shall include tenant paid rent and rent supplements and subsidies received from the federal government, the State, or a municipality on behalf of such tenants, less the aggregate annual owner paid utilities, such payments to be payable on April 15 of each year, in an amount calculated pursuant to the previous sentence for the prior calendar year, commencing on April 15, 2023. The Company shall provide to Treasurer of the City, along with each payment, an annual statement of tenant paid income and Project expenses verified by the Company or such other person as may be authorized by the Company to verify said statement.

(b) The Agency and the Company recognize and agree that during the period beginning on the Closing Date and ending on the Completion Date (the "Construction Period"), the Company will be undertaking the Project and the amount of payments in lieu of taxes payable by the Company during such Construction Period may be affected by the construction, reconstruction and renovation occurring at and it the Residential Project Facility.

(2) Commencing on the earlier to occur of (a) January 1, 2054, or (b) the date on which the City shall determine that the Project Facility no longer is being used as housing facilities for persons of low income, the Company will pay to the Treasurer of the City, for distribution among

the Albany City School District, the County of Albany and the City, annual payments in lieu of taxes in an amount equal to as follows:

(a) First, determine the amount of general taxes and general assessments (hereinafter referred to as the "Normal Tax") which would be payable to each Taxing Entity if the Residential Project Facility was owned by the Company and not the Agency by multiplying (i) the Assessed Value of the Residential Project Facility determined pursuant to Section 2.02(B) hereof, by (ii) the tax rate or rates of such Taxing Entity that would be applicable to the Residential Project Facility if the Residential Project Facility was owned by the Company and not the Agency.

(b) On April 15 in each tax year during the term of this Payment in Lieu of Tax Agreement, commencing on the earlier of (i) April 15, 2054 or (ii) the first April 15 following the date on which the City shall determine that the Residential Project Facility no longer is being used as housing facilities for persons of low income, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax pursuant to this Payment in Lieu of Tax Agreement with respect to the Residential Project Facility shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to the Residential Project Facility for such tax year.

(D) Additional Amounts in Lieu of Taxes. Commencing on the first tax year following the date on which any structural addition shall be made to the Residential Project Facility or any portion thereof or any additional building or other structure shall be constructed on the Land (such structural additions and additional buildings and other structures being hereinafter referred to as "Additional Facilities") the Company agrees to make additional annual payments in lieu of property taxes with respect to such Additional Facilities (such additional payments being hereinafter collectively referred to as "Additional Payments") to the Receivers of Taxes with respect to such Additional Facilities, such Additional Payments to be computed separately for each Taxing Entity as follows:

(1) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Additional Normal Tax") which would be payable to each Taxing Entity with respect to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency as follows: (a) multiply the Additional Assessed Value (as hereinafter defined) of such Additional Facilities determined pursuant to subsection (E) of this Section 2.02 by (b) the tax rate or rates of such Taxing Entity that would be applicable to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency, and (c) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were owned by the Company and not the Agency.

(2) In each fiscal tax year during the term of this Residential Payment in Lieu of Tax Agreement (commencing in the fiscal tax year when such Additional Facilities would first appear on the assessment roll of any Taxing Entity) if such Additional Facilities were owned by the Company and not the Agency, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax with respect to such Additional Facilities pursuant to this Residential Payment in Lieu of Tax Agreement shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to such Additional Facilities for such fiscal tax year (unless the Agency and the Company shall enter into a separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement shall control).

(E) Valuation of Additional Facilities. (1) The value of Additional Facilities for purposes of determining payments in lieu of taxes due under Section 2.02(D) hereof shall be determined by the Assessors of each respective Taxing Entity. The parties hereto agree that the Assessors shall (a) appraise the Additional Facilities in the same manner as other similar properties in the general area of the Residential Project Facility, and (b) place a value for assessment purposes (hereinafter referred to as the "Additional Assessed Value") upon the Additional Facilities, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial establishment of such Additional Assessed Value and of any change in such Additional Assessed Value.

(2) If the Company is dissatisfied with the amount of the Additional Assessed Value of the Additional Facilities as initially established or as changed, the Company shall be entitled to challenge the Additional Assessed Value in accordance with the terms and conditions contained in Article 7 of the Real Property Tax Law. The Company shall be entitled to take any actions under Article 7 of the Real Property Tax Law notwithstanding the fact that the Agency has an interest in the Land pursuant to the Lease to Agency.

(F) Statements. Pursuant to Section 858(15) of the Act, the Agency agrees to give each Taxing Entity a copy of this Residential Payment in Lieu of Tax Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy hereof be given to the appropriate officer or officers of the respective Taxing Entities responsible for preparing the tax rolls for said Tax Entities (each, a "Tax Billing Officer") and a request that said Tax Billing Officers submit to the Company and to the appropriate Receiver of Taxes periodic statements specifying the amount and due date or dates of the payments due each Taxing Entity hereunder, such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such Taxing Entities.

(G) Time of Payments. The Company agrees to pay the amounts due hereunder to the Receivers of Taxes for the benefit of each particular Taxing Entity in any fiscal tax year to the appropriate Receiver of Taxes within the period that such Taxing Entity allows payment of taxes levied in such fiscal tax year without penalty. The Company shall be entitled to receive receipts for such payments.

(H) Method of Payment. All payments by the Company hereunder shall be paid to the Receivers of Taxes in lawful money of the United States of America. The Receivers of Taxes shall in turn distribute the amounts so paid to the various Taxing Entities entitled to same.

SECTION 2.03.CREDIT FOR TAXES PAID. (A) Amount of Credit. The parties hereto acknowledge and agree that the obligation of the Company to make the payments provided in Section 2.02 of this Residential Payment in Lieu of Tax Agreement shall be in addition to any and all other taxes and governmental charges of any kind whatsoever which the Company may be required to pay under the Lease Agreement. It is understood and agreed, however, that, should the Company pay in any fiscal tax year to any Taxing Entity any amounts in the nature of general property taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Residential Project Facility or the interest therein of the Company or the occupancy thereof by the Company (but not including, by way of example, (1) sales and use taxes, and (2) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including but not limited to water, solid waste, sewage treatment or sewer or other rents, rates or charges), then the Company's obligation to make payments in lieu of property taxes attributed to such fiscal tax year to such Taxing Entity hereunder shall be reduced by the amounts which the Company shall have so paid to such Taxing Entity in such fiscal tax year, but there shall be no cumulative or retroactive credit as to any payment in lieu of property taxes due to any other Taxing Entity or as to any payment in lieu of property taxes due to such Taxing Entity in any other fiscal tax year.

(B) Method of Claiming Credits. If the Company desires to claim a credit against any particular payment in lieu of tax due hereunder, the Company shall give the governing body of the affected Taxing Entity and the Agency prior written notice of its intention to claim any credit pursuant to the provision of this Section 2.03, said notice to be given by the Company at least thirty (30) days prior to the date on which such payment in lieu of tax is due pursuant to the provisions of Section 2.02(G) hereof. In the event that the governing body of the appropriate Taxing Entity desires to contest the Company's right to claim such credit, then said governing body, the Agency and the Company shall each select an arbitrator in accordance with the rules of the American Arbitration Association, each of whom shall meet the qualifications set forth in Section 2.02(B) hereof, which arbitrators shall, at the sole cost and expense of the Company, determine whether the Company is entitled to claim any credit pursuant to the provisions of this Section 2.03 and, if so, the amount of the credit to which the Company is entitled. It is understood that the arbitrators are empowered to confirm the amount of the credit claimed by the Company or to determine a lower or higher credit. When the Company shall have given notice, as provided herein, that it claims a credit, the amount of any payment in lieu of property taxes due hereunder against which the credit may be claimed may be withheld (to the extent of the credit claimed by the Company, but only to the extent that such credit may be claimed against said payment in lieu of taxes pursuant to the provisions of this Section 2.03) until the decision of the arbitrators is rendered. After the decision of the arbitrators is rendered, the payment in lieu of taxes due with respect to any reduction or disallowance by the arbitrators in the amount of the credit claimed by the Company shall, to the extent withheld as aforesaid, be immediately due and payable and shall be paid by the Company within thirty (30) days of said decision.

SECTION 2.04. LATE PAYMENTS. (A) First Month. Pursuant to Section 874(5) of the Act, if the Company shall fail to make any payment required by this Residential Payment in Lieu of Tax Agreement when due, the Company shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Residential Payment in Lieu of Tax Agreement when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the affected Taxing Entity until such payment in default shall have been made in full, and the Company shall pay the same to the affected Taxing Entity together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

ARTICLE III

LIMITED OBLIGATION

SECTION 3.01.NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY. (A) No Recourse. All obligations, covenants, and agreements of the Agency contained in this Residential Payment in Lieu of Tax Agreement shall be deemed to be the obligations, covenants, and agreements of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Residential Payment in Lieu of Tax Agreement, or otherwise based upon or in respect of this Residential Payment in Lieu of Tax Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Residential Payment in Lieu of Tax Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Residential Payment in Lieu of Tax Agreement, it being expressly understood that this Residential Payment in Lieu of Tax Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Residential Payment in Lieu of Tax Agreement under or by reason of the obligations, covenants or agreements contained in this Residential Payment in Lieu of Tax Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Residential Payment in Lieu of Tax Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Residential Payment in Lieu of Tax Agreement by the Agency.

(B) Limited Obligation. The obligations, covenants and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the City of Albany, New York, and neither the State of New York nor the City of Albany, New York shall be liable thereon, and further such obligations, covenants and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Residential Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation. Notwithstanding any provision of this Residential Payment in Lieu of Tax Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company to defend and hold harmless the Agency satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Residential Payment in Lieu of Tax Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Residential Payment in Lieu of Tax Agreement, any one or more of the following events:

(A) Failure of the Company to pay when due any amount due and payable by the Company pursuant to this Residential Payment in Lieu of Tax Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period and if the Company shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as the Company shall require in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days in the aggregate from the date of default; or

(C) Any warranty, representation or other statement by or on behalf of the Company contained in this Residential Payment in Lieu of Tax Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Residential Payment in Lieu of Tax Agreement and (1) shall be materially adverse to the Agency at the time when the notice referred to below shall have been given to the Company and (2) if curable, shall not have been cured within thirty (30) days after written notice of such incorrectness shall have been given to a responsible officer of the Company, provided that if such incorrectness cannot reasonably be cured within said thirty-day period and the Company shall have commenced action to cure the incorrectness within said thirty-day period and, thereafter, diligently and expeditiously proceeds to cure the same, such thirty-day period shall be extended for so long as the Company shall require, in the exercise of due diligence, to cure such default.

SECTION 4.02. REMEDIES ON DEFAULT. (A) General. Whenever any Event of Default shall have occurred with respect to this Residential Payment in Lieu of Tax Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Taxing Entity, then with respect to such Event of Default such Taxing Entity) may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Residential Payment in Lieu of Tax Agreement. Upon termination of the Underlying Lease, this Residential Payment in Lieu of Tax Agreement shall be terminated.

(B) Cross-Default. In addition, an Event of Default hereunder shall constitute an event of default under Article X of the Lease Agreement. Upon the occurrence of an Event of Default hereunder resulting from a failure of the Company to make any payment required hereunder, the Agency shall have, as a remedy therefor under the Lease Agreement, among other remedies, the right to terminate the Lease Agreement and convey the Residential Project Facility to the Company, thus subjecting the Residential Project Facility to immediate full taxation pursuant to Section 520 of the Real Property Tax Law of the State.

(C) Separate Suits. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(D) Venue. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Residential Payment in Lieu of Tax Agreement may be brought in the courts of record of the State, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. Pursuant to Section 874(6) of the Act, if the Company should default in performing any of its obligations, covenants or agreements under this Residential Payment in Lieu of Tax Agreement and the Agency or any Taxing Entity should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency or such Taxing Entity, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency or any Taxing Entity is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Residential Payment in Lieu of Tax Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency or any Taxing Entity to exercise any remedy reserved to it in this Residential Payment in Lieu of Tax Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Residential Payment in Lieu of Tax Agreement.

(D) No Waiver. In the event any provision contained in this Residential Payment in Lieu of Tax Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Residential Payment in Lieu of Tax Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. (A) General. This Residential Payment in Lieu of Tax Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the approval of this Residential Payment in Lieu of Tax Agreement by resolution of the Agency and the execution and delivery of this Residential Payment in Lieu of Tax Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Residential Payment in Lieu of Tax Agreement shall continue to remain in effect until the earlier to occur of (1) December 31, 2053 or (2) the date on which the Residential Project Facility is reconveyed by the Agency to the Company pursuant to Article X or Article XI of the Lease Agreement.

(B) Extended Term. In the event that (1) the Residential Project Facility shall be reconveyed to the Company, (2) on the date on which the Company obtains the Agency's interest in the Residential Project Facility, the Residential Project Facility shall be assessed as exempt upon the assessment roll of any one or more of the Taxing Entities, and (3) the fact of obtaining title to the Agency's interest in the Residential Project Facility shall not immediately obligate the Company to make pro-rata tax payments pursuant to legislation similar to Chapter 635 of the 1978 Laws of the State (codified as subsection 3 of Section 302 of the Real Property Tax Law and Section 520 of the Real Property Tax Law), this Residential Payment in Lieu of Tax Agreement shall remain in full force and effect and the Company shall be obligated to make payments to the Receiver of Taxes in amounts equal to those amounts which would be due from the Company to the respective Taxing Entities if the Residential Project Facility were owned by the Company and not the Agency until the first tax year in which the Company shall appear on the tax rolls of the various Taxing Entities having jurisdiction over the Residential Project Facility as the legal owner of record of the Residential Project Facility.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Residential Payment in Lieu of Tax Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Residential Payment in Lieu of Tax Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, properly addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Notices Given by Taxing Entities. Notwithstanding the foregoing, notices of assessment or reassessment of the Residential Project Facility and other notices given by a Taxing Entity under Article

It hereof shall be sufficiently given and shall be deemed given when given by the Taxing Entity in the same manner in which similar notices are given to owners of taxable properties by such Taxing Entity.

(C) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

Clinton Avenue Apartments II LLC
700 Clinton Square
Rochester, New York 14604
Attention: Adam Driscoll, Owners Representative

AND

Clinton Avenue Apartments II Housing
Development Fund Corporation
75 S. Clinton Avenue, Suite 700
Rochester, New York 14604

WITH A COPY TO:

Nixon Peabody
1300 Clinton Square
Rochester, New York 14604
Attention: Matt Carrigg, Esq.

AND TO:

NEF Assignment Corporation
10 South Riverside Plaza, Suite 1700
Chicago, Illinois 60606
Attention: General Counsel

IF TO THE AGENCY:

City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207
Attention: (Vice) Chair

WITH A COPY TO:

Office of the Corporation Counsel
City Hall, Eagle Street - Room 106
Albany, New York 12207
Attention: Marisa Franchini, Esq.

and

Hodgson Russ LLP
677 Broadway, Suite 401
Albany, New York 12207
Attention: A. Joseph Scott, III, Esq.

(D) Copies. A copy of any notice given hereunder by the Company which affects in any way a Taxing Entity shall also be given to the chief executive officer of such Taxing Entity.

(E) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.06. BINDING EFFECT. This Residential Payment in Lieu of Tax Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Residential Payment in Lieu of Tax Agreement are intended to be for the benefit of the Agency and the respective Taxing Entities.

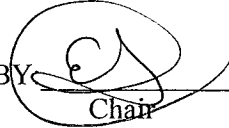
SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Residential Payment in Lieu of Tax Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Residential Payment in Lieu of Tax Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. COUNTERPARTS. This Residential Payment in Lieu of Tax Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.09. APPLICABLE LAW. This Residential Payment in Lieu of Tax Agreement shall be governed by and construed in accordance with the laws of the State of New York

IN WITNESS WHEREOF, the Agency and the Company have caused this Residential Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY:  _____
Chair

CLINTON AVENUE APARTMENTS II LLC,
a New York limited liability company

By: Clinton Avenue Apartments II MM LLC,
a New York limited liability company
its managing member

By: Home Leasing, LLC, its managing member

By: _____
Adam Driscoll, Authorized Signatory

CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION,
a New York not-for-profit corporation

By: _____
Adam Driscoll, Authorized Signatory

IN WITNESS WHEREOF, the Agency and the Company have caused this Residential Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

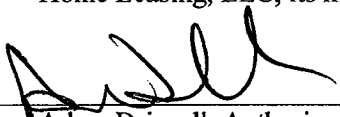
CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Chair

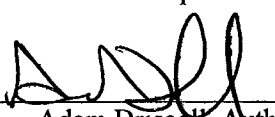
CLINTON AVENUE APARTMENTS II LLC,
a New York limited liability company

By: Clinton Avenue Apartments II MM LLC,
a New York limited liability company
its managing member

By: Home Leasing, LLC, its managing member

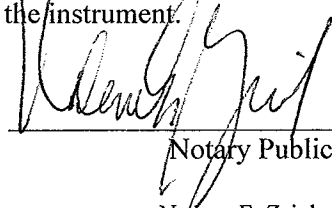
By: 
Adam Driscoll, Authorized Signatory

CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION,
a New York not-for-profit corporation

By: 
Adam Driscoll, Authorized Signatory

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

On the 24th day of January, in the year 2023, before me, the undersigned, personally appeared ELIZABETH STAUBACH, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

Nadene E. Zeigler
Notary Public, State of New York
Qualified in Albany County
No. 02ZE5050898
Commission Expires October 23, 2025

STATE OF NEW YORK)
COUNTY OF Monroe)ss:

On the 25th day of January, in the year 2023, before me, the undersigned, personally appeared Adam Driscoll, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Margo L. Brownlie
Notary Public

MARGO L. BROWNLIE
Notary Public – State of New York
No. 01BR6198921
Qualified in Monroe County
Commission Expires: January 5, 2025

MARGO L. BROWNLIE
Notary Public – State of New York
No. 01BR6198921
Qualified in Monroe County
Commission Expires: January 5, 2025

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

A leasehold interest created by a certain lease to agency dated as of January 1, 2023 (the "Lease to Agency") between Clinton Avenue Apartments II LLC and Clinton Avenue Apartments II Housing Development Fund Corporation (collectively, the "Company"), as landlord, and City of Albany Industrial Development Agency (the "Agency"), as tenant, in multiple parcels of land (the "Leased Land") located at 78, 133, 163, 303, 307 and 236 Clinton Avenue (respectively Tax Map numbers: 65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, and 65.73-2-14.1) in the City of Albany, Albany County, New York, said Leased Land being more particularly described below), together with any improvements now or hereafter located on the Leased Land (the Leased Land and all such improvements being sometimes collectively referred to as the "Leased Premises"):

FEE SIMPLE AND BENEFICIAL INTEREST:

78 CLINTON AVE

Tax ID 65.82-3-30:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the southwesterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of James S. Waugaman as described in Liber 2595 at Page 1098, No.80 Clinton Avenue, to the northwest and the lands now or formerly of James S. Waugaman as described in Liber 2973 at Page 919, No.78 Clinton Avenue, the herein described parcel, to the southeast; said **POINT OF BEGINNING** being further located S.52°25'29"E., a distance of 213.12 feet from the intersection of the southwesterly bounds of Clinton Avenue with the southeasterly bounds of North Hawk Street

THENCE along the southwesterly bounds of Clinton Avenue, S.52°25'39"E., a distance of 17.85 feet to a point;

THENCE along the division line between the lands now or formerly of John J. Town as described in Liber 2610 at Page 539 to the southeast and the herein described parcel to the northwest, S.35°04'32"W., a distance of 85.02 feet to a point;

THENCE along the division line between the lands now or formerly of James S. Waugaman as described in Liber 2595 at Page 1098, No.113 Orange Street to the southwest and the herein described parcel to the northeast, N.52°25'29"W., a distance of 18.41 feet to a point;

THENCE along the first herein described division line, N.35°27'17"E., a distance of 85.00 feet to the **POINT OF BEGINNING**.

133 CLINTON AVE

Tax ID 65.82-2-46:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the northeasterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of Clinton Avenue Apartments Housing Development Fund Corp. as described in Instrument No.R2017-21360 to the northwest and the lands now or formerly of Albany County Land Bank Corporation to the southeast, the herein described parcel; said **POINT OF BEGINNING** being further located S.52°34'44"E., a distance of 221.60 feet as measured along the northeasterly bounds of Clinton Avenue from its intersection with the southeasterly bounds of Swan Street;

THENCE along the aforementioned division line, N.38°04'29"E., a distance of 110.00 feet to a point in the southwesterly bounds of Ludlow Alley;

THENCE along the southwesterly bounds of Ludlow Alley, S.52°34'44"E., a distance of 20.85 feet to a point;

THENCE along the division line between the lands now or formerly of LSF9 Master Participation Trust, U.S. Bank Trust, N.A. to the southeast and the herein described parcel to the northwest, S.38°04'29"W., a distance of 110.00 feet to a point in the northeasterly bounds of Clinton Avenue;

THENCE along the northeasterly bounds of Clinton Avenue, N.52°34'44"W., a distance of 20.85 feet to the **POINT OF BEGINNING**.

303 CLINTON AVE

Tax ID 65.73-1-32:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the northeasterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of Patroon Street Apartments Housing Development Fund as described in Liber 3034 at Page 907 to the southeast and the lands now or formerly of Albany County Land Bank Corporation as described in Instrument No.2017-4835 to the northwest, the herein described parcel; said **POINT OF BEGINNING** being further located, N.52°16'12"W., a distance of 254.15 feet as measured along the northeasterly bounds of Clinton Avenue from its intersection with the northwesterly bounds of Lark Street;

THENCE along the northeasterly bounds of Clinton Avenue, N.52°16'12"W., a distance of 19.00 feet to a point;

THENCE along the division line between the lands now or formerly of Clinton Revival Housing Development Fund Corp as described in Instrument No.R2017-21360 to the northwest and the herein described parcel to the southeast, N.37°28'22"E., a distance of 90.00 feet to a point;

THENCE running the following two (2) courses and distances along a gore area;

1. S.52°36'38"E, a distance of 2.00 feet to a point;
2. N.37°28'22"E., a distance of 50.00 feet to a point in Crandall Alley;

THENCE along the southwesterly bounds of Crandall Alley, S.52°16'12"E., a distance of 17.00 feet to a point;

THENCE along the first herein described division line, S.37°28'22"W., a distance of 140.00 feet to a point in the northeasterly bounds of Clinton Avenue, being the **POINT OF BEGINNING**.

307 CLINTON AVE

Tax ID 65.73-1-34:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the northeasterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of Clinton Revival Housing Development Fund Corp as described in Instrument No.R2017-21360 to the southeast and the lands now or formerly of Albany County Land Bank Corporation as described in Instrument No.2017-4835 to the northwest, the herein described parcel; said **POINT OF BEGINNING** being further located N.52°16'12"E., a distance of 292.15 feet as measured along the northeasterly bounds of Clinton Avenue from its intersection with the northwesterly bounds of Lark Street;

THENCE along the northeasterly bounds of Clinton Avenue, N.52°16'12"W., a distance of 19.00 feet to a point;

THENCE along the division line between the lands now or formerly of Luis & Saretha Sotomayor as described in Instrument No.R2017-13500, N.37°28'22"E., a distance of 140.00 feet to a point in the southwesterly bounds of Crandall Alley;

THENCE along the southwesterly bounds of Crandall Alley, S.52°16'12"E., a distance of 19.00 feet to a point;

THENCE along the first herein described division line S.37°28'22"W., a distance of 140.00 feet to a point in the northwesterly bounds of Clinton Avenue, being said **POINT OF BEGINNING**.

163 CLINTON AVE

Tax ID 65.81-1-22:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the northeasterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of Clinton Avenue Apartments L.P. as described in Instrument No.R2017-21360 to the southeast and the lands now or formerly of New Covenant Christian as described in Liber 367 at Page 140 to the northwest, the herein described parcel; said Point of Beginning being further located, N.52°16'51"W., a distance of 90.92 feet from the intersection of the northeasterly bounds of Clinton Avenue with its intersection with the northwesterly bounds of North Swan Street;

THENCE along the northeasterly bounds of Clinton Avenue, N.52°16'51"W., a distance of 109.86 feet to a point;

THENCE along the division line between the lands now or formerly of Christian Fiord as described in Liber 3002 at Page 446 to the northwest and the herein described parcel to the southeast, N.37°51'34"E., a distance of 123.00 feet to a point;

THENCE along the division line between the lands now or formerly of Swan Street Housing Development Fund as described in Liber 2799 at Page 301 to the northeast and northwest and the herein described parcel to the southwest and southeast the following two courses and distances:

1. S.52°16'51"E., a distance of 86.97 feet to a point;
2. N.37°45'09"E., a distance of 3.50 feet to a point,

THENCE along the lands now or formerly of James B. Lanni as described in Liber 3009 at Page 485 to the northwest and the herein described parcel to the southwest, S.52°16'51"E., a distance of 22.66 feet to a point;

THENCE along the division line between the lands now or formerly of James B. Lanni as described in Liber 3009 at Page 485, the lands now or formerly of Albany Community Development Agency as described in Liber 2760 at Page 874 and the lands now or formerly of Clinton Avenue Apartments L.P. as described in Instrument No.R2017-21360 to the southeast and the herein described parcel to the northwest, S.37°45'09"W., a distance of 126.50 feet to a point in the northwesterly bounds of Clinton Avenue, being the **POINT OF BEGINNING**.

236 CLINTON AVE

Tax ID 65.73-2-14.1:

All that parcel of land situate in the City of Albany, County of Albany, and State of New York being more particularly bounded and described as follows:

BEGINNING at a point in the southwesterly bounds of Clinton Avenue at its intersection with the division line between the lands now or formerly of Thomas Hardie as described in Liber 2745 at Page 95 to the southeast and the lands now or formerly of Albany Center for Economic Success as described in Liber 2482 at Page 763 to the northwest; said **POINT OF BEGINNING** being further located N.39°06'32"W., a distance of 132.53 feet from the intersection of the northwesterly bounds of Dove Street with the southeasterly bounds of Clinton Avenue;

THENCE along the aforementioned division line, S.50°53'28"W., a distance of 76.10 feet to a point;

THENCE along the division line between the lands now or formerly of Albany Center for Economic Success as described in Liber 2482 at Page 763, No.255 Orange Street to the southwest, southeast, and southwest and the herein described parcel to the northeast, northwest and northeast the following three (3) courses and distances:

1. N.39°06'32"W., a distance of 49.00 feet to a point;
2. S.50°53'28"W., a distance of 23.90 feet to a point;
3. N. 39°06'32"W., a distance of 171.00 feet to a point;

THENCE along the division line between the lands now or formerly of Kiri Roberts as described in Instrument No.R2017-207 to the northwest and the herein described parcel to the southeast, N.50°53'28"E., a distance of 100.00 feet to a point in the southwesterly bounds of Clinton Avenue;

THENCE along the southwesterly bounds of Clinton Avenue, S.39°06'32"E., a distance of 220.00 feet to the **POINT OF BEGINNING**.

INSURED EASEMENT AND BENEFICIAL INTEREST:

255 & 281 ORANGE ST

Tax ID 65.73-2-14.2 and 96.73-2-19.2:

Together with all rights of the insured in and to the Easement Agreement, made by Albany Center for Economic Success, Inc., to Clinton Avenue Apartments II Housing Development Fund Corporation, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law of the State of New York and Section 402 of the New York Not-For-Profit Corporation Law, as nominee for Clinton Avenue Apartments II LLC, as beneficial owner, dated as of January 25, 2023, and intended to be recorded on even date herewith, burdening the premises described as follows:

BEGINNING at a point in the northeasterly bounds of Orange Street at its intersection with the division line between the lands now or formerly of Albany Center For Economic Success, Inc. as described in Instrument 2017-4835 to the southeast, No.281 Orange Street, and the lands now or formerly of Colin McCoy, No.283 Orange Street, to the northwest; said point being further located a distance of 376.53 feet from the intersection of the northeasterly bounds of Orange Street with the northwesterly bounds of Dove Street;

THENCE along the aforementioned division line, N.50°57'53"E., a distance of 85.50 feet to a point;

THENCE along the division line between the lands now or formerly of Albany Center For Economic Success, INC. as described in Instrument 2017-4835 to the southwest and the lands now or formerly of Kiri Roberts as described in Instrument No.R2017-207 to the northwest, S.39°06'32"E., a distance of 23.89 feet to a point;

THENCE along the division line between the lands now or formerly of Albany Center for Economic Success as described in Liber 2482 at Page 763 to the southeast, northeast, northwest and northeast and the herein described parcel to the northwest, southwest, southeast, and southwest the following four (4) courses and distances:

1. S.50°53'28"W., a distance of 13.50 feet to a point;
2. S.39°06'32"E., a distance of 171.00 feet to a point;
3. N.50°53'28"E., a distance of 23.90 feet to a point;
4. S.39°06'32"E., a distance of 49.00 feet to a point;

THENCE along the division line between the lands now or formerly of Thomas Hardie as described in Liber 2745 at Page 95 to the southeast and the herein described parcel to the northwest, S.50°53'28"W., a distance of 10.52 feet to a point on the face of a two (2) story brick building located on No.255 Orange Street;

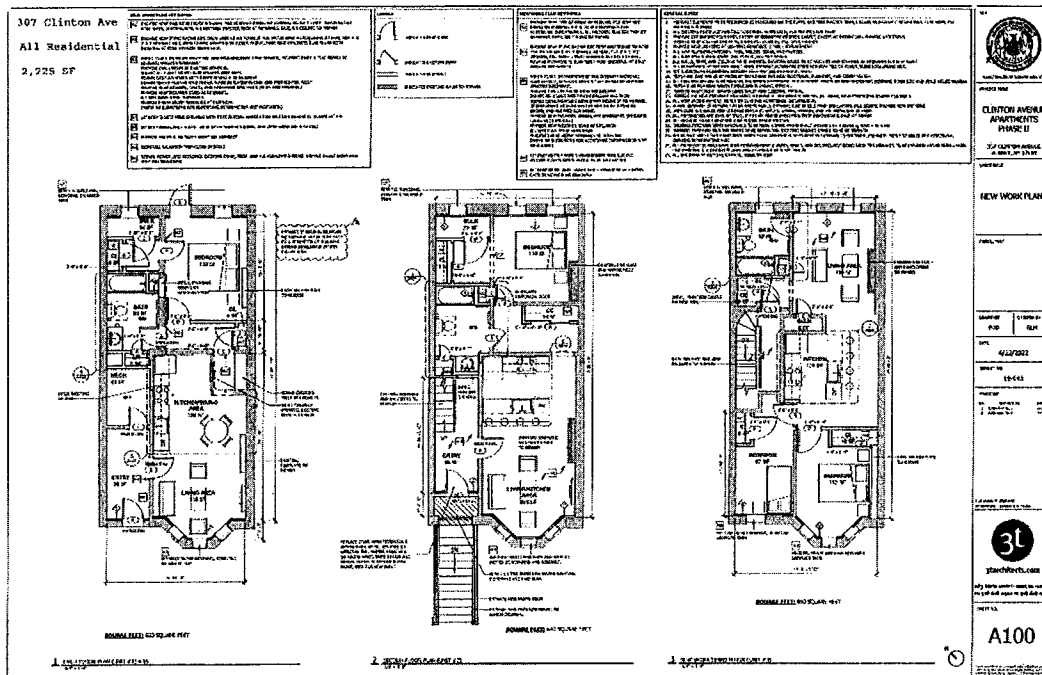
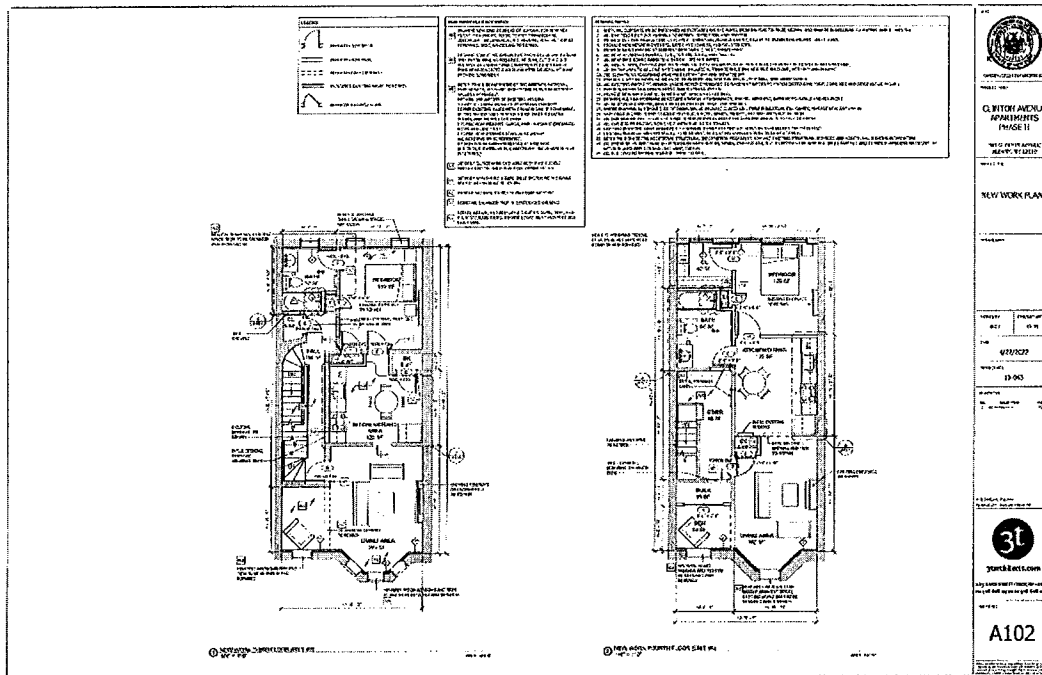
THENCE through the lands now or formerly of Albany Center For Economic Success, INC. as described in Liber 2482 at Page 763 and along the face of a two (2) story brick building located on No.255 Orange Street the following four (4) courses and distances:

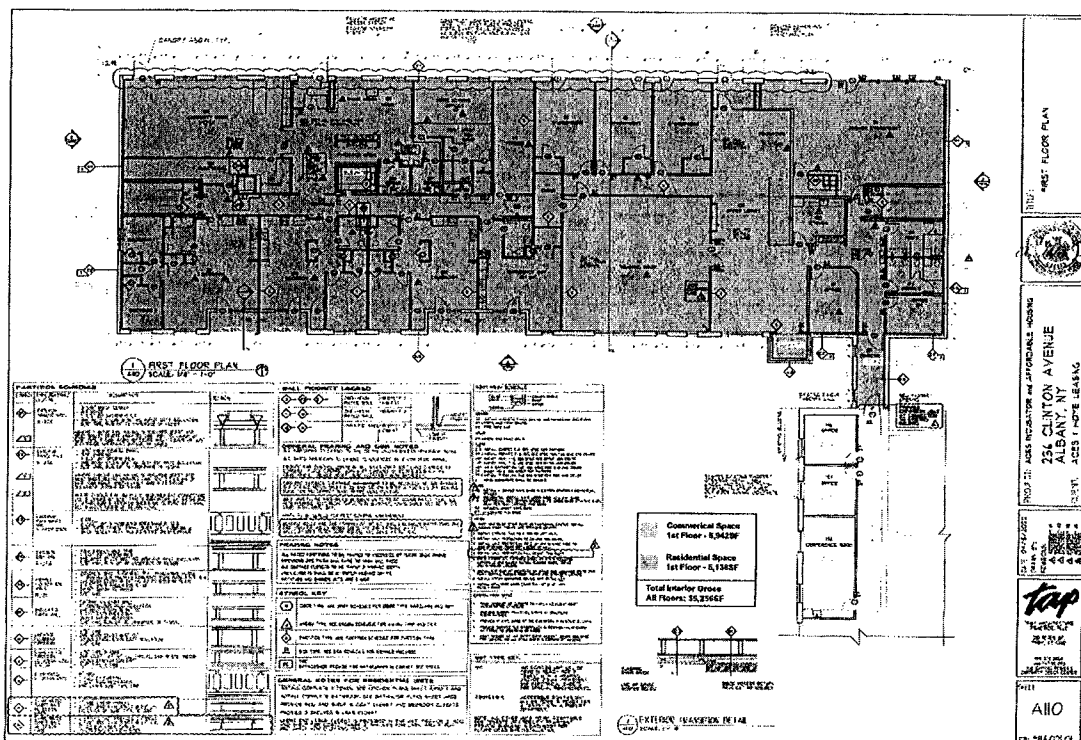
1. N.39°06'32"W., a distance of 21.72 feet to a point;
2. N.50°53'28"E., a distance of 5.17 feet to a point;
3. N.39°29'42"W., a distance of 22.00 feet to a point;
4. S.50°53'37"W., a distance of 90.41 feet to a point in the northeasterly bounds of Orange Street;

THENCE along the northeasterly bounds of Orange Street N.39°06'32"W., a distance of 200.28 feet to the **POINT OF BEGINNING**.

The Leased Land will consist of an approximately 78,006 square foot-61 unit residential apartment building, of which approximately 12,320 square feet will consist of commercial/retail space (the "Commercial Space"). The remaining 55,686 square feet will consist of the residential space (the "Residential Space"). The Residential Payment in Lieu of Tax Agreement covers the Residential Space which is more particularly described in the attached floor plan.

- SEE ATTACHED -





CLOSING ITEM NO.: A-6 (B)

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

AND

CLINTON AVENUE APARTMENTS II LLC AND CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION

COMMERCIAL PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF JANUARY 1, 2023

RELATING TO THE PREMISES LOCATED AT 78, 133, 163, 303, 307
AND 236 CLINTON AVENUE (RESPECTIVELY TAX MAP NUMBERS:
65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, AND 65.73-2-
14.1) IN THE CITY OF ALBANY, ALBANY COUNTY, NEW YORK.

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COMMERCIAL PAYMENT IN LIEU OF TAX AGREEMENT

THIS COMMERCIAL PAYMENT IN LIEU OF TAX AGREEMENT dated as of January 1, 2023 (the “Commercial Payment in Lieu of Tax Agreement”) by and between CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (the “Agency”), and CLINTON AVENUE APARTMENTS II LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 700 Clinton Square, Rochester, New York and CLINTON AVENUE APARTMENTS II HOUSING DEVELOPMENT FUND CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 75 S. Clinton Avenue, Suite 700, Rochester, New York (collectively, the “Company”);

W I T N E S S E T H :

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “Enabling Act”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “State”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 325 of the Laws of 1974 of the State (collectively, with the Enabling Act, the “Act”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, in August, 2020, Home Leasing, LLC (the “Original Company”), a limited liability company duly organized and validly existing under the laws of the State of New York, presented an application (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Original Company, said Project to include the following: (A) (1) the acquisition of an interest in approximately 6 parcels of land totaling approximately one (1) acre located at 78, 133, 163, 303, 307 and 236 Clinton Avenue (respectively Tax Map numbers: 65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, and 65.73-2-14.1) in the City of Albany, Albany County, New York (collectively, the “Land”) together with approximately four buildings located thereon (collectively, the “Existing Facility”), (2) the renovation of the Existing Facility, (3) the construction of a 3-story mixed use building on the Land (the “New Facility” and collectively with the Existing Facility, the “Facility”), and (4) the acquisition and installation therein and thereon of certain

machinery, equipment and other personal property (collectively, the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); all of the foregoing to be owned by the Original Company and operated as an approximately 61 unit residential apartment buildings, with approximately 12,320 square feet of commercial/retail space and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Original Company or such other person as may be designated by the Original Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on December 17, 2020 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on December 29, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on December 29, 2020 on a public bulletin board located at City Hall in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on December 31, 2020 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) as a result of the ban on large meetings or gatherings pursuant to Executive Order 202.1, as supplemented, and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, as supplemented, each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, conducted the Public Hearing on January 13, 2021 at 12:00 o’clock p.m. local time, electronically via conference call rather than in person, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on January 21, 2021 (the “SEQR Resolution”), the Agency (A) concurred in the determination that the City of Albany Planning Board (the “Planning Board”) is the “lead agency” with respect to the New Facility portion of the Project, (B) acknowledged receipt of a negative declaration from the Planning Board issued on August 11, 2020 (the “Negative Declaration”), in which the Planning Board determined that the New Facility portion of the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the New Facility portion of the Project, and (C) determined that the Existing Facility portion of the Project Facility is a “Type II Action” under SEQRA and that no further action with respect to the Existing Facility portion of the Project Facility is needed; and

WHEREAS, by further resolution adopted by the members of the Agency on January 21, 2021 (the “Commercial/Retail Finding Resolution”), the Agency (A) determined that the Project constituted a “commercial project” within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of

the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York and (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the Mayor of City of Albany, as chief executive officer of City of Albany, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on January 21, 2021 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Agency's uniform tax exemption policy with respect to the Project; and

WHEREAS, pursuant to the Pilot Request, the Agency will enter into two (2) separate payment in lieu of tax agreements, each payment in lieu of tax agreement attributable to the residential portion of the Project and the commercial portion of the Project. The residential portion of the Project (the "Residential Project") will consist of the 61 unit residential apartments within the Facility (the "Residential Facility") and the acquisition and installation of the portion of the Equipment attributable to the Residential Facility (the "Residential Equipment" and collectively with the Land and the Residential Facility, the "Residential Project Facility"). The commercial portion of the Project (the "Commercial Project") will consist of the approximately 12,320 square feet of the leaseable commercial space within the Facility (the "Commercial Facility") and the acquisition and installation therein and thereon of the portion of the Equipment attributable to the Commercial Facility (the "Commercial Equipment" and collectively with the Land and the Commercial Facility, the "Commercial Project Facility"); and

WHEREAS, pursuant to a resolution adopted by the members of the Agency on January 21, 2021 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of January 1, 2023 (the "Lease Agreement") between the Agency and the Original Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Original Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Original Company. The Lease Agreement grants to the Original Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, by certificate dated April 5, 2021 (the "Public Approval"), the Mayor, as chief executive officer of the City of Albany, New York, confirmed the proposed action to be taken by the Agency with respect to the Project for the purposes of Section 862(2)(c) of the Act; and

WHEREAS, by resolution adopted by the members of the Agency on January 20, 2022 (the "Resolution Approving the Extension of Approving Resolution"), the Agency determined to extend the expiration date of the Approving Resolution from January 21, 2022 to August 21, 2022; and

WHEREAS, by resolution adopted by the members of the Agency on August 18, 2022 (the "Resolution Approving the Second Extension of Approving Resolution and Designation of the Company"), the Agency determined to (A) extend the expiration date of the Approving Resolution from August 21, 2022 to December 21, 2022 and (B) designate Clinton Avenue Apartments II LLC ("Clinton II") as the Company; and

WHEREAS, by resolution adopted by the members of the Agency on December 15, 2022 (the "Resolution Approving the Third Extension of Approving Resolution"), the Agency determined to extend

the expiration date of the Approving Resolution, as amended, from December 21, 2022 to February 28, 2023; and

WHEREAS, the Agency has been requested to add Clinton Avenue Apartments II Housing Development Fund Corporation, a New York State not-for-profit corporation ("HDFC"), as a party to the Project (Clinton II and HDFC being referred to as the "Company"); and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of January 1, 2023 (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); and (2) a certain license agreement dated as of January 1, 2023 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; (B) the Company and the Agency will execute and deliver (1) certain payment in lieu of tax agreements dated as of January 1, 2023 (collectively, the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, and (2) a certain uniform agency project agreement dated as of January 1, 2023 (the "Uniform Agency Project Agreement") relating to the granting of the Financial Assistance by the Agency to the Company; and (C) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), upon the filing by the Agency of the Real Property Tax Exemption Form, the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, pursuant to the provisions of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of taxes with respect to the Project Facility in an amount equivalent to normal taxes, provided that, so long as this Commercial Payment in Lieu of Tax Agreement shall be in effect, the Company shall during the term of this Commercial Payment in Lieu of Tax Agreement make payments in lieu of taxes in the amounts and in the manner provided in this Commercial Payment in Lieu of Tax Agreement, and during such period the provisions of Section 6.6 of the Lease Agreement shall not control the amounts due as Commercial Payment in lieu of taxes with respect to that portion of the Project Facility which is covered by this Commercial Payment in Lieu of Tax Agreement; and

WHEREAS, all things necessary to constitute this Commercial Payment in Lieu of Tax Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Commercial Payment in Lieu of Tax Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I
REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into the transactions contemplated by this Commercial Payment in Lieu of Tax Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement hereunder.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Commercial Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement. By proper corporate action on the part of its Members, the Agency has duly authorized the execution, delivery and performance of this Commercial Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Commercial Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 1.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. Clinton II is a limited liability company and HDFC is a not-for-profit corporation, both, are duly organized and validly existing under the laws of the State of New York, are duly authorized to do business in the State of New York and have the power under the laws of the State to enter into this Commercial Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on their part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement, and by proper action of their members and board of directors have been duly authorized to execute, deliver and perform this Commercial Payment in Lieu of Tax Agreement.

(B) Authorization. The Company is authorized and has the power under its operating documents and the laws of the State to enter into this Commercial Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement. By proper action of its members and board of directors, the Company has duly authorized the execution, delivery and performance of this Commercial Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Commercial Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement by (and the execution, delivery and performance of this Commercial Payment in Lieu of Tax Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Commercial Payment in Lieu of Tax Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its governing corporate documents or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Commercial Payment in Lieu of Tax Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Commercial Payment in Lieu of Tax Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Commercial Payment in Lieu of Tax Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Commercial Payment in Lieu of Tax Agreement by the Company or as a condition to the validity of this Commercial Payment in Lieu of Tax Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. TAX-EXEMPT STATUS OF THE COMMERCIAL PROJECT FACILITY. (A) Assessment of the Commercial Project Facility. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of a leasehold interest in the Commercial Project Facility by the Agency and the filing by the Agency of a New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Commercial Project Facility, and for so long thereafter as the Agency shall own a leasehold interest in the Commercial Project Facility, the Commercial Project Facility shall be assessed by the various taxing entities having jurisdiction over the Commercial Project Facility, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Commercial Project Facility is located (such taxing entities being sometimes collectively hereinafter referred to as the "Taxing Entities", and each of such Taxing Entities being sometimes individually hereinafter referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of the leasehold interest to the Commercial Project Facility created by the Underlying Lease and the filing of the Real Property Tax Exemption Forms. The Company shall, promptly following acquisition by the Agency of the leasehold interest to the Commercial Project Facility created by the Underlying Lease, take such action as may be necessary to ensure that the Commercial Project Facility shall be assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Agency, including ensuring that a Real Property Tax Exemption Form shall be filed with the appropriate officer or officers of each respective Taxing Entity responsible for assessing properties on behalf of each such Taxing Entity (each such officer being hereinafter referred to as an "Assessor"). For so long thereafter as the Agency shall own such leasehold interest in the Commercial Project Facility, the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Entity. The parties hereto understand that the Commercial Project Facility shall not be entitled to such tax-exempt status on the tax rolls of any Taxing Entity until the first tax year of such Taxing Entity following the tax status date of such Taxing Entity occurring subsequent to the date upon which the Agency becomes the owner of record of such leasehold interest in the Commercial Project Facility and the Real Property Tax Exemption Forms are filed with the Assessors. Pursuant to the provisions of the Lease Agreement, the Company will be required to pay all taxes and assessments lawfully levied and/or assessed against the Commercial Project Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Commercial Project Facility shall be entitled to exempt status on the tax rolls of the respective Taxing Entities. The Agency will cooperate with the Company to obtain and preserve the tax-exempt status of the Commercial Project Facility.

(B) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Commercial Project Facility.

SECTION 2.02. PAYMENTS IN LIEU OF TAXES. (A) Agreement to Make Payments. The Company agrees that it shall make annual payments in lieu of property taxes in the amounts hereinafter provided to the respective Taxing Entities entitled to receive same pursuant to the provisions hereof. The Company also agrees to give the Assessors a copy of this Commercial Payment in Lieu of Tax Agreement. The payments due hereunder shall be paid by the Company to the respective appropriate officer or officers of the respective Taxing Entities charged with receiving payments of taxes for such Taxing Entities (such officers being collectively hereinafter referred to as the "Receivers of Taxes") for distribution by the

Receivers of Taxes to the appropriate Taxing Entities entitled to receive same pursuant to the provisions hereof.

(B) Valuation of the Commercial Project Facility. (1) The value of the Commercial Project Facility for purposes of determining payments in lieu of taxes due hereunder (hereinafter referred to as the "Assessed Value") shall be determined by the appropriate Assessors. The Company agrees to give the Assessors a copy of this Commercial Payment in Lieu of Tax Agreement. The parties hereto agree that the Assessors shall (a) appraise the Land in the same manner as other similar properties in the general area of the Land, (b) place an Assessed Value upon the Land, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes, (c) appraise the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively with the Facility, the "Improvements") in the same manner as other similar properties in the general area of the Improvements, and (d) place an Assessed Value upon the Improvements, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial determination of the Assessed Value of the Improvements and of any change in the Assessed Value of the Land or the Improvements.

(2) If the Company is dissatisfied with the amount of the Assessed Value of the Commercial Project Facility as initially established or as changed, the Company shall be entitled to challenge the Assessed Value in accordance with the terms and conditions contained in Article 7 of the Real Property Tax Law. The Company shall be entitled to take any actions under Article 7 of the Real Property Tax Law notwithstanding the fact that the Agency has an interest in the Land pursuant to the Lease to Agency.

(3) Any payments in lieu of taxes due upon such Commercial Project Facility pursuant to Section 2.02(C) hereof may not be withheld by the Company pending determination of the Assessed Value.

(C) Amount of Payments in Lieu of Taxes. The payments in lieu of taxes to be paid by the Company to the Receivers of Taxes annually on behalf of each Taxing Entity pursuant to the terms of this Commercial Payment in Lieu of Tax Agreement shall be the amount computed separately for each Taxing Entity as set forth in Exhibit B attached hereto.

(D) Additional Amounts in Lieu of Taxes. Commencing on the first tax year following the date on which any structural addition shall be made to the Commercial Project Facility or any portion thereof or any additional building or other structure shall be constructed on the Land (such structural additions and additional buildings and other structures being hereinafter referred to as "Additional Facilities") the Company agrees to make additional annual payments in lieu of property taxes with respect to such Additional Facilities (such additional payments being hereinafter collectively referred to as "Additional Payments") to the Receivers of Taxes with respect to such Additional Facilities, such Additional Payments to be computed separately for each Taxing Entity as follows:

(1) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Additional Normal Tax") which would be payable to each Taxing Entity with respect to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency as follows: (a) multiply the Additional Assessed Value (as hereinafter defined) of such Additional Facilities determined pursuant to subsection (E) of this Section 2.02 by (b) the tax rate or rates of such Taxing Entity that would be applicable to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency, and (c) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were owned by the Company and not the Agency.

(2) In each fiscal tax year during the term of this Commercial Payment in Lieu of Tax Agreement (commencing in the fiscal tax year when such Additional Facilities would first appear on the assessment roll of any Taxing Entity) if such Additional Facilities were owned by the Company and not the Agency, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax with respect to such Additional Facilities pursuant to this Commercial Payment in Lieu of Tax Agreement shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to such Additional Facilities for such fiscal tax year (unless the Agency and the Company shall enter into a separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement shall control).

(E) Valuation of Additional Facilities. (1) The value of Additional Facilities for purposes of determining payments in lieu of taxes due under Section 2.02(D) hereof shall be determined by the Assessors of each respective Taxing Entity. The parties hereto agree that the Assessors shall (a) appraise the Additional Facilities in the same manner as other similar properties in the general area of the Commercial Project Facility, and (b) place a value for assessment purposes (hereinafter referred to as the "Additional Assessed Value") upon the Additional Facilities, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial establishment of such Additional Assessed Value and of any change in such Additional Assessed Value.

(2) If the Company is dissatisfied with the amount of the Additional Assessed Value of the Additional Facilities as initially established or as changed, the Company shall be entitled to challenge the Additional Assessed Value in accordance with the terms and conditions contained in Article 7 of the Real Property Tax Law. The Company shall be entitled to take any actions under Article 7 of the Real Property Tax Law notwithstanding the fact that the Agency has an interest in the Land pursuant to the Lease to Agency.

(F) Statements. Pursuant to Section 858(15) of the Act, the Agency agrees to give each Taxing Entity a copy of this Commercial Payment in Lieu of Tax Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy hereof be given to the appropriate officer or officers of the respective Taxing Entities responsible for preparing the tax rolls for said Tax Entities (each, a "Tax Billing Officer") and a request that said Tax Billing Officers submit to the Company and to the appropriate Receiver of Taxes periodic statements specifying the amount and due date or dates of the payments due each Taxing Entity hereunder, such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such Taxing Entities.

(G) Time of Payments. The Company agrees to pay the amounts due hereunder to the Receivers of Taxes for the benefit of each particular Taxing Entity in any fiscal tax year to the appropriate Receiver of Taxes within the period that such Taxing Entity allows payment of taxes levied in such fiscal tax year without penalty. The Company shall be entitled to receive receipts for such payments.

(H) Method of Payment. All payments by the Company hereunder shall be paid to the Receivers of Taxes in lawful money of the United States of America. The Receivers of Taxes shall in turn distribute the amounts so paid to the various Taxing Entities entitled to same.

SECTION 2.03. CREDIT FOR TAXES PAID. (A) Amount of Credit. The parties hereto acknowledge and agree that the obligation of the Company to make the payments provided in Section 2.02 of this Commercial Payment in Lieu of Tax Agreement shall be in addition to any and all other taxes and governmental charges of any kind whatsoever which the Company may be required to pay under the Lease Agreement. It is

understood and agreed, however, that, should the Company pay in any fiscal tax year to any Taxing Entity any amounts in the nature of general property taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Commercial Project Facility or the interest therein of the Company or the occupancy thereof by the Company (but not including, by way of example, (1) sales and use taxes, and (2) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including but not limited to water, solid waste, sewage treatment or sewer or other rents, rates or charges), then the Company's obligation to make payments in lieu of property taxes attributed to such fiscal tax year to such Taxing Entity hereunder shall be reduced by the amounts which the Company shall have so paid to such Taxing Entity in such fiscal tax year, but there shall be no cumulative or retroactive credit as to any payment in lieu of property taxes due to any other Taxing Entity or as to any payment in lieu of property taxes due to such Taxing Entity in any other fiscal tax year.

(B) Method of Claiming Credits. If the Company desires to claim a credit against any particular payment in lieu of tax due hereunder, the Company shall give the governing body of the affected Taxing Entity and the Agency prior written notice of its intention to claim any credit pursuant to the provision of this Section 2.03, said notice to be given by the Company at least thirty (30) days prior to the date on which such payment in lieu of tax is due pursuant to the provisions of Section 2.02(G) hereof. In the event that the governing body of the appropriate Taxing Entity desires to contest the Company's right to claim such credit, then said governing body, the Agency and the Company shall each select an arbitrator in accordance with the rules of the American Arbitration Association, each of whom shall meet the qualifications set forth in Section 2.02(B) hereof, which arbitrators shall, at the sole cost and expense of the Company, determine whether the Company is entitled to claim any credit pursuant to the provisions of this Section 2.03 and, if so, the amount of the credit to which the Company is entitled. It is understood that the arbitrators are empowered to confirm the amount of the credit claimed by the Company or to determine a lower or higher credit. When the Company shall have given notice, as provided herein, that it claims a credit, the amount of any payment in lieu of property taxes due hereunder against which the credit may be claimed may be withheld (to the extent of the credit claimed by the Company, but only to the extent that such credit may be claimed against said payment in lieu of taxes pursuant to the provisions of this Section 2.03) until the decision of the arbitrators is rendered. After the decision of the arbitrators is rendered, the payment in lieu of taxes due with respect to any reduction or disallowance by the arbitrators in the amount of the credit claimed by the Company shall, to the extent withheld as aforesaid, be immediately due and payable and shall be paid by the Company within thirty (30) days of said decision.

SECTION 2.04. LATE PAYMENTS. (A) First Month. Pursuant to Section 874(5) of the Act, if the Company shall fail to make any payment required by this Commercial Payment in Lieu of Tax Agreement when due, the Company shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Commercial Payment in Lieu of Tax Agreement when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the affected Taxing Entity until such payment in default shall have been made in full, and the Company shall pay the same to the affected Taxing Entity together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

ARTICLE III
LIMITED OBLIGATION

SECTION 3.01.NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY. (A) No Recourse. All obligations, covenants, and agreements of the Agency contained in this Commercial Payment in Lieu of Tax Agreement shall be deemed to be the obligations, covenants, and agreements of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Commercial Payment in Lieu of Tax Agreement, or otherwise based upon or in respect of this Commercial Payment in Lieu of Tax Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Commercial Payment in Lieu of Tax Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Commercial Payment in Lieu of Tax Agreement, it being expressly understood that this Commercial Payment in Lieu of Tax Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Commercial Payment in Lieu of Tax Agreement under or by reason of the obligations, covenants or agreements contained in this Commercial Payment in Lieu of Tax Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Commercial Payment in Lieu of Tax Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Commercial Payment in Lieu of Tax Agreement by the Agency.

(B) Limited Obligation. The obligations, covenants and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the City of Albany, New York, and neither the State of New York nor the City of Albany, New York shall be liable thereon, and further such obligations, covenants and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Commercial Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation. Notwithstanding any provision of this Commercial Payment in Lieu of Tax Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company to defend and hold harmless the Agency satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Commercial Payment in Lieu of Tax Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Commercial Payment in Lieu of Tax Agreement, any one or more of the following events:

(A) Failure of the Company to pay when due any amount due and payable by the Company pursuant to this Commercial Payment in Lieu of Tax Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period and if the Company shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as the Company shall require in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days in the aggregate from the date of default; or

(C) Any warranty, representation or other statement by or on behalf of the Company contained in this Commercial Payment in Lieu of Tax Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Commercial Payment in Lieu of Tax Agreement and (1) shall be materially adverse to the Agency at the time when the notice referred to below shall have been given to the Company and (2) if curable, shall not have been cured within thirty (30) days after written notice of such incorrectness shall have been given to a responsible officer of the Company, provided that if such incorrectness cannot reasonably be cured within said thirty-day period and the Company shall have commenced action to cure the incorrectness within said thirty-day period and, thereafter, diligently and expeditiously proceeds to cure the same, such thirty-day period shall be extended for so long as the Company shall require, in the exercise of due diligence, to cure such default.

SECTION 4.02. REMEDIES ON DEFAULT. (A) General. Whenever any Event of Default shall have occurred with respect to this Commercial Payment in Lieu of Tax Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Taxing Entity, then with respect to such Event of Default such Taxing Entity) may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Commercial Payment in Lieu of Tax Agreement. Upon termination of the Underlying Lease, this Commercial Payment in Lieu of Tax Agreement shall be terminated.

(B) Cross-Default. In addition, an Event of Default hereunder shall constitute an event of default under Article X of the Lease Agreement. Upon the occurrence of an Event of Default hereunder resulting from a failure of the Company to make any payment required hereunder, the Agency shall have, as a remedy therefor under the Lease Agreement, among other remedies, the right to terminate the Lease Agreement and convey the Commercial Project Facility to the Company, thus subjecting the Commercial Project Facility to immediate full taxation pursuant to Section 520 of the Real Property Tax Law of the State.

(C) Separate Suits. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(D) Venue. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Commercial Payment in Lieu of Tax Agreement may be brought in the courts of record of the State, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. Pursuant to Section 874(6) of the Act, if the Company should default in performing any of its obligations, covenants or agreements under this Commercial Payment in Lieu of Tax Agreement and the Agency or any Taxing Entity should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency or such Taxing Entity, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency or any Taxing Entity is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Commercial Payment in Lieu of Tax Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency or any Taxing Entity to exercise any remedy reserved to it in this Commercial Payment in Lieu of Tax Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Commercial Payment in Lieu of Tax Agreement.

(D) No Waiver. In the event any provision contained in this Commercial Payment in Lieu of Tax Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Commercial Payment in Lieu of Tax Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. (A) General. This Commercial Payment in Lieu of Tax Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the approval of this Commercial Payment in Lieu of Tax Agreement by resolution of the Agency and the execution and delivery of this Commercial Payment in Lieu of Tax Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Commercial Payment in Lieu of Tax Agreement shall continue to remain in effect until the earlier to occur of (1) December 31, 2039 or (2) the date on which the Commercial Project Facility is reconveyed by the Agency to the Company pursuant to Article X or Article XI of the Lease Agreement.

(B) Extended Term. In the event that (1) the Commercial Project Facility shall be reconveyed to the Company, (2) on the date on which the Company obtains the Agency's interest in the Commercial Project Facility, the Commercial Project Facility shall be assessed as exempt upon the assessment roll of any one or more of the Taxing Entities, and (3) the fact of obtaining title to the Agency's interest in the Commercial Project Facility shall not immediately obligate the Company to make pro-rata tax payments pursuant to legislation similar to Chapter 635 of the 1978 Laws of the State (codified as subsection 3 of Section 302 of the Real Property Tax Law and Section 520 of the Real Property Tax Law), this Commercial Payment in Lieu of Tax Agreement shall remain in full force and effect and the Company shall be obligated to make payments to the Receiver of Taxes in amounts equal to those amounts which would be due from the Company to the respective Taxing Entities if the Commercial Project Facility were owned by the Company and not the Agency until the first tax year in which the Company shall appear on the tax rolls of the various Taxing Entities having jurisdiction over the Commercial Project Facility as the legal owner of record of the Commercial Project Facility.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Commercial Payment in Lieu of Tax Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Commercial Payment in Lieu of Tax Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, properly addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Notices Given by Taxing Entities. Notwithstanding the foregoing, notices of assessment or reassessment of the Commercial Project Facility and other notices given by a Taxing Entity under Article

It hereof shall be sufficiently given and shall be deemed given when given by the Taxing Entity in the same manner in which similar notices are given to owners of taxable properties by such Taxing Entity.

(C) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

Clinton Avenue Apartments II LLC
700 Clinton Square
Rochester, New York 14604
Attention: Adam Driscoll, Owners Representative

AND

Clinton Avenue Apartments II Housing
Development Fund Corporation
75 S. Clinton Avenue, Suite 700
Rochester, New York 14604

WITH A COPY TO:

Nixon Peabody
1300 Clinton Square
Rochester, New York 14604
Attention: Matt Carrigg, Esq.

AND TO:

NEF Assignment Corporation
10 South Riverside Plaza, Suite 1700
Chicago, Illinois 60606
Attention: General Counsel

IF TO THE AGENCY:

City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207
Attention: Chair

WITH A COPY TO:

Office of the Corporation Counsel
City Hall, Eagle Street - Room 106
Albany, New York 12207
Attention: Marisa Franchini, Esq.

and

Hodgson Russ LLP
677 Broadway, Suite 401
Albany, New York 12207
Attention: A. Joseph Scott, III, Esq.

(D) Copies. A copy of any notice given hereunder by the Company which affects in any way a Taxing Entity shall also be given to the chief executive officer of such Taxing Entity.

(E) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.06. BINDING EFFECT. This Commercial Payment in Lieu of Tax Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Commercial Payment in Lieu of Tax Agreement are intended to be for the benefit of the Agency and the respective Taxing Entities.

SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Commercial Payment in Lieu of Tax Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Commercial Payment in Lieu of Tax Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. COUNTERPARTS. This Commercial Payment in Lieu of Tax Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.09. APPLICABLE LAW. This Commercial Payment in Lieu of Tax Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Company have caused this Commercial Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: 
Chair

CLINTON AVENUE APARTMENTS II LLC,
a New York limited liability company

By: Clinton Avenue Apartments II MM LLC,
a New York limited liability company
its managing member

By: Home Leasing, LLC, its managing member

By: _____
Adam Driscoll, Authorized Signatory

CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION,
a New York not-for-profit corporation

By: _____
Adam Driscoll, Authorized Signatory

IN WITNESS WHEREOF, the Agency and the Company have caused this Commercial Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.


CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Chair

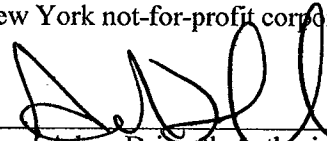
CLINTON AVENUE APARTMENTS II LLC,
a New York limited liability company

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a New York limited liability company
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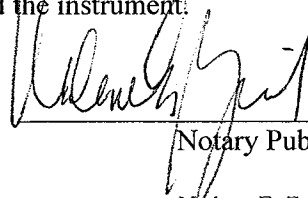
By: 
Adam Driscoll, Authorized Signatory

CLINTON AVENUE APARTMENTS II
HOUSING DEVELOPMENT FUND CORPORATION,
a New York not-for-profit corporation

By: 
Adam Driscoll, Authorized Signatory

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

On the 24th day of January, in the year 2023, before me, the undersigned, personally appeared ELIZABETH STAUBACH, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

Nadene E. Zeigler
Notary Public, State of New York
Qualified in Albany County
No. 02ZE5050898
Commission Expires October 23, 2025

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

On the 25th day of January, in the year 2023, before me, the undersigned, personally appeared Adam Driscoll, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Margo L. Brownlie
Notary Public

MARGO L. BROWNLIE
Notary Public – State of New York
No. 01BR6198921
Qualified in Monroe County
Commission Expires: January 5, 2025

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

The City of Albany Industrial Development Agency (the “Agency”) has a leasehold interest in approximately 6 parcels of land totaling approximately one (1) acre located at 78, 133, 163, 303, 307 and 236 Clinton Avenue (respectively Tax Map numbers: 65.82-3-30, 65.82-2-46, 65.81-1-22, 65.73-1-32, 65.73-1-34, and 65.73-2-14.1) in the City of Albany, Albany County, New York (the “Leased Land”) pursuant to a lease to agency dated as of January 1, 2023 (the “Underlying Lease”) by and between the Agency and Clinton Avenue Apartments II LLC and Clinton Avenue Apartments II LLC Housing Development Fund Corporation (collectively, the “Company”). The Leased Land will consist of an approximately 61 unit residential apartment building, of which approximately 12,320 square feet will consist of commercial/retail space (the “Commercial Space”). This Commercial Payment in Lieu of Tax Agreement covers the Commercial Space which is more particularly described in the attached floor plan and rendering.

- SEE ATTACHED -

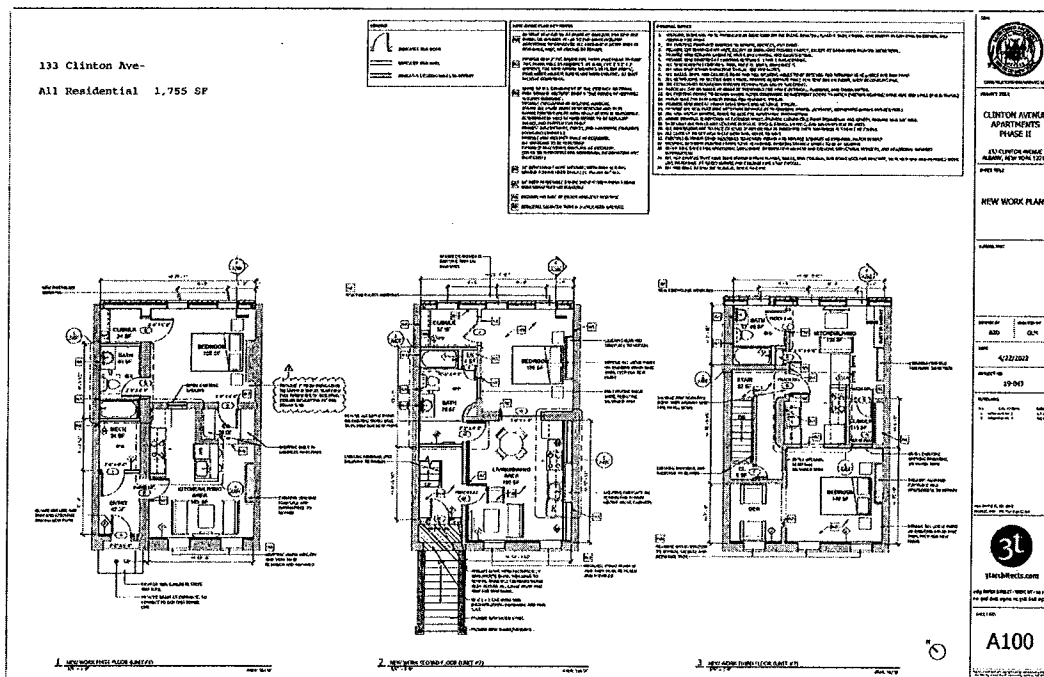
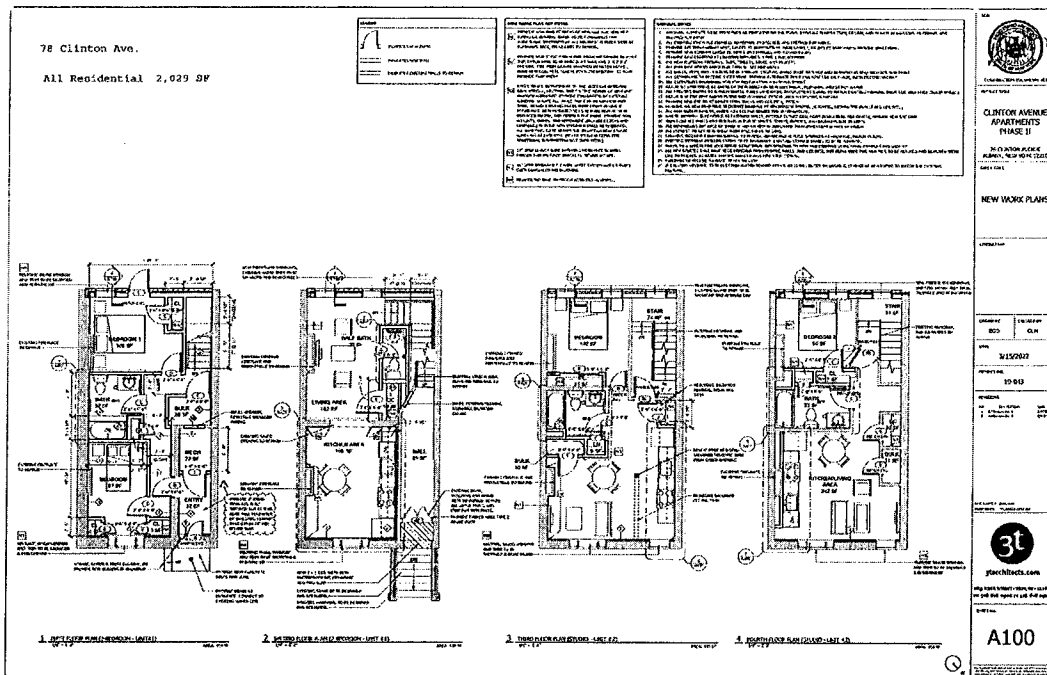


EXHIBIT B

PILOT PAYMENT TERMS

I. Background:

The Agency will enter into two (2) separate payment in lieu of tax agreements, each payment in lieu of tax agreement attributable to the residential portion of the Project and the commercial portion of the Project. The residential portion of the Project (the "Residential Project") will consist of the 61 unit residential apartments within the facility (the "Residential Facility") and the acquisition and installation of the portion of the Equipment attributable to the Residential Facility (the "Residential Equipment" and collectively with the Land and the Residential Facility, the "Residential Project Facility"). The commercial portion of the Project (the "Commercial Project") will consist of the approximately 12,320 square feet of the leaseable commercial space within the Facility (the "Commercial Facility") and the acquisition and installation therein and thereon of the portion of the Equipment attributable to the Commercial Facility (the "Commercial Equipment" and collectively with the Land and the Commercial Facility, the "Commercial Project Facility").

II. Assessed Value:

(A) The Assessed Value of the Commercial Project Facility shall consist of two components, the base Assessed Value (the "Project Base Assessed Value") and the additional Assessed Value (the "Project Improvements Assessed Value").

(B) The Project Base Assessed Value shall equal the value of the Land and Existing Facility prior to the undertaking of the Project. The Project Base Assessed Value shall be established pursuant to the terms of Section 2.02(B) of this Commercial Payment in Lieu of Tax Agreement.

(C) The Project Improvements Assessed Value shall equal the value of the Commercial Facility improved pursuant to the undertaking and completion of the Project (the "Improvements"). The Project Improvements Assessed Value shall be established pursuant to the terms of Section 2.02(B) of this Commercial Payment in Lieu of Tax Agreement.

(D) The parties hereto understand and agree that the Project Based Assessed Value and the Project Improvements Assessed Value shall change during the term of this Commercial Payment in Lieu of Tax Agreement as the Assessors appraise and re-appraise, as the case may be, the Commercial Project Facility during the term of this Commercial Payment in Lieu of Tax Agreement, as provided in Section 2.02(B) of this Commercial Payment in Lieu of Tax Agreement.

III. Amount of Payments in Lieu of Taxes:

(A) The amount of payments in lieu of taxes shall be the sum of the following: (1) the amount of payments in lieu of taxes payable with respect to the Land and Existing Facility based on the Project Base Assessed Value, and (2) the amount of payments in lieu of taxes payable with respect to the Improvements based on the Project Improvements Assessed Value.

(1) Payments - Project Base Assessed Value. (a) First, determine the amount of general taxes and general assessments (hereinafter referred to as the "Normal Tax") which would be payable to each Taxing Entity if the Land and the Existing Facility were owned by the Company and not the Agency by multiplying (i) the Project Base Assessed Value (as set forth in II(B) above) by (ii) the tax rate or rates of such Taxing Entity that would be applicable to the

Land and the Existing Facility if the Land and the Existing Facility were owned by the Company and not the Agency.

(b) Then, in each tax year during the term of this Commercial Payment in Lieu of Tax Agreement, commencing on the first tax year following the date on which the Land and the Commercial Facility shall be assessed as exempt on the assessment roll of any Taxing Entity, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a Commercial Payment in Lieu of property tax pursuant to this Commercial Payment in Lieu of Tax Agreement with respect to the Land and the Existing Facility shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to the Land and the Existing Facility for such tax year.

(2) Payments - Project Improvements Assessed Value. (a) First, determine the Normal Tax which would be payable to each Taxing Entity if the Improvements were owned by the Company and not the Agency by multiplying (i) the Project Improvements Assessed Value determined pursuant to Section 2.02(B) of this Commercial Payment in Lieu of Tax Agreement, by (ii) the tax rate or rates of such Taxing Entity that would be applicable to the Improvements if the Improvements were owned by the Company and not the Agency.

(b) Then, in each tax year during the term of this Commercial Payment in Lieu of Tax Agreement, commencing on the first tax year following the date on which the Improvements shall be assessed as exempt on the assessment roll of any Taxing Entity, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax pursuant to this Commercial Payment in Lieu of Tax Agreement with respect to the Improvements shall be the product of: (i) the amount set forth in Section III(A)(2)(a) above and (ii) the applicable percentage of the Normal Tax due each Taxing Entity with respect to the Improvements for such tax year, as shown in the following table:

<u>Tax Year Commencing in Calendar Year</u>	<u>County/ City Percentage of Normal Tax on Assessed Value of the Improvements</u>	<u>School Percentage of Normal Tax on Assessed Value of the Improvements</u>
2023	100%	100%
2024	100%	0%
2025	0%	0%
2026	0%	0%
2027	0%	0%
2028	0%	0%
2029	0%	25%
2030	25%	25%
2031	25%	25%
2032	25%	25%
2033	25%	25%
2034	25%	50%
2035	50%	50%
2036	50%	50%
2037	50%	50%

2038	50%	50%
2039	50%	100%
2040 and thereafter during the term of this Residential Payment in Lieu of Tax Agreement	100%	100%

(c) The parties acknowledge that the tax years shown in the table above do not reflect assessment roll years. For example, the 2022 assessment roll will be used to generate the 2022-23 School payment in lieu of tax bill and the 2023 City/County payment in lieu of tax bill.

(B) In each tax year during the term of this Commercial Payment in Lieu of Tax Agreement, commencing on the first tax year following the date on which any portion of the Commercial Project Facility shall be assessed as exempt on the assessment roll of any Taxing Entity, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax pursuant to this Commercial Payment in Lieu of Tax Agreement with respect to the Commercial Project Facility shall be the sum of (1) the amount due each Taxing Entity with respect to the Land and the Existing Facility for such tax year, as determined pursuant to subsection (A)(1) hereof, **plus** (2) the amount due each Taxing Entity with respect to the Improvements for such tax year, as determined pursuant to subsection (A)(2) hereof.