Freddie Mac Loan Number:

Property Name:

SUBORDINATION AGREEMENT

EQUITY BRIDGE LOAN
PRIVATE ENTITY

(Revised 3-26-2024)

THIS SUBORDINATION AGREEMENT (“**Agreement**”) is entered into this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between (i) **[NAME OF SENIOR LENDER],** a \_\_\_\_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of the [State] [Commonwealth] of \_\_\_\_\_\_\_\_\_ (“**Senior Lender**”) and (ii) **NAME OF EQUITY BRIDGE LENDER]**, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of the [State][Commonwealth] of \_\_\_\_\_\_\_\_\_ (“**Equity Bridge Lender**”).

**RECITALS**

A. **[NAME OF BORROWER]**, a [limited partnership][limited liability company][corporation] organized under the laws of the [State][Commonwealth] of \_\_\_\_\_\_\_\_ (“**Borrower**”) is the owner of certain land located in \_\_\_\_\_\_\_\_\_\_ County, **[STATE]**, described in Exhibit A (“**Land**”). The Land is improved with a multifamily rental housing project (“**Improvements**”).

B. Senior Lender has made or is making a loan to Borrower in the original principal amount of $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Senior Loan**”) upon the terms and conditions of a Multifamily Loan and Security Agreement dated as of \_\_\_\_\_\_\_\_\_\_ between Senior Lender and Borrower (“**Senior Loan Agreement**”) in connection with the Mortgaged Property. The Senior Loan is secured by a **[NAME OF SENIOR MORTGAGE]** dated as of the date of the Senior Loan Agreement (“**Senior Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Senior Mortgage as the “**Mortgaged Property**.”

C. Pursuant to a **[NAME OF EQUITY BRIDGE LOAN AGREEMENT]** dated [as of] \_\_\_\_\_\_\_\_\_\_\_ between Equity Bridge Lender and Borrower (“**Equity Bridge Loan Agreement**”), Equity Bridge Lender has made or is making a loan to Borrower in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Equity Bridge Loan**”). The Equity Bridge Loan is or will be secured by a **[NAME OF SECURITY/PLEDGE AGREEMENT]** dated [as of] \_\_\_\_\_\_\_\_\_ (“**Equity Bridge Security Agreement**”) with respect to the right of the Borrower to receive capital contributions under its **[NAME OF PARTNERSHIP/LLC AGREEMENT]** dated \_\_\_\_\_\_\_\_\_\_\_\_ (“**Capital Contributions**”), [and] a **[NAME OF SECURITY/PLEDGE AGREEMENT]** dated [as of] \_\_\_\_\_\_\_\_\_ (“**Equity Bridge Collateral Assignment**”) with respect to the partnership/membership interests of the limited partner(s)/investor member(s) of the Borrower (“**Limited Equity Interests**”) [and] a **[NAME OF SECURITY/PLEDGE AGREEMENT]** dated [as of] \_\_\_\_\_\_\_\_\_ (“**Equity Bridge Pledge Agreement**”) with respect to the partnership/membership interests of the general partner(s)/managing member(s) of the Borrower (“**Sponsor Equity Interests**”).[**STRIKE ANY INAPPLICABLE DOCUMENT FROM THIS RECITAL**]

D. Pursuant to the Senior Loan Documents, Borrower has pledged and assigned to Senior Lender Borrower’s right to receive the payment, advances and disbursements of proceeds of the Equity Bridge Loan from the Equity Bridge Lender pursuant to the terms and conditions of the Equity Bridge Loan Documents.

E. The execution and delivery of this Agreement is a condition of Senior Lender’s consenting to Equity Bridge Lender’s making of the Equity Bridge Loan.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**1. Definitions.** The terms used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Senior Loan Agreement. The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings:

“**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“**Borrower**” means all persons or entities identified as “Borrower” in the first Recital of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term “Borrower” will not include Senior Lender if Senior Lender acquires title to the Mortgaged Property.

“**Enforcement Action**” means any of the following actions taken by or at the direction of Equity Bridge Lender: the acceleration of all or any part of the Equity Bridge Indebtedness, the advertising of or commencement of any UCC sale, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Capital Contributions, [or] the Limited Equity Interests [or the Sponsor Equity Interests], the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Equity Bridge Note or any other of the Equity Bridge Loan Documents, the exercising of any banker’s lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for any of the Equity Bridge Indebtedness (including any guarantor of the Equity Bridge Indebtedness) or obligated under any of the Equity Bridge Loan Documents.

“**Enforcement Action Notice**” means a Notice from Equity Bridge Lender to Senior Lender, given following one or more Equity Bridge Loan Default(s) and the expiration of any Notice or cure periods provided for in the Equity Bridge Loan Documents, setting forth in reasonable detail the Equity Bridge Loan Default(s) and the Enforcement Actions proposed to be taken by Equity Bridge Lender.

“**Equity Bridge Guaranty**” means the **[NAME OF SUBORDINATE GUARANTY]** dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, executed by **[NAME OF GUARANTOR(S)]** in favor of Equity Bridge Lender with respect to the Equity Bridge Loan.

“**Equity Bridge Indebtedness**” means all sums evidenced or secured or guaranteed by, or otherwise due and payable to Equity Bridge Lender pursuant to, the Equity Bridge Loan Documents.

“**Equity Bridge Lender**” means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Equity Bridge Note after the date of this Agreement.

“**Equity Bridge Loan Default**” means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement) Equity Bridge Lender to take an Enforcement Action; provided, however, that for purposes of this Agreement, no Equity Bridge Loan Default shall occur solely by reason of a cross-default provision in the Equity Bridge Loan Documents relating to a Senior Loan Default.

“**Equity Bridge Loan Documents**” means the Equity Bridge Loan Agreement, the Equity Bridge Note, the Equity Bridge Security Agreement, the Equity Bridge Collateral Assignment, [the Equity Bridge Pledge Agreement,] and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Equity Bridge Indebtedness, as such documents may be amended.

“**Equity Bridge Note**” means the promissory note or other evidence of the Equity Bridge Indebtedness and any replacement of the Equity Bridge Note.

“**Lien**” means any lien, encumbrance, estate or other interest, recorded against or secured by the Mortgaged Property.

“**Notice**” means all notices, requests, demands, consents, approvals or other communication pursuant to this Agreement provided in accordance with the provisions of Section 10.

“**Permitted Payment Source**” means with respect to the Equity Bridge Loan, payments made on or applied to the Equity Bridge Loan which are derived from the Capital Contributions, the Limited Equity Interests, any interest reserve under the Equity Bridge Loan Documents or the Equity Bridge Guaranty, but expressly excluding the Sponsor Equity Interests.

“**Senior Indebtedness**” means the “Indebtedness” as defined in the Senior Loan Agreement.

“**Senior Lender**” is defined above. When any other person or entity becomes the legal holder of the Senior Note, such other person or entity will automatically become Senior Lender.

“**Senior Loan Documents**” means the “Loan Documents” as defined in the Senior Loan

Agreement, as such documents may be amended.

“**Senior Mortgage Default**” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Loan Agreement.

“**Senior Note**” means the promissory note or other evidence of the Senior Indebtedness and any replacement of the Senior Note.

“**Surplus Cash**” means, with respect to any period, any revenues of Borrower remaining after paying, or setting aside funds for paying, all the following:

(a) All sums due or currently required to be paid under the Senior Loan Documents, including any reserves and Imposition Reserve Deposits.

(b) All reasonable operating expenses of the Mortgaged Property, including real estate taxes, insurance premiums, utilities, building maintenance, painting and repairs, management fees, payroll, administrative expenses, legal expenses and audit expenses (excluding any developer fees payable with respect to the Mortgaged Property).

**2. Equity Bridge Lender’s Representations and Warranties.**

(a) Equity Bridge Lender represents and warrants that each of the following is true as of the date of this Agreement:

(i) Equity Bridge Lender is now the owner and holder of the Equity Bridge Loan Documents.

(ii) No Equity Bridge Loan Default has occurred and is continuing.

(iii) The current unpaid principal balance of the Equity Bridge Indebtedness is $\_\_\_\_\_\_\_\_.

(iv) No scheduled payments under the Equity Bridge Note have been prepaid.

(b) Without the prior written consent of Senior Lender, Equity Bridge Lender will not do any of the following:

(i) Pledge, assign, transfer, convey, or sell any interest in the Equity Bridge Indebtedness or any of the Equity Bridge Loan Documents.

(ii) Take any action which has the effect of increasing the Equity Bridge Indebtedness, except to cure a Senior Mortgage Default as contemplated under Section 5(a) of this Agreement.

(iii) Accept any prepayment of the Equity Bridge Indebtedness, except for a prepayment received by Equity Bridge Lender from a Permitted Payment Source.

(c) The Equity Bridge Loan is non-recourse to Borrower (except for typical non-recourse carveouts), does not accrue interest on unpaid interest and, if payable from cash flow generated by the Mortgaged Property, is payable only from 75 percent of Surplus Cash.

**3. Terms of Subordination.**

(a) Agreement to Subordinate.Except as otherwise expressly set forth herein or in the Senior Loan Documents, (i) the Equity Bridge Indebtedness is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness as provided in this Agreement, and (ii) each of the Equity Bridge Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.

(b) Subordination of Subrogation Rights.If Equity Bridge Lender, by indemnification, subrogation or otherwise, acquires any Lien on any of the Mortgaged Property in addition to any Permitted Payment Source that constitutes Mortgaged Property, then that Lien will be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Equity Bridge Indebtedness and the Equity Bridge Loan Documents are subordinate pursuant to this Agreement.

(c) Payments Before Senior Loan Default.Until the occurrence of a Senior Mortgage Default, Equity Bridge Lender will be entitled to retain for its own account all payments of the principal of and interest on the Equity Bridge Indebtedness pursuant to the Equity Bridge Loan Documents; provided that Equity Bridge Lender expressly agrees that it will not accept any such payment that is made more than 10 days in advance of its due date (other than a prepayment received by Equity Bridge Lender from a Permitted Payment Source) and provided further that Equity Bridge Lender will not accept any payment derived from cash flow from the Mortgaged Property in an amount that exceeds 75% of then available Surplus Cash.

(d) Payments After Senior Loan Default or Bankruptcy. Except for payments received by Equity Bridge Lender from a Permitted Payment Source:

(i) Immediately upon Equity Bridge Lender’s receipt of Notice or actual knowledge of a Senior Mortgage Default, Equity Bridge Lender will not accept any payments of the Equity Bridge Indebtedness, and the provisions of Section 3(d) of this Agreement will apply.

(ii) If Equity Bridge Lender receives any of the following, whether voluntarily or by action of law, after a Senior Mortgage Default of which Equity Bridge Lender has actual knowledge (or is deemed to have actual knowledge as provided in Section 4(c)) or has been given Notice, such will be received and held in trust for Senior Lender:

(A) Any payment, property, or asset of any kind or in any form in connection with the Equity Bridge Indebtedness.

(B) Any proceeds from any Enforcement Action.

(C) Any payment, property, or asset in or in connection with any Bankruptcy Proceeding.

(iii) Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Equity Bridge Lender. No action or failure to act on the part of Senior Lender in the event of an Equity Bridge Loan Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.

(iv) Equity Bridge Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets described in Section 3(d)(ii) to Senior Lender. Senior Lender will apply any payment, asset, or property so received from Equity Bridge Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender determines in its sole and absolute discretion. Equity Bridge Lender designates and appoints, irrevocably and coupled with an interest, Senior Lender (and all persons and entities designated by Senior Lender) as Equity Bridge Lender’s true and lawful attorney-in-fact with power to endorse the name of Equity Bridge Lender upon any check or other instrument and to take any action necessary to collect any payment, property, or asset referred to in, or otherwise effectuate the provisions of, this Section 3(d).

(e) Bankruptcy.Without the prior written consent of Senior Lender, Equity Bridge Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Equity Bridge Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan.

(f) Reinstatement. The subordination of the Equity Bridge Indebtedness as provided herein will continue if any payment under the Senior Loan Documents and/or the Equity Bridge Loan Documents (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, any or all of the Senior Indebtedness and/or Equity Bridge Indebtedness originally intended to be satisfied will be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of such indebtedness had not been made.

(g) Claims to Senior Loan Proceeds or Mortgaged Property. Equity Bridge Lender acknowledges and agrees that it has no rights or claims under the Equity Bridge Loan Documents in or to any of the proceeds of the Senior Loan or, except to the extent that any Permitted Payment Source constitutes Mortgaged Property, any portion of the Mortgaged Property, and any purported right or claim thereto is hereby disclaimed and made expressly subject and subordinate in all respects to the rights and claims of Senior Lender under the Senior Loan Documents in or to such Mortgaged Property.

**4. Default Under Equity Bridge Loan Documents.**

(a) Notice of Equity Bridge Loan Default and Cure Rights.

(i) Equity Bridge Lender will deliver to Senior Lender a copy of each Notice delivered by Equity Bridge Lender pursuant to the Equity Bridge Loan Documents within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Senior Lender pursuant to this Section 4(a) will affect the validity of any Notice given by Equity Bridge Lender to Borrower.

(ii) Senior Lender will have the right, but not the obligation, to cure any Equity Bridge Loan Default, until such time, if ever, as Senior Lender delivers to Equity Bridge Lender Senior Lender’s Notice of written consent to an Enforcement Action described in an Enforcement Action Notice given by Equity Bridge Lender as a consequence of an Equity Bridge Loan Default.

(iii) Equity Bridge Lender acknowledges that all amounts advanced or expended by Senior Lender to cure an Equity Bridge Loan Default will be added to and become a part of the Senior Indebtedness and will be secured by the Senior Loan Documents.

(b) Equity Bridge Lender’s Exercise of Remedies After Notice to Senior Lender. Except as permitted by this Section 4(b), any Enforcement Action on the part of Equity Bridge Lender will be subject to the prior written consent of Senior Lender. In the event of an Equity Bridge Loan Default, Equity Bridge Lender will not commence any Enforcement Action until after (i) Equity Bridge Lender has delivered to Senior Lender an Enforcement Action Notice with respect to such Enforcement Action, and (ii) Senior Lender has delivered to Equity Bridge Lender Senior Lender’s written consent to such Enforcement Action by Equity Bridge Lender; provided that no such consent shall be required with respect to any Enforcement Action limited to (A) specific enforcement of the Borrower’s obligations to complete the Repairs or of any Person’s obligations to contribute the Capital Contributions to the Borrower, or (B) a Permitted Payment Source. Senior Lender will advise Equity Bridge Lender whether Senior Lender consents to the Enforcement Action by Equity Bridge Lender within 90 days following Senior Lender’s receipt of the Enforcement Action Notice (failure of Senior Lender to provide written consent to the Enforcement Action within such 90-day period constitutes Senior Lender’s refusal of such consent). Equity Bridge Lender acknowledges that Senior Lender may grant or refuse consent to Equity Bridge Lender’s Enforcement Action in Senior Lender’s sole and absolute discretion. [**USE THE NEXT SENTENCE IF SUBORDINATE LENDER AND EQUITY INVESTOR ARE NOT RELATED. STRIKE EITHER OR BOTH SENTENCES IF N/A]** Any Enforcement Action against the Sponsor Equity Interests which results in the Equity Bridge Lender or any other Person becoming the owner of the Sponsor Equity Interests will require the prior written approval of Senior Lender pursuant to the requirements set forth in Section 7.05 of the Senior Loan Agreement, and the Transfer Fee and Transfer Processing Fee will be due as a condition precedent to the consummation of such acquisition, pursuant to the requirements set forth more specifically in Section 7.05 of the Senior Loan Agreement. [**USE THE NEXT SENTENCE IF SUBORDINATE LENDER AND EQUITY INVESTOR ARE RELATED. STRIKE EITHER OR BOTH SENTENCES IF N/A]** Any Enforcement Action against the Sponsor Equity Interests which results in the Equity Bridge Lender or any other Person becoming the owner of the Sponsor Equity Interests will, as applicable, (i) be subject to the requirements set forth in Section 7.03(a)(vii) of the Senior Loan Agreement, including payment of the Transfer Processing Fee, or (ii) require the prior written approval of Senior Lender pursuant to the requirements set forth in Section 7.05 of the Senior Loan Agreement, and the Transfer Fee and Transfer Processing Fee will be due as a condition precedent to the consummation of such acquisition, pursuant to the requirements set forth more specifically in Section 7.05 of the Senior Loan Agreement. Equity Bridge Lender acknowledges that the provisions of this Section 4(b) are fair and reasonable under the circumstances, that Equity Bridge Lender has received a substantial benefit from Senior Lender having granted its consent to the Equity Bridge Loan, and that Senior Lender would not have granted such consent without the inclusion of these provisions in this Agreement.

(c) Cross Default.Equity Bridge Lender acknowledges that an Equity Bridge Loan Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of an Equity Bridge Loan Default, Equity Bridge Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Equity Bridge Lender notifies Senior Lender in writing that any Equity Bridge Loan Default of which Senior Lender has received Notice has been cured or waived, as determined by Equity Bridge Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Equity Bridge Loan Default will be deemed cured, and the Senior Loan will be reinstated.

**5. Default Under Senior Loan Documents.**

(a) Notice of Senior Loan Default and Cure Rights.

(i) Senior Lender will deliver to Equity Bridge Lender a copy of any Notice sent by Senior Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Senior Lender to send Notice to Equity Bridge Lender will not prevent the exercise of Senior Lender’s rights and remedies under the Senior Loan Documents.

(ii) Equity Bridge Lender will have the right, but not the obligation, to cure any Senior Mortgage Default during such period of time, if any, as Borrower is permitted by the terms of the Senior Loan Documents to cure a Senior Mortgage Default.

(iii) Equity Bridge Lender will not be subrogated to the rights of Senior Lender under the Senior Loan Documents by reason of Equity Bridge Lender having cured any Senior Mortgage Default.

(b) Release of Mortgaged Property.

(i)Equity Bridge Lender consents to and authorizes any future release by Senior Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Equity Bridge Lender waives to the fullest extent permitted by law, all equitable or other rights it may have in connection with the release of all or any portion of the Mortgaged Property, including any right to require Senior Lender to do any of the following:

(A) To conduct a separate sale of any portion of the Mortgaged Property.

(B) To exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness.

(C) To proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Senior Lender determines.

(ii) Equity Bridge Lender consents to and authorizes, at the option of Senior Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Equity Bridge Lender acknowledges that without Notice to Equity Bridge Lender and without affecting any of the provisions of this Agreement, Senior Lender may do any of the following:

(A) Extend the time for or waive any payment or performance under the Senior Loan Documents.

(B) Modify or amend in any respect any provision of the Senior Loan Documents.

(C) Modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.

**6. Conflicts.** If there is any conflict or inconsistency between the terms of the Equity Bridge Loan Documents and the terms of this Agreement, then the terms of this Agreement will control. Borrower acknowledges that the terms and provisions of this Agreement will not, and will not be deemed to do any of the following:

(a) Extend Borrower’s time to cure any Senior Loan Default or Equity Bridge Loan Default.

(b) Give Borrower the right to receive notice of any Senior Loan Default or Equity Bridge Loan Default, other than that, if any, provided, respectively under the Senior Loan Documents of the Equity Bridge Loan Documents.

(c) Create any other right or benefit for Borrower as against Senior Lender or Equity Bridge Lender.

**7. Rights and Obligations of Equity Bridge Lender Under the Equity Bridge Loan Documents and of Senior Lender** **under the Senior Loan Documents.**

(a) Insurance.

(i) All requirements pertaining to insurance under the Equity Bridge Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender.

(ii) All original policies of insurance required pursuant to the Senior Loan Documents will be held by Senior Lender.

(iii) Nothing in this Section 7(a) will preclude Equity Bridge Lender from requiring that it be named as an additional insured under all policies of liability insurance maintained by Borrower.

(b) Modification of Equity Bridge Loan Documents. Equity Bridge Lender agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender, increase the amount of the Equity Bridge Loan, increase the required payments due under the Equity Bridge Loan, decrease the term of the Equity Bridge Loan, increase the interest rate on the Equity Bridge Loan, or otherwise amend the Equity Bridge Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. If Equity Bridge Lender either (i) amends the Equity Bridge Loan Documents in the manner set forth above or (ii) assigns the Equity Bridge Loan without Senior Lender’s consent then such amendment or assignment will be void ab initio and of no effect whatsoever.

(c) Modification of Senior Loan Documents.Senior Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Equity Bridge Lender, and without affecting any of the provisions of this Agreement.

(d)Consent Rights.Whenever the Equity Bridge Loan Documents give Equity Bridge Lender approval or consent rights with respect to any matter, and a right of approval or consent for the same or substantially the same matter is also granted to Senior Lender pursuant to the Senior Loan Documents or otherwise, Senior Lender’s approval or consent or failure to approve or consent will be binding on Equity Bridge Lender. None of the other provisions of Section 7 are intended to be in any way in limitation of the provisions of this Section 7(d).

(e)Certification.Within 10 days after request by Senior Lender, Equity Bridge Lender will furnish Senior Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Equity Bridge Indebtedness, confirming that there exists no default under the Equity Bridge Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Equity Bridge Indebtedness as Senior Lender may request.

(f) Equity Bridge Loan Advances. Equity Bridge Lender agrees that all proceeds advanced to Borrower under the Equity Bridge Loan Documents prior to the completion of the Repairs in accordance with the terms of the Senior Loan Agreement will be made to the Senior Lender or otherwise in accordance with the payment instructions received from Senior Lender to be deposited in the Repair Reserve Fund and disbursed in accordance with the terms of the Senior Loan Agreement. Senior Lender may provide payment instructions to Equity Bridge Lender with respect to advances of proceeds of the Equity Bridge Loan. Upon an Event of Default under the Senior Loan Agreement, Senior Lender shall have the right to issue draw instructions to Equity Bridge Lender, which may be in the form of a requisition under the Equity Bridge Loan Documents. In the event Equity Bridge Lender receives conflicting instructions from Borrower and Senior Lender, Equity Bridge Lender is hereby instructed to follow the payment instructions of Senior Lender and to make payment in accordance with the payment instructions of Senior Lender. Borrower, by its Consent attached hereto, agrees that Equity Bridge Lender is instructed to comply with the payment instructions of Senior Lender and in the event Equity Bridge Lender complies with the payment instructions of Senior Lender, Borrower waives any claims that it may have against Equity Bridge Lender even if the payment instructions from Senior Lender conflict with the payment instructions of Borrower, and agrees that Equity Bridge Lender will have no liability to Borrower or its partners as a result of such payments.

(g) Senior Lender’s Rights to Permitted Payment Sources. Senior Lender acknowledges and agrees that it has no rights or claims under the Senior Loan Documents in or to any Permitted Payment Source, except for Senior Lender’s senior security interest in the Sponsor Equity Interests and Senior Lender’s conditionally subordinate security interest in the Capital Contributions, and any purported right or claim thereto is hereby disclaimed and made expressly subject and subordinate in all respects to the rights and claims of Equity Bridge Lender under the Equity Bridge Loan Documents in or to such Permitted Payment Source. Senior Lender acknowledges and agrees that until either (i) the Equity Bridge Lender fails to make a disbursement of proceeds as and when required in accordance with the Equity Bridge Loan Documents, or (ii) the Borrower’s obligations to Equity Bridge Lender under the Equity Bridge Loan Documents have been paid in full, Senior Lender’s rights, title and interests in and to the Capital Contributions are hereby subordinated to the interests of Equity Bridge Lender. Senior Lender agrees without the prior written consent of Equity Bridge Lender not to take any remedial action against the Capital Contributions at any time that Senior Lender’s security interest in the Capital Contributions is subordinate to Equity Bridge Lender’s security interest in the Capital Contributions. Except for the limitations set forth in the immediately preceding sentence, Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Equity Bridge Lender. No action or failure to act on the part of Senior Lender in the event of an Equity Bridge Loan Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.

**8. Refinancing.** Equity Bridge Lender agrees that its agreement to subordinate under this Agreement will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Senior Lender will mean, respectively, the refinance loan documents and the holder of such refinanced debt.

**9. Reserved.**

**10. Notices.**

(a) Any Notice required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

Notices intended for Senior Lender will be addressed to:

[Name]

[Address]

Attention:

Notices intended for Equity Bridge Lender will be addressed to:

[Name]

[Address]

Attention:

(b) Any party, by Notice given pursuant to this Section 10, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section 10.

**11. Miscellaneous Provisions.**

(a) Assignments/Successors.This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. Except for Senior Lender, no other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise. This Agreement may be assigned at any time by Senior Lender to any subsequent holder of the Senior Note.

(b) No Partnership or Joint Venture.Nothing in this Agreement or in any of the Senior Loan Documents or Equity Bridge Loan Documents will be deemed to constitute Senior Lender as a joint venturer or partner of Equity Bridge Lender.

(c) Further Assurances.Upon Notice from Senior Lender, Equity Bridge Lender will execute and deliver such additional instruments and documents, and will take such actions, as are required by Senior Lender to further evidence or implement the provisions and intent of this Agreement.

(d) Amendment.This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.

(e) Governing Law.This Agreement will be governed by the laws of the State in which the Land is located.

(f) Severable Provisions.If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.

(g) Term.The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events:

(i) The payment of all the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by Senior Lender.

(ii) The payment of all the Equity Bridge Indebtedness other than by reason of payments which Equity Bridge Lender is obligated to remit to Senior Lender pursuant to this Agreement; provided that this Agreement will be reinstated in the event any payment on account of the Equity Bridge Indebtedness is avoided, set aside, rescinded or repaid by Equity Bridge Lender as described in Section 3(f) of this Agreement.

(iii) The acquisition by Senior Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee’s sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.

(h) Counterparts.This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

(i) Entire Agreement.This Agreement represents the entire understanding and agreement between the parties regarding the matters addressed in this Agreement, and will supersede and cancel any prior agreements regarding such matters.

(j) Authority.Each person executing this Agreement on behalf of a party to this Agreement represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.

(k) No Waiver.No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.

(l) Remedies.Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the day and year first above written.

**SENIOR LENDER:**

**[NAME OF SENIOR LENDER]**

By:

Name:

Title:

**EQUITY BRIDGE LENDER:**

[**NAME OF EQUITY BRIDGE LENDER**]

By:

Name:

Title:

CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and among **[NAME OF SENIOR LENDER]** and [**NAME OF EQUITY BRIDGE LENDER**] and consents to the agreement of the parties set forth in this Agreement.

**[NAME OF BORROWER]**

By:

Name:

Title:

Date:

EXHIBIT A

LEGAL DESCRIPTION