

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

**LOCAL INNOVATION AND FAST TRACK HOUSING PROGRAM
PROJECT MANAGEMENT AGREEMENT**

This Local Innovation and Fast Track Housing Program Project Management Agreement (this “**Agreement**”) is made and entered to this [day] day of [Month], [Year] (the “**Effective Date**”) by and among [Legal entity name], an Oregon [type of entity] (“**Owner**”), the State of Oregon, acting by and through its Housing and Community Services Department (“**OHCS**”) and [Legal entity name], an Oregon [type of entity] (“**Agent**”).

RECITALS

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

B. Through the LIFT Program, OHCS will provide the conditional LIFT Loan for the Project up to a maximum principal amount of [UPPER CASE NUMBER] Dollars (\$[X,XXX,XXX]) (the “**LIFT Loan**”). The LIFT Loan will be evidenced, among other things, by (i) a promissory note in the aggregate principal amount of the LIFT Loan dated as of the Effective Date (the “**LIFT Note**”) delivered to OHCS by Owner; (ii) a Line of Credit Trust Deed, Security Agreement, Fixture Filing and Assignment of Leases and Rents, dated as of the Effective Date (the “**LIFT Trust Deed**”) executed by Owner, as Grantor, in favor of OHCS, as beneficiary, to be recorded in the official records of the County; (iii) a Loan Agreement, dated as of the Effective Date (the “**LIFT Loan Agreement**”) entered into by and between Owner and OHCS; (iv) a Repayment and Completion Guaranty Agreement, dated as of the Effective Date (the “**Guaranty**”) entered into between OHCS and [Legal entity name], an Oregon [type of entity] the “**Guarantor**”); (v) an Operating Agreement and Declaration of Land-Use Restrictive Covenants dated as of the Effective Date (the “**LIFT Operating Agreement**” or “**Operating Agreement**”) entered into by and between Owner and OHCS; (vi) this Project Management Agreement, and (vii) any ancillary documents related to the documents previously identified in this Recital. The documents referenced in this Recital, together with all other documents related to the LIFT Loan, including as amended from time to time, are hereinafter, collectively, referred to as the “**LIFT Documents**.”

C. Through the LIFT Program, OHCS will deliver the LIFT Loan to Owner. The LIFT Loan is evidenced by the LIFT Documents as defined in the Operating Agreement (as hereinafter defined).

D. The source of the LIFT Loan is the State of Oregon Article XI-Q General Obligation Taxable Bonds (the “**LIFT Bonds**”) issued by the State of Oregon for the purpose of OHCS loaning certain

proceeds of the LIFT Bonds to finance the costs of developing, constructing, acquiring and rehabilitating, furnishing, and equipping multifamily, affordable, rental-housing developments such as the Project.

E. Owner and OHCS have or will execute and record in the official records of the County the Operating Agreement to restrict the use and control the operation of the Project so as to comply with Project Requirements (as hereinafter defined) and related restrictive covenants, easements, and servitudes that shall run with the land and be binding and a burden upon the Property of the Project and all portions thereof, and upon any purchaser, grantee, owner, or lessee of any portion of the Project and any other person or entity having any right, title, or interest therein or hereafter for the duration of the Operating Agreement.

F. Owner, OHCS, and Agent have or will execute this Agreement to further articulate the manner of the Project's operation and management in keeping with its sources of funding from OHCS and applicable law including, but not limited to Article XI-Q of the Oregon Constitution and the Act (as hereinafter defined).

G. It is the intent of the parties that any management agreement ("**Management Agreement**") between the Owner and its management agent, including Agent concerning the Project will be consistent with and subordinate to this Agreement, the Operating Agreement, and the Project Requirements.

AGREEMENT

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

SECTION 1. INCORPORATION OF RECITALS AND DOCUMENTS; DEFINITIONS.

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

"Act" means the Housing Finance Act, ORS Chapter 456.515 to 725, as amended.

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

"Affordability Period" means the Affordability Period defined in the Operating Agreement.

“**Agent**” or “**Management Agent**” means [Legal entity name], an Oregon [type of entity] and any subsequent professional property management company with an appropriate supervisory person properly licensed by the Oregon Real Estate Agency, as necessary, and required by OHCS to take over Project Management from the Owner consistent with the terms of this Agreement, the Operating Agreement, and the Project Requirements as well as the Management Agreement between Agent and Owner, which Management Agreement is subject to this Agreement and the Project Requirements.

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

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

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

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

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

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

“**GAAP**” means generally accepted accounting principles consistently applied.

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

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

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

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

“**Issuer**” means, collectively, the Oregon State Treasurer, the Department of Administrative Services, and the Housing and Community Services Department. In any context exclusive of the Bonds, “Issuer” means the Housing and Community Services Department.

“**Key Personnel**” means personnel as described in Section 6, with current such personnel identified in the “**Description of Key Personnel**” attached hereto as **Exhibit D**.

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

“Management Plan” means the Management Plan as defined in the Operating Agreement and attached hereto as **Exhibit B**.

“Owner Agreement” means the Amended and Restated Operating Agreement of the Owner in effect as of the date of this Agreement.

“Project” means the Property, together with all improvements, buildings, appurtenances, and equipment thereon as more fully described in the Financing Documents.

“Project Requirements” means the Project Requirements as defined in the Operating Agreement.

“Qualified Resident” or “Qualified Tenant” means a person as so defined in the Operating Agreement.

“Qualified Unit” means a Qualified Unit as defined in the Operating Agreement.

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

“Resident” means a Resident as defined in the Operating Agreement.

“Resident Services Plan” means the “Resident Services Plan” or “Resident Plan” described in the Operating Agreement and attached hereto as **Exhibit C**.

“Rules and Regulations” means Rules and Regulations as defined in the Operating Agreement, e.g., conduct standards for Residents and users of the Project consistent with Project Requirements.

“Unit” or “Dwelling Unit” means a Unit or Dwelling Unit as defined in the Operating Agreement, e.g., a residential dwelling unit in the Project.

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

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

SECTION 3. COMPLIANCE WITH PROJECT REQUIREMENTS; RENTAL RATES.

3.1. Compliance with the Project Requirements.

- 3.1.1. Acknowledgement of the Project Requirements and Performance Obligations. Agent understands, covenants, and agrees that Owner may acquire or has acquired the LIFT Loan and other funding from OHCS for the financing of the Project and is required to comply with the terms of the Financing Documents (including as supplemented or amended) as well as with the Project Requirements. Agent and Owner expressly covenant and agree that the operation of the Project is subject to this Agreement, the Operating Agreement, other Financing Documents, and the Project Requirements. Agent and Owner expressly covenant and agree that the Owner is, or will be, providing accommodations in the Project to Qualified Tenants as described in the Operating Agreement, principally for residential use consistent with the terms of the Financing Documents, including the Project Requirements, all to the satisfaction of OHCS, and Agent is obligated hereunder to accomplish such performance.
- 3.1.2. Compliance; Conflicts. The Agent and Owner will timely comply with applicable provisions of the Financing Documents, including the Project Requirements (including, but not limited to the terms and conditions of the Management Agreement and of this Agreement and the Operating Agreement). In the event of any conflict among the Financing Documents, the terms of the Operating Agreement will prevail.
- 3.1.3. Corrective Notices. Agent and Owner will timely comply with any Corrective Notice issued by OHCS. However, if the Agent or Owner believes that a Corrective Notice is not consistent with Financing Documents, including the Project Requirements, it may provide written comment of same to OHCS within the cure period allowed under the Corrective Notice. OHCS' subsequent written determination upon any received comment will be deemed to be final and requiring compliance, as therein articulated, by Agent and Owner.
- 3.2. Rent and Other Charges. There will be no assessment of Rent or other charges to Qualified Tenants except as pre-approved in writing by OHCS. OHCS approval is at its discretion.
- 3.2.1. OHCS Approval of Rental Rates. Agent may adjust Rents annually by submitting proposed adjustments in writing to OHCS for its approval, together with supporting documentation, both satisfactory to OHCS. Supporting documentation must include a current rent roll with respect to all Units. Subject to the Financing Documents, including the Project Requirements, OHCS may approve, deny, or modify proposed adjustments at its discretion. Adjustment requests will be deemed approved if not denied or modified by OHCS within ninety (90) days of their receipt by OHCS. Notwithstanding the foregoing, any adjustments remain subject to readjustment by OHCS consistent with the Project Requirements. Notwithstanding the foregoing, Rent increases of 5% or less within a 12-month period do not require approval by OHCS.
- 3.2.2. Notice of Rental Rate Changes. Upon written approval by OHCS of a change in Rent for any Qualified Unit or, subject to paragraph (d) below, any applicable Unit, Agent and Owner must provide at least one full month (and not less than 30 days) advanced written notice to affected Residents of such Rent changes before such Rent changes can become effective, and then only on a prospective basis.

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

3.3. LIFT Affordability. Throughout the Affordability Period reflected in the LIFT Documents or reflected in the Operating Agreement, whichever is longer (including if extended), all Dwelling Units in the Project shall be State Income Qualified Units and must be occupied by or held vacant and available for rent by persons or families who meet the respective qualifications to be Qualified Tenants, i.e., whose adjusted household income at initial occupancy is equal to or less than 60% of the Median Income for the Area or, as reflected in the table below:

Unit Type	Number of Units	Maximum Percent of Median Family Income as Determined by HUD	Maximum Rent Standards as Determined by HUD
1 bedroom	[#]	60%	60%
2 bedrooms	[#]	60%	60%
3 bedrooms	[#]	60%	60%
Manager's unit	[#]	N/A or 60% if unoccupied by managers	N/A or 60% if unoccupied by managers

SECTION 4. CONFER WITH OWNER AND OHCS.

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

SECTION 5. MEETING WITH OWNER AND AGENT.

Agent will cause an appropriate officer of the Agent to attend meetings at such times, and under such circumstances, as requested by Owner or OHCS.

SECTION 6. PERSONNEL OF AGENT.

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

6.2. Maintaining Key Personnel; Approval of Changes. Agent has represented that the described Key Personnel will be directly involved in the oversight of the day-to-day operations and accounting functions of the Project, particularly in managing and supervising on-site managers and those performing accounting functions for the Owner and Project. Because

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

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

SECTION 7. SERVICES OF AGENT.

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

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

- 7.4.1. Agent will timely and regularly accomplish preventive maintenance through (to the extent feasible) the services of regular maintenance employees.
- 7.4.2. Agent will contract with qualified independent contractors for the preventive maintenance of heating, ventilation, air-conditioning systems, elevators, and other extraordinary maintenance or repairs that are beyond the capability or time-constraints of regular maintenance employees. Contracts with such contractors must include, satisfactory to OHCS: a provision permitting Agent to terminate same upon a determination by OHCS of material noncompliance; requirements of license and bonding compliance; requirements for appropriate insurance commensurate with the services to be provided. OHCS must be included as a loss payee on such insurance policies for all such contracts that exceed a cost of \$250,000 per year unless waived in writing by OHCS.
- 7.4.3. Agent is authorized to purchase all materials, equipment, tools, appliances, supplies, and services necessary for proper preventive maintenance of the Project, except as otherwise limited in this Agreement, in the Management Agreement, or by notice from OHCS.
- 7.5. Service Requests of Residents. Agent will maintain professional relations with Residents whose service requests will be received, considered, and recorded on a systematic, timely, and written basis to show the action taken with respect to each such request. Complaints of a serious nature and all written complaints will, after thorough investigation, be reported by Agent to the Owner (and, if requested, to OHCS) with appropriate recommendations. Agent will make appropriate provision for receipt of emergency calls from Residents on a 24-hour basis.
- 7.6. Site Visits. Agent will visit the Project at least once a month to monitor the physical plant and Project operations, and to provide support and assistance to the on-site manager(s), if any. Agent will also visit and attend to Project matters as reasonably requested by Owner or OHCS.
- 7.7. Inspection of Units. Agent will make, and cooperate with Owner and OHCS in making, annual and other requested inspections of each Unit and other areas of the Project. Agent will independently make such other inspections of Units and other Project areas as circumstances warrant. Agent will accompany OHCS on all annual inspections by OHCS and as otherwise requested by OHCS and fully cooperate with any such inspections. The annual inspection by Agent may be in conjunction with an OHCS inspection but is in addition to other routine Unit inspections by Agent as circumstances warrant or as directed by OHCS or Owner, or as otherwise contemplated under this Agreement. Agent will take appropriate action with respect to a Resident's material misbehavior. Agent will report in writing to OHCS and Owner with respect to any material concerns with respect to the Project, including with respect to Resident Lease violations or otherwise. Such report must be submitted to OHCS and Owner within forty-five (45) days of Agent's knowledge of such concerns and must include a plan of corrective action or statement of resolution. If requested, the Agent will provide written reports of any and all inspection findings to OHCS.
- 7.8. Property Insurance; Damage Reporting.

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

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

7.12. Collections and Delinquencies.

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

7.13. Payments and Expenses.

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

7.13.1.4. All amounts required to be deposited in a replacement reserve account with Owner's primary commercial lender, as additionally set forth in the Financing Documents, or additionally required by OHCS; and

7.13.1.5. The fees of Agent with respect to management of the Project consistent with the Management Agreement and as permitted under this Agreement. Such fees are subject to periodic review and modification or disapproval by OHCS.

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

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

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

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

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

7.16. Records and Reports.

7.16.1. Records; Examination. Agent will establish and maintain a comprehensive system of records, books, and accounts in a manner satisfactory to the Owner and OHCS. All records, books and accounts will be subject to examination at reasonable hours by any authorized representative of the Owner, OHCS, the Oregon Secretary of State, and relevant agencies of the federal government. Agent will cooperate fully in any such inspection, including with respect to the copying of such records, books, and accounts, which copying and delivery will be at Owner's expense.

7.16.2. Fiscal Year Reporting. With respect to each fiscal year beginning or ending during the term of this Agreement, Agent will provide obtain and provide certain financial documentation as follows:

7.16.2.1. Reporting. In the absence of annual financial reports provided by Owner, Agent will obtain an annual financial report prepared by an independent Certified Public Accountant acceptable to OHCS based upon the preparer's examination of the relevant books and records of the Owner and the Agent. The report will be prepared in accordance with GAAP or IFRS standards satisfactory to OHCS and other OHCS requirements, the preparer will render a satisfactory opinion, and Agent will complete a satisfactory representation letter. All of these records will be submitted to the Owner within thirty (30) days after the end of the fiscal year for the Owner's further certification and submission to OHCS within an additional thirty (30) days - for a total of sixty (60) days from fiscal year end within which to make delivery to OHCS. Compensation for the preparer's services will normally be considered an operating expense of the Project, subject to OHCS approval.

7.16.2.2. Other OHCS Funding Reporting. If the Project is financed by any other OHCS funding, in the absence of Owner doing so, submit annually-required financial records and reports to OHCS and Owner within thirty (30) days from fiscal year end, unless otherwise allowed or required by OHCS pursuant to the terms of the applicable Financing Document. Compensation for the preparer's services will normally be considered an operating expense of the Project, subject to OHCS approval.

7.16.3. Income Statements. Upon request from OHCS, Agent will prepare and submit an income statement to the Owner and to OHCS within fifteen (15) days of request by OHCS that compares actual and budgeted income and expenses of the Project.

7.16.4. Requested Information. Agent will timely furnish such information (including occupancy reports) as may be requested (whether specifically or by agreement) by the Owner or

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

7.16.5. Monthly Operational Reports. By the fifteenth (15th) of each month, unless otherwise provided in the Management Agreement, Agent will furnish the Owner any requested reporting regarding operation of the Project.

7.16.6. Employment Reporting. Agent will prepare, execute, and file for the Owner and for itself all forms, reports, and returns required by law in connection with the employment of personnel, including unemployment insurance, worker's compensation insurance, disability benefits, social security, and other similar insurance, benefits or taxes now in effect or hereafter imposed.

7.16.7. Other Reporting to OHCS. Agent will promptly provide OHCS with all information and records as OHCS otherwise may request from time to time. Costs of production may constitute a Project cost upon written approval by OHCS.

7.17. Marketing Duties; Approval of Leases.

7.17.1. Marketing. At least ninety (90) days prior to completion of the Project, Agent will assume responsibility for all functions and services of the initial and/or continued rental of the Units and other leased areas in the Project, including non-discriminatory marketing of such Units and other areas. Further, consistent with Owner's Affirmative Fair Housing Marketing Plan submitted with the Application, Owner and Agent committed to a detailed strategy to engage commonly underserved communities in the area. The strategy will affirmatively market the Units to populations that were identified as the least likely to apply including: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, persons with disabilities and families with children. Initial marketing to these communities will be conducted through newspaper ads in OHCS approved culturally specific and local newspapers; websites (including Agent's website, Apartments.com and Craigslist.com); and flyers and brochures posted in local business. If the outreach is not reaching the communities it is targeting successfully, the Affirmative Fair Housing Marketing Plan will be re-evaluated and updated as needed.

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

7.18. Compliance With Layered Funding Requirements; Compliance With Leases and Other Agreements.

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

- 7.18.2. Resident Compliance; Non-Resident Compliance. Agent will ensure full compliance by Residents (and other users of Units and related common areas) with the terms and conditions of their Leases, applicable Rules and Regulations, and the Project Requirements. Agent also will ensure full compliance by lessees and users of non-dwelling areas of the Project with the terms and conditions of their respective Leases and use agreements.
- 7.18.3. Avoidance of Involuntary Terminations. Agent will act proactively to encourage voluntary compliance by Residents, other lessors, and other users of the Project with applicable standards. Owner shall provide funding for a Resident Services provider that will, counsel Residents and make referrals to social service agencies in cases of financial hardship and other circumstances deemed appropriate by Agent so that involuntary termination of tenancies may be avoided to the maximum extent consistent with sound management of the Project. Agent will not, however, tolerate willful evasion of payment of rent or violation of other Lease terms or willful or enduring violation of applicable Rules and Regulations or the Project Requirements.
- 7.18.4. Termination of Leases and Other Agreements. Subject to applicable law, Agent may terminate any tenancy when, in the Agent's judgment, sufficient cause occurs under the terms of a Resident Lease or a lease of any non-dwelling area of the Project. Statements explaining evictions will be filed with Owner and OHCS as part of Agent's Monthly Operational Reports.
- 7.18.5. Use of Legal Counsel. Agent is authorized to consult with legal counsel to bring actions for eviction and to execute notices to vacate and to commence appropriate judicial proceedings; provided, however, that Agent will keep the Owner (and, upon request, OHCS) informed of such actions and will follow such instructions as the Owner has prescribed that are not inconsistent with this Agreement or the Project Requirements. Subject to the Owner's approval, costs incurred in connection with such actions normally will be considered as Project operating expenses, subject to OHCS approval.
- 7.19. Project Rent and Income Limits. Project Rent and affordability limits must be maintained in accordance with the Operating Agreement, this Agreement, and the Project Requirements.
- 7.20. Certification of Resident Income. Agent will require Qualified Residents to certify their gross incomes as provided in the Operating Agreement.
- 7.21. Verification of Rents. Agent will verify the Rent charged for each Qualified Unit during each year of the Affordability Period as provided in the Operating Agreement. Agent will provide such documentation of Rents as OHCS deems satisfactory including as may be required pursuant to the Operating Agreement or the Project Requirements.
- 7.22. Services to Residents. Owner shall provide funding to ensure the provision of services to Residents in accordance with the Resident Services Plan attached hereto as **Exhibit C** to the satisfaction of OHCS. Agent will, annually and as more frequently requested by OHCS, provide documentation to OHCS of the provision of such services in accordance with the Plan in a manner and substance satisfactory to OHCS.

SECTION 8. OTHER ACTS.

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

SECTION 9. LIABILITY OF AGENT; NON-RESPONSIBILITY OF OHCS; PAYMENT FROM CLIENT TRUST ACCOUNT.

Everything to be done by the Agent under this Agreement is done as Agent of the Owner and all obligations, expenses, or other liabilities incurred as a consequence of Agent's action or inaction, whether directly or by its officers, employees, or agents, will be solely for the account of and on behalf of the Owner. OHCS bears no responsibility for Agent or Owner action or inaction, whether directly or by their respective officers, employees, or agents. Any payments to be made by the Agent hereunder will be made out of such sums as are available in the Client Trust Account established pursuant to Section 10.1. Agent will not be obliged to make any advance to, or for the account of, the Owner or to pay any sum, except out of funds held or provided as aforesaid, nor will the Agent be obliged to incur any liability or obligation for the account of the Owner without assurance that the necessary funds for the discharge thereof will be provided by the Owner.

SECTION 10. BANK ACCOUNTS.

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

cause the amount in the foregoing account to equal or exceed at all times the aggregate of all outstanding obligations by the Owner with respect to Residents' security deposits.

- 10.3. Other Accounts.** Agent will establish and maintain such other accounts as may be required under the LIFT Loan Agreement, the Operating Agreement, other Financing Documents, or other applicable Project Requirements.

SECTION 11. OFFICE IN PROJECT.

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

SECTION 12. COMPENSATION OF AGENT.

- 12.1. Agent's Fee.** The sole compensation to which the Agent will be entitled to receive for all services performed under the Management Agreement and pursuant to this Agreement will be a monthly fee as agreed to with Owner and subject to OHCS approval, not to exceed 8.0% of Gross Collections per month. Such fee will be computed and paid monthly based upon the Gross Collections for the preceding month.
- 12.2. Agent's Costs.** All supervisory, bookkeeping, accounting, and clerical expenses, along with all of Agent's overhead expenses, will be borne by Agent out of its own funds and will not be treated as an operating expense of the Project provided that postage, photocopy, facsimile, software licensing, long distance telephone, bank services charges, Owner or OHCS required trainings, and all other out-of-pocket expenses incurred by Agent in the direct management of the Project shall be Project operating expenses and the obligation of the Owner. Employees or service providers performing credit and record checks on tenants will be charged at amounts reflecting actual compensation, employer's payroll taxes, the payroll processing fee and a markup compensating Agent for overhead and management services being provided directly for the Project.

SECTION 13. NONDISCRIMINATION.

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

SECTION 14. EXPIRATION AND TERMINATION.

- 14.1. Execution; Cessation of Management Agreement.** Execution of this Agreement or of the Management Agreement will not be deemed complete unless and until they have been approved in writing by OHCS. Any Management Agreement between the Owner and Agent

will terminate upon the termination or expiration of this Agreement or upon revocation of OHCS approval of Agent.

- 14.2. Authority.** Agent's ability to act in such role for Owner is subject to OHCS's continuing approval, which OHCS may give or withhold at its reasonable discretion. OHCS is granting Agent a conditional **twelve (12) month** approval as Agent. OHCS will review the performance of the Agent 60 days prior to the end of the approval period or, if deemed necessary by OHCS, at any other point during the term of this Agreement with 60 days' notice to determine if OHCS will continue or extend its approval. This conditional approval period begins with the effective date of this Agreement.
- 14.3. Expiration.** Unless sooner terminated pursuant to the terms hereof, this Agreement will be in effect on a fixed-term basis from the date of execution hereof until **[month] [day], [year]**. And, unless a written notice to terminate this Agreement is submitted to OHCS at least sixty (60) days prior to the expiration date of this Agreement, this Agreement will continue on a month-to-month basis until terminated by any party as provided below. A suitable replacement agent must be submitted to and approved by OHCS (including execution of a successor Project Management Agreement satisfactory to OHCS) prior to termination of this Agreement, unless otherwise permitted in writing by OHCS.
- 14.4. Termination by Mutual Consent.** The Management Agreement and this Agreement may be terminated by the mutual written consent of Owner, Agent, and OHCS. Owner and Agent must submit their written request to terminate the foregoing agreements to OHCS at least sixty (60) days prior to the date specified for termination. A suitable replacement management agent must be submitted to and approved by OHCS (including execution of a successor Project Management Agreement satisfactory to OHCS) prior to termination of this Agreement, unless otherwise permitted in writing by OHCS.
- 14.5. Termination by Owner.**
- 14.5.1. Owner may terminate the Management Agreement, with or without cause, upon 30 days written notice to Agent.
- 14.5.2. In the event that Agent materially fails to perform any duty hereunder or under the Management Agreement, or materially fails to comply with any of the provisions hereof or thereof, Owner may notify the Agent and OHCS in writing of such default and Owner's intent to terminate this Agreement and the Management Agreement absent timely cure. If such default is not remedied within sixty (60) days from the date of notice to Agent, Owner may terminate this Agreement and the Management Agreement immediately and/or exercise other appropriate remedies subject to the balance of this subsection.
- 14.5.3. Owner must provide written notice to OHCS in advance of its intent to terminate this Agreement or the Management Agreement. A suitable replacement management agent must be submitted to and approved by OHCS (including execution of both a successor Project Management Agreement and Management Agreement, each satisfactory to OHCS) prior to termination of this Agreement or the Management Agreement, unless otherwise permitted in writing by OHCS.

- 14.6. Termination After Minimum Term.** Owner or Agent may terminate this Agreement and the Management Agreement after the minimum term provided in this section, but only with prior written notice to OHCS as provided hereafter. Owner or Agent must submit its written notice to terminate this Agreement and the Management Agreement to OHCS with a copy to the Agent or Owner at least sixty (60) days prior to the date specified for termination. Unless termination is for cause or by OHCS, the minimum term of this Agreement and of the Management Agreement will be **one (1)** year(s). Upon either the Owner or Agent giving notice under this subsection, the Owner, within forty-five (45) days, shall provide OHCS with the name of a replacement management agent that is approved by OHCS (including execution of both a successor Project Management Agreement and Management Agreement, each satisfactory to OHCS).
- 14.7. Termination Because of Bankruptcy.** In the event that the Owner or Agent becomes insolvent, is dissolved, commits an act of bankruptcy under the United States Bankruptcy Act (as now or hereafter amended), files or has filed against it, voluntarily or involuntarily, a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the United States Bankruptcy Act (as now or hereafter amended), makes an assignment for the benefit of creditors; procures, permits or suffers, voluntarily or involuntarily, the appointment of a receiver or trustee to take charge of any of the Project or any other properties owned by the Owner or Agent, or has initiated against it, voluntarily or involuntarily, any act, process or proceeding under any insolvency law or other statute or law providing for the modification or adjustment of the rights of creditors, the other may immediately terminate this Agreement provided that OHCS has given its written consent to such termination and further provided that such party provides prompt notice to the other party.
- 14.8. Termination by OHCS.** OHCS may terminate this Agreement and the Management Agreement, with cause, on ten (10) days' written notice to the Owner and Agent; except that in the event of a default by the Owner under applicable Financing Documents with OHCS, OHCS may terminate this Agreement immediately without notice, but prompt advice of such action will be given to the Owner and Agent. No liability will attach to OHCS in the event of its termination of this Agreement pursuant to this subsection or otherwise in the event of a termination of this Agreement.
- 14.9. Accounting Upon Termination.** Within forty-five (45) days after the termination of this Agreement, Owner and Agent will account to each other with respect to all matters outstanding as of the date of termination. Owner will furnish Agent security against any outstanding obligations or liabilities that Agent may have incurred hereunder and Agent will turn over to Owner all records, documents and other instruments, waiting lists, and any and all other files and papers in its possession pertaining to Agent's performance under this Agreement.
- 14.10. Owner Responsibilities to OHCS upon Termination.** Upon any termination pursuant to this Section, if not sooner required hereunder, Owner will ensure execution of a successor Project Management Agreement and Management Agreement within ten (10) days of such termination. Unless denied by OHCS, Owner will be responsible for management of the Project during any interim period.

SECTION 15. FURTHER ASSURANCES.

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

SECTION 16. INDEMNITY.

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

SECTION 17. AGENT STATUS.

- 17.1. Independent Contractor. Agent will perform all obligations under this Agreement, under the Management Agreement, under the Operating Agreement, and with respect to other Project Requirements as an independent contractor. Agent is not an officer, employee or agent of the State, as those terms are used in ORS 30.265 or otherwise, with respect to performance under this Agreement, under the Management Agreement., under the Operating Agreement, and with respect to other Project Requirements.

17.2. Owner Responsible for Insurance Coverage. Owner agrees that insurance coverage, whether purchased or by self-insurance, for Owner’s agents, employees, officers and/or subcontractors is the sole responsibility of Owner.

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

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

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

17.3.3. Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection 17.3.2;

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

17.3.5. Is included on the list titled “Specially Designated Nationals and Blocked Persons” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

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

SECTION 18. REMEDIES.

18.1. Repayment Upon Termination. Other than in cases of a termination under Section 14 of this Agreement, or a judicial determination that a provision of this Agreement is unenforceable or inapplicable, if this Agreement or any part hereof, terminates prior to the term of the Affordability Period, Owner will, within thirty (30) days of written demand for repayment, repay the LIFT Loan to OHCS, together with applicable interest, fees, and other charges.

18.2. Deficiencies. OHCS may, from time to time, identify and direct Agent and Owner to correct deficiencies (including deficiencies by Owner) in their compliance with this Agreement (including all Project Requirements), which they will correct as so directed.

18.3. Extension of Affordability Period. OHCS may by written notice extend the Affordability Period described in the Operating Agreement for periods of time matching corresponding periods of time during which OHCS determines the Owner or Agent to be in material

noncompliance with any of the terms of this Agreement (including applicable Project Requirements).

- 18.4. Required Training.** OHCS may require Owner, Agent, and their respective owners, principals, officers, employees, and agents to undertake relevant training, e.g., Fair Housing Act training, at Owner's expense, as directed by OHCS.
- 18.5. Additional Remedies.** If the Agent or Owner defaults in the performance or observance of any covenant, agreement or obligation set forth in this Agreement, and if such default remains uncured by Agent or Owner for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHCS determines relate to material health or safety needs of Project occupants) after notice thereof will have been given by OHCS, or if such default runs for a period of thirty (30) days from the date the Owner or Agent should, with due diligence, have discovered such default, then OHCS may declare an "**Event of Default**" to have occurred hereunder provided, however, if a default is not reasonably capable of being cured within thirty (30) days or within any lesser notice period provided by OHCS, OHCS may, in its sole discretion, extend the correction period for up to six (6) months, but only if OHCS determines there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project or the Land, the correction period for the successor for an existing default will be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project. To the extent that the default is not corrected within the above-described period including extensions, if any, granted by OHCS, an Event of Default will be deemed to occur and OHCS may exercise its rights and remedies under this Section. Following the occurrence of an Event of Default hereunder OHCS may, at its option, take any one or more of the following steps (except that itemized remedies (b), (e), (f), and (h) always must be preceded by notice of default to the Investor, if any, in accordance with this subsection while Investor is a member of Owner), in addition to all other remedies provided in this Agreement, by law, or in equity:
- 18.5.1. By mandamus or other suit, action or proceeding at law or in equity, require Owner or Agent specifically to perform their obligations under this Agreement or enjoin any acts or things that may be unlawful or in violation of the rights of OHCS under this Agreement;
 - 18.5.2. Obtain the appointment of a receiver to operate the Project in compliance with this Agreement;
 - 18.5.3. Require a change in the general partner or managing member, as applicable, of Owner to OHCS' satisfaction;
 - 18.5.4. Require termination of the Management Agent and its replacement to OHCS' satisfaction;
 - 18.5.5. Withhold from Owner, suspend or terminate, all or part of any undisbursed LIFT Loan funding under this Agreement;

- 18.5.6. Demand repayment of the LIFT Loan, and such amounts will be immediately due and payable to OHCS following thirty (30) days from such written demand;
 - 18.5.7. Declare Owner, Agent, and their owners, principals, officers, employees, and agents ineligible to receive further OHCS financial assistance for such period as OHCS determines in its sole discretion;
 - 18.5.8. Offset amounts due from repayment of the LIFT Bonds or other OHCS Project funding against other funding awarded or to be awarded to Owner by OHCS;
 - 18.5.9. Have access to, and inspect, examine and make copies of, all of the books and records of Owner or its agents pertaining to the Project, to inspect the Project at any time, and to inspect Dwelling Units of the Project upon reasonable notice;
 - 18.5.10. Enter onto the Property and correct Events of Default with respect to the Project at Owner's expense, which expense Owner will repay to OHCS within ten (10) days of any presentment of charges for same;
 - 18.5.11. Withhold from Owner any distributions due it from the Operating and Expense Fund, i.e., the Client Trust Account;
 - 18.5.12. Require Owner, Agent, and their owners, principals, officers, employees, and agents to undertake training, at Owner's expense, as directed by OHCS; and
 - 18.5.13. Take such other action under this Agreement, at law, in equity, or otherwise as may be available to OHCS.
- 18.6. Survival of Remedies; Remedies Nonexclusive; Non-Waiver.** The rights and remedies of OHCS provided for in this Agreement will survive the termination of the Affordability Period and of this Agreement. The rights and remedies of OHCS provided for in this Agreement will not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. Inclusion of a remedy as being available upon an Event of Default does not preclude its exercise otherwise, if so permitted under this Agreement without notice of an Event of Default. No failure of or delay by OHCS to enforce any provision of this Agreement will constitute a waiver by OHCS of that or any other provision, nor will any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

SECTION 19. ASSIGNMENTS.

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

SECTION 20. AMENDMENT.

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

SECTION 21. EXECUTION OF COUNTERPARTS.

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

SECTION 22. CAPTIONS; GENDER; NUMBER.

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

SECTION 23. WAIVER.

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

SECTION 24. SEVERABILITY.

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

SECTION 25. NOTICE.

Any notice required or permitted under this Agreement will be in writing and will be deemed effective; (1) when actually delivered in person, (2) one business day after deposit with a commercial courier service for “next day” delivery, or (3) three business days after having been deposited in the United States mail as certified or registered mail, addressed to the Parties as follows:

To the Owner:

[Name]
[Address]
[Address]
Attention: [Redacted]
E-mail: [Redacted]
Telephone: [Redacted]

OHCS:

Oregon Housing and Community Services Department
Attn: Portfolio Administration Section
725 Summer St NE, Suite B

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AGENT:

[Name]

[Address]

[Address]

Attention: [Redacted]

E-mail: [Redacted]

Telephone: [Redacted]

SECTION 26. ATTORNEY FEES.

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

SECTION 27. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION.

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

SECTION 28. NO LIMITATIONS ON ACTION IN EXERCISE OF GOVERNMENTAL POWERS.

Nothing in this Agreement is intended, nor may it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the parties hereto that OHCS will retain the full right and ability to exercise its governmental powers with respect to Owner, Agent, the Project, the transactions contemplated by this Agreement, and applicable Project Requirements to the same extent as if it were not a party to this Agreement, and in no event will OHCS have any liability in contract arising under this Agreement the Application, the Reservation, the Project Requirements, or otherwise by virtue of any exercise of its governmental powers.

SECTION 29. SURVIVAL OF RIGHTS AND REMEDIES.

Rights and remedies normally intended to survive the termination or expiration of this Agreement will so survive.

SECTION 30. CONSTRUCTION.

LIFT Program Management Agreement

[Project Name] - Project # [XXXX]

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

SECTION 31. TIME OF THE ESSENCE.

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

SECTION 32. CROSS DEFAULT.

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

(Signature Pages Follow)

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

OWNER:

[Legal Name of Owner Entity],

an Oregon **[type of entity]**

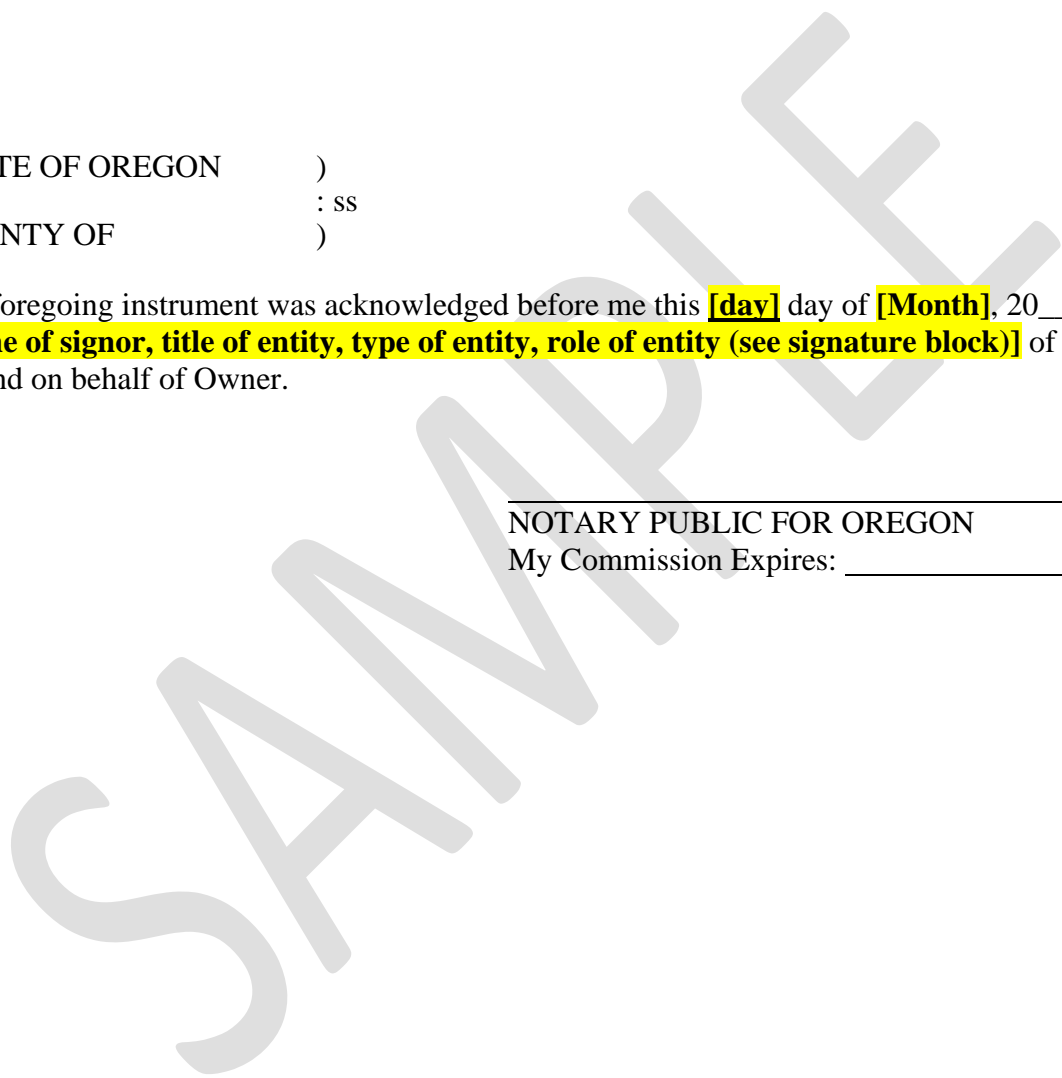
Tax ID: **[tax id #]**

By: _____
[Name of Signor], [title]

STATE OF OREGON)
 : ss
COUNTY OF)

The foregoing instrument was acknowledged before me this **[day]** day of **[Month]**, 20__ by **[name of signor, title of entity, type of entity, role of entity (see signature block)]** of Owner, for and on behalf of Owner.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



AGENT:

[Legal Name of Owner Entity],

an Oregon **[type of entity]**

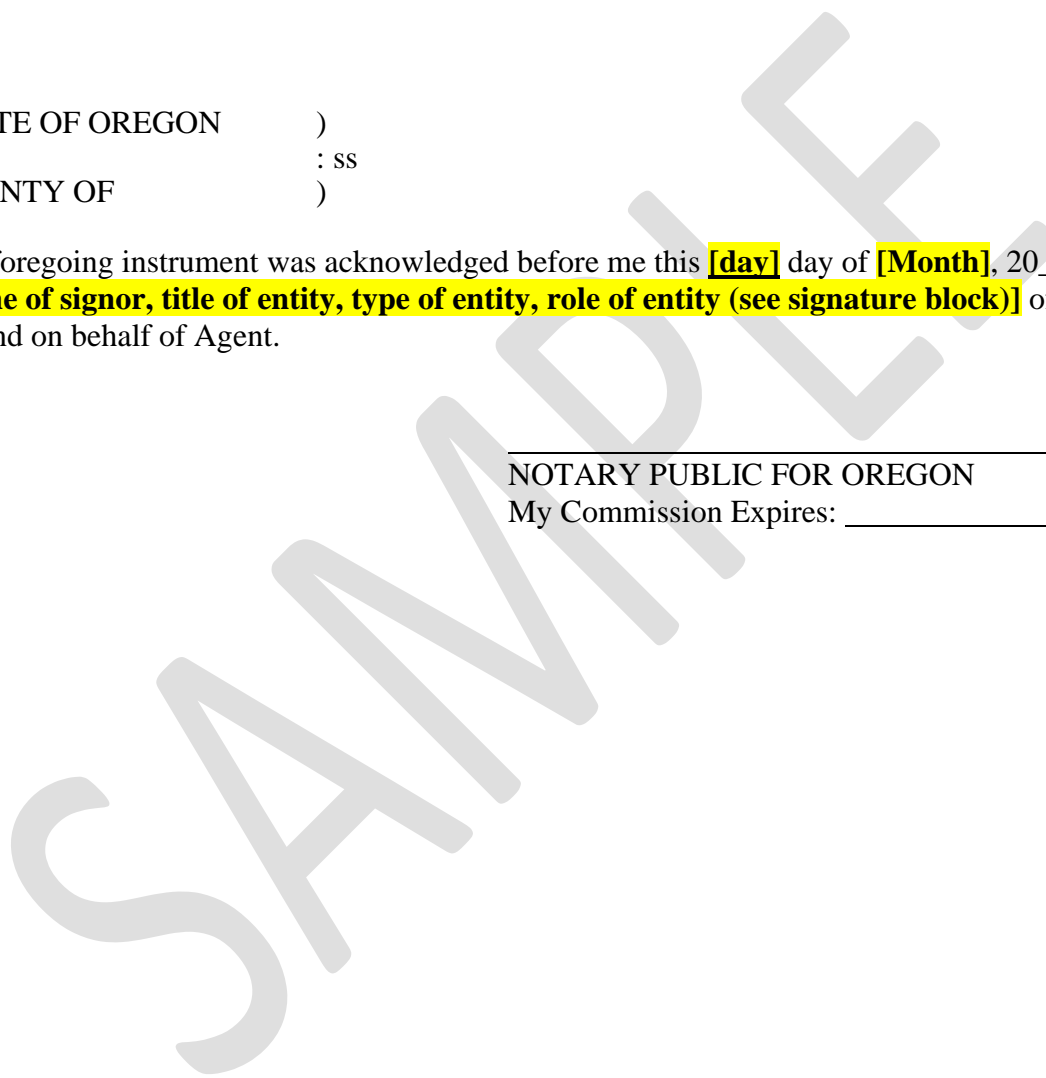
Tax ID: **[tax id #]**

By: _____
[Name of Signor], [title]

STATE OF OREGON)
 : ss
COUNTY OF)

The foregoing instrument was acknowledged before me this **[day]** day of **[Month]**, 20__ by **[name of signor, title of entity, type of entity, role of entity (see signature block)]** of Agent, for and on behalf of Agent.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



OHCS:

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

By: _____

STATE OF OREGON)
 : ss
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this **[day]** day of **[Month]**, 20**[]** by _____, for and on behalf of Lender.

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

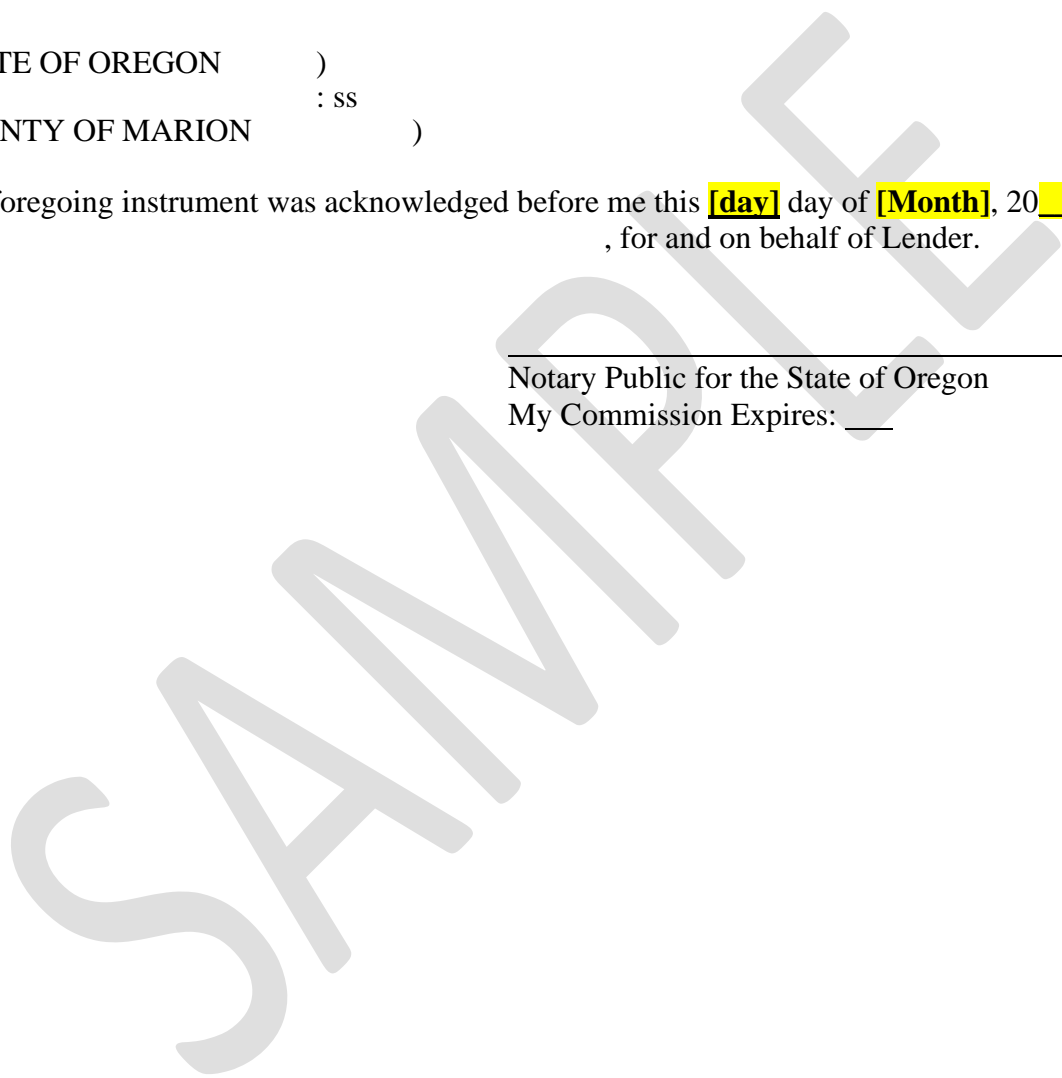


EXHIBIT A
(Legal Description)

EXHIBIT B
Management Plan

Exhibit C
Resident Services Plan

Exhibit D
Key Personnel Summary