

PURCHASE OPTION AGREEMENT
(Highland Square)

PURCHASE OPTION AGREEMENT (the “Agreement”) is made and entered into as of March 23, 2022 (the “Effective Date”), between HS INVESTORS LLC, a Delaware limited liability company (the “Owner”), and JAVELIN 2022, LLC, a Delaware limited liability company (the “Optionee”).

Recitals

A. The Owner is governed by that certain Amended and Restated Limited Liability Company Agreement dated as of the date hereof (the “Ownership Agreement”), and is engaged in the ownership and operation of an apartment project located in Greenville, South Carolina and commonly known as “Highland Square” (the “Project”). The real property comprising the Project is legally defined on Exhibit A.

B. The Optionee desires to have the right to acquire the Project together with the fixtures, personal property and agreements associated therewith (the “Property”) subject to the terms and conditions set forth in this Agreement.

C. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Ownership Agreement. Each of Owner and Optionee are sometimes referred to herein as a “Party” and collectively as the “Parties.”

NOW, THEREFORE, in consideration of the execution and delivery of the Ownership Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Section 1. Grant of Option

Owner hereby grants to the Optionee an option (the “Option”) to purchase the Property for a period (the “Option Period”) commencing on Effective Date and ending on March 31, 2032 on the terms and conditions set forth in this Agreement, including without limitation the terms and conditions set forth on Exhibit B attached hereto (the “Governing Terms”) and subject to the conditions precedent to the exercise of the Option specified herein. If Optionee does not exercise the Option during the Option Period, the Option will expire and be of no further force or effect.

Section 2. Option Consideration; Purchase Price Under Option

A. On or about the date hereof, Optionee has paid \$100 in exchange for the Option.

B. The purchase price for the Property pursuant to the Option (the “Option Price”) shall be an amount equal to the greater of: (i) 25,000,000.00 and (ii) the sum of: (x) the outstanding principal, accrued interest, any prepayment penalty and any other amounts due under all mortgage documents relating to the Property described on Exhibit A less Property net cash, reserves and escrow balances and (y) ten percent (10%) of the amount in clause (i).

Section 3. Exercise of Option

The Option may be exercised by the Optionee by: (a) giving written notice of its intent to exercise the Option to the Owner during the Option Period (the “Option Exercise Notice” and the date such Option Exercise Notice is given, the “Option Exercise Date”), and (b) complying with the Governing Terms. After delivery of the Option Exercise Notice and prior to Closing, Optionee may designate an entity of Optionee’s choosing to take title to the Property.

Section 4. Closing

From and after the giving of the Option Exercise Date, for a period of five hundred and fifty (550) days, Optionee will have the right to set a date of Closing pursuant to this Agreement on not less than ninety (90) days prior written notice to Owner which in no event may be prior to January 1, 2027 (the “Closing Date”). On the Closing Date, in exchange for the Option Price, Owner will convey the Property to Optionee or its designee in accordance with and subject to the terms of this Agreement, including, without limitation, the Governing Terms. In the event that the Closing Date has not occurred within seven hundred and thirty (730) days of the date the Option Exercise Notice is given, then unless extended by agreement of the Parties, this Agreement shall terminate.

Section 5. Purchase Agreement at Optionee’ s Request

This Agreement and the right of the Optionee to acquire the Property in accordance with the Governing Terms is specifically enforceable by Optionee. Notwithstanding the foregoing but without derogation of any rights granted to Optionee hereunder, Either Party, upon request of the Other Party, will execute: (i) an estoppel letter confirming Optionee’ s acquisition rights with respect to the Property or (ii) a form purchase and sale agreement in substance identical to the terms of the Agreement, in each case in form reasonably acceptable to Owner and Optionee for the purpose of permitting Optionee to demonstrate “site control” with respect to the Property to one or more third parties.

Section 6. Alternative Purchase of Ownership Interests

Notwithstanding the foregoing, Optionee may, by written notice to Owner given no later than ninety (90) days prior to the Option Closing Date, acquire the ownership interests in Owner in lieu of a direct acquisition of the Property pursuant to the Option but otherwise subject to the Governing Terms.

Section 7. Notices

Any notice, consent, or approval required or permitted to be given hereunder must be sent: (i) via email to all of the email addresses specified below for a party; or (ii) in writing to the physical address(es) set forth below via commercial or US Postal Service for overnight delivery; or by hand:

If to Owner:	c/o Related Affordable, LLC 330 W 30th Street New York, NY 10001 Attention: Matthew Finkle
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Email: MFinkle@related.com

WITH A COPY TO:

c/o Related Affordable, LLC
330 W 30th Street
New York, NY 10001
Attention: Richard O'Toole
Email: ROtoole@related.com

AND TO:

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Attention: John P. O'Neill
Email: john.oneill@hkllaw.com

AND TO:

c/o GHC Housing Partners
15301 Ventura Boulevard Suite B-570
Sherman Oaks, California 91403
Attention: Gregory F. Perlman
Email: greg@ghchousing.com

WITH A COPY TO:

c/o GHC Housing Partners LLC
15301 Ventura Blvd. Building B Suite 570
Sherman Oaks, California 91403
Attention: Clarice F. Silva, Esq.
Email: clarice@ghchousing.com

IF TO OPTIONEE:

c/o Related Affordable, LLC
330 W 30th Street
New York, NY 10001
Attention: Matthew Finkle
Email: MFinkle@related.com

WITH A COPY TO:

c/o Related Affordable, LLC
330 W 30th Street
New York, NY 10001
Attention: Richard O'Toole
Email: ROtoole@related.com

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Attention: John P. O'Neill
Email: john.oneill@hkllaw.com

or, in each case, to such other address or persons as may designated by a party hereto in a written notice to the other parties hereto in a manner provided for in this Section. A notice shall be deemed to have been given under this Section: (i) in the case of electronic mail, upon the earlier of: (x) the time which the sender receives a "return receipt" or other evidence of delivery from the intended recipients email system and (y) an electronic mail from recipient acknowledging its receipt of the original communication; (ii) in the case of hand delivery, upon delivery to the specified physical address; (iii) in the case delivery by overnight mail, the day the same is delivered as evidenced by a confirmation of delivery by such overnight delivery service in such service's customary form. Notice hereunder may be given by counsel acting on behalf of a party. A party may change its address or add one or more addresses and/or addressees for notice from time to time by delivery of at least ten (10) days prior written notice of such change to the other party hereto in the manner prescribed in this Section.

Section 8. Entire Agreement. This Agreement and the other agreements referred to herein constitute all of the agreements among the parties relating to the matters set forth herein and supersede all other prior or concurrent oral or written letters, agreements or understandings with respect to the matters set forth herein.

Section 9. Electronic Signatures; Counterparts. This Agreement shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the uniform commercial code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under Signature Law due to the character or intended character of the writings. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

Section 10. Severability. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

Section 11. Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

Section 12. Construction. As used herein, the words “include”, “including”, and similar terms shall be construed as if followed by the phrase “without limitation.”

Section 13. No Third Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary.

Section 14. Waiver of Jury Trial. To the extent permitted by applicable law, Borrowers and Related knowingly, voluntarily and irrevocably waive any right they may have to trial by jury in any action or proceeding among or between the Borrowers, and Related in connection with or arising out of this Term Sheet and the Transactions.

Section 15. Governing Law.

This Agreement shall be construed and enforced in accordance with the laws of South Carolina (the “State”), without regard to principles of conflicts of law.

Section 16. Memorandum of Option

Owner and Optionee shall execute a Memorandum of Option with respect to Optionee’s rights under this Agreement in the form attached hereto as Exhibit C (the “Memorandum”). Optionee shall have the right to record the Memorandum at any time prior to the expiration of the Option Period.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this document as of the date first set forth hereinabove.

OWNER:

HS INVESTORS LLC, a Delaware limited liability company

By: Javelin RA 2022 Manager, LLC, a Delaware limited liability company, its non-member manager

By: 

Matthew Finkle
Vice President

[signatures continue on following page]

[signatures continued from previous page]

OPTIONEE:

JAVELIN 2022, LLC, a Delaware limited liability company

By: _____

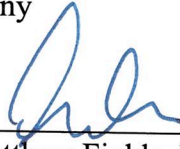

Matthew Finkle, Vice President

EXHIBIT A

LEGAL DESCRIPTION

[TO BE INSERTED]

EXHIBIT B

GOVERNING TERMS

Section 1. Purchase and Sale.

A. Purchased Property:

(a) the land legally described in **Exhibit A** attached hereto and all easements and rights appurtenant thereto (the “**Land**”),

(a) all buildings, fixtures, structures, and improvements on the Land (the “**Improvements**”),

(b) all personal property owned by Owner and located upon the Land or within the Improvements, including, without limitation, all furniture, appliances, equipment, machinery, drapes, carpeting, tools and supplies used in connection with the operation of the Property, all data and records related to or used in the operation of the Property, including tenant lists, rent rolls, maintenance logs, service and warranty records, equipment logs, operating guides and manuals, and financial and accounting records, but excluding all computer hardware and software (the “**Personal Property**”),

(c) all of Owner’s right, title and interest in and to the leases and other agreements under which tenants occupy all or any portion of the Land and Improvements, including, without limitation, any residential leases (“**Tenant Leases**”) and all accounts and security deposits or other deposits collected from tenants, together with any interest required by law to be paid (collectively, the “**Deposits**”),

(d) all of Owner’s right, title and interest, if any, in and to all assignable service, equipment lease and utility agreements relating to the operation of the Property, to the extent assignable (the “**Service Contracts**”),

(e) all of Owner’s right, title and interest, if any, in and to all plans, specifications, building permits, certificates of occupancy, signs, maintenance supplies, utilities, and other similar items for the Property, all assignable warranties, permits and approvals associated with the Land, Improvements, Personal Property, Tenant Leases, and Service Contracts, and leasing records, assignable licenses and franchises, and Owner’s rights, if any, but without warranty, to use the Property Name and all variations thereof and any other trade names, trademarks, logos and symbols associated with or used in connection with the Property, and telephone and facsimile numbers and advertising materials used in connection with the Property including without limitation all domain names, URLs, and website content with any existing transferrable licenses necessary to utilize the same in e-commerce, social media accounts, and logo, photo, video and e-brochure files (collectively, the “**Intangibles**”), and

(f) all of Owner’s right, title and interest, in and to the Housing Assistance Payments Agreement (“**HAP Contract**”) with the U.S. Department of Housing and Urban Development (“**HUD**”) and Contract Administrator, if applicable, and Owner’s rights in any subsidy, grant or similar agreements.

B. The Property. The Land, the Improvements, the Personal Property, the Tenant Leases, the Deposits, the Service Contracts, the Intangibles and the HAP Contract are collectively referred to as the “**Property.**”

Section 2. Review of Property.

A. [Intentionally Deleted]

B. [Intentionally Deleted]

C. Access. Upon reasonable prior notice to Owner, Optionee shall be entitled to access the Property and to review all of the books and records of the Property in Owner’s actual possession or control (collectively, the “Review Materials”) and to conduct such investigations, tests, surveys and other analyses as Optionee determines is necessary, provided (a) Optionee shall not do any invasive observations, testing, sampling or drilling at the Property without Owner’s prior written consent which may be given in Owner’s sole discretion, (b) Optionee shall conduct such tests or investigations so as not to interfere materially with current activities or tenants on the Property, (c) Optionee shall promptly restore the Property to substantially the same condition which existed immediately prior to any such investigations, tests, surveys and other analyses, at Optionee’s sole cost and expense (other than that arising from the discovery by Optionee of preexisting conditions), and (d) Optionee (or its third party consultants) shall maintain general liability insurance coverage of at least \$1,000,000 covering loss or damage arising from its activities on the Property. Owner shall, at its sole cost and expense, be entitled to have a representative present at all times while Optionee or its representatives or agents are physically on the Property. Notwithstanding the foregoing, Optionee shall be entitled to access occupied units only upon advance notice to tenants in accordance with applicable law.

D. Inspection Indemnity. Optionee agrees to indemnify, defend, and hold Owner, their respective partners, members, managers, affiliates, and their respective agents, contractors, officers, directors and employees harmless from and against claims for damages or injuries to the extent arising out of or resulting from the investigation of the Property by Optionee and its agents and/or the performance of the tests and investigations conducted by Optionee on the Property but in any event not including any such damages or injuries resulting from Optionee’s discovery of a pre-existing condition. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 2D shall survive the termination, expiration or consummation of this Agreement.

Section 3. Required Approvals. From and after the Option Exercise Date, Owner and Optionee shall use best efforts to diligently and in good faith seek to obtain written approval from HUD, pursuant to the requirements applicable to the HAP Contract, and from any required federal, state and local authorities, to transfer the Property to Optionee (collectively, the “**Required Approvals**”). With the cooperation of Owner, Optionee will file all initial applications and other submissions required to obtain the Required Approvals within thirty (30) calendar days after the Option Exercise Date. Owner shall reasonably cooperate with Optionee’s efforts to obtain the Required Approvals, at no material cost or expense to Owner. Obtaining the Required Approvals shall be a condition precedent to the Closing and Optionee shall provide regular status updates to Owner regarding Optionee’s progress with the Required Approvals and, in connection with

Optionee's request for the Required Approvals, Optionee will provide Owner copies of any and all material correspondence with HUD, the applicable federal, state and local authorities.

Section 4. Closing.

A. Time and Place of Closing. Closing shall occur in the office of a nationally recognized title company or an agent thereof selected by Optionee (such party, the "**Escrow Agent**"), or at Optionee or Owner's option, may be conducted as a "mail-away" closing without requiring the personal attendance of Owner or Optionee, on the Closing Date. Optionee and Owner shall deposit in escrow with Escrow Agent all instruments and documents necessary to complete the transaction in accordance with this Agreement and agree that the Escrow Agent shall be the reporting person to the extent required under any laws applicable to the transaction. As used herein, "Closing", "Closing Date" or "date of Closing" means the date on which all appropriate documents have been delivered to Escrow Agent and the proceeds of sale are available for disbursement to Owner.

B. Closing Costs; Fees.

(i) Closing Costs. At Closing, Optionee will pay all costs and premiums for the Title Policy, fees charged by title and escrow, closing costs and mortgage recording fees, taxes, and costs. Transfer taxes will be allocated between Optionee and Owner in accordance with the customs in the county and state where the Property is located.

(ii) Legal and Consultant Fees. Notwithstanding the foregoing, each party shall be responsible for its own legal, accounting and consultant fees.

(iii) Payoff of Indebtedness. Concurrently with Closing, Owner shall use the sales proceeds from the Closing to pay off the existing indebtedness encumbering the Property

(iv) Notwithstanding anything to the contrary contained herein, the proceeds paid to the Owner shall not be less than ten percent (10%) of the Going-In-Value less the transfer taxes allocated to the Owner.

C. Prorations. All income and expenses in connection with the operation of the Property shall be apportioned as of 12:01 a.m. on the day following Closing, as if Optionee were vested with title to the Property during the entire date for the day following Closing, such that Optionee shall have the benefit of the income and the burden of expenses for the day following Closing. Such prorated items shall include, without limitation, the following: real property taxes and assessments, utilities, payments under the Service Contracts, collected rents under the Tenant Leases (provided, however, that uncollected or delinquent rent owed to Owner, debt service, insurance premiums, management fees, and employee salaries or benefits shall not be prorated). Any rental delinquencies paid after Closing shall be applied first to current delinquent rents owed to Optionee, then to current rents owed to Optionee, and then to delinquent rent owed to Owner for the period prior to Closing. All refundable security deposits and prepaid items applicable to the period from and after the Closing Date shall be transferred to Optionee in cash at Closing or credited against the Purchase Price. Optionee has no obligation hereunder to file an action to collect, incur any material cost or expense or otherwise enforce payment of the delinquent rent.

Any revenue or expense amount which cannot be ascertained with certainty as of Closing shall be prorated based upon the parties' reasonable estimation, and shall be reconciled within thirty (30) days of Closing or as soon thereafter as the precise amounts can be ascertained. The provisions of this Section C shall survive Closing.

D. Tenant Deposits and Payments. All tenant security deposits collected under the Tenant Leases and not applied by Owner (and interest thereon if required by law or contract), all refundable pet, key and other similar deposits collected under Tenant Leases existing at the Closing shall be transferred or credited to Optionee at Closing. As of the Closing, Optionee shall assume Owner's obligations related to tenant and licensee security and other deposits, but only to the extent they are credited or transferred to Optionee.

E. Leasing Commissions. Commissions of leasing and rental agents for any Lease entered into before the Closing Date and with a commencement date prior to the Closing Date shall be paid exclusively by Owner at, or prior to Closing, pursuant to the terms relating to such payment. Commissions of leasing and rental agents for any Lease entered into on or after the 90th day prior to the Closing Date and before the Closing Date and with a commencement date on or after the Closing Date shall be paid exclusively by Optionee. All such rights and obligations under this Section E shall survive the Closing.

Section 5. Deliveries at or before Closing.

A. Owner's Delivery. At or before Closing, Owner shall have delivered to Optionee or shall deliver into escrow the following with respect to its Property:

(i) A deed with covenants against grantor's acts, in form attached hereto as **Exhibit B**, conveying title to the Land and Improvements to Optionee, subject to the Exceptions pursuant to Section 6.D below (the "**Deed**");

(ii) Bill of Sale, in form attached hereto as **Exhibit C**, conveying title to the Personal Property to Optionee free and clear of liens or other encumbrances;

(iii) Assignment and Assumption of Leases, in form attached hereto as **Exhibit D**, transferring the Tenant Leases to Optionee;

(iv) Assignment and Assumption of Service Contracts and Intangibles, in form attached hereto as **Exhibit E** transferring the Service Contracts to Optionee;

(v) To the extent required, an Assignment and Assumption Agreement in the form customarily required by the applicable regulatory authority, and evidencing the consent and approval of such applicable regulatory authority to the transfer of the Property to Optionee and assumption by Optionee of the applicable documents, in such form as may be required by the applicable regulatory authority and reasonably acceptable to the Optionee and Owner (whether in one or more documents, the "**Transfer Agreement**");

(vi) Any declaration or other statement that may be required to be submitted by the Owner to the local assessor in connection with the sale of the Property;

(vii) a FIRPTA Affidavit, from Owner, in a form reasonably acceptable to the Optionee to evidence that the Owner, is not subject to income tax withholding under the Foreign Investment in Real Property Tax Act and any similar forms required under analogous state laws;

(viii) Certified Rent Roll;

(ix) A notice signed by Owner notifying the tenants under the Tenant Leases of the sale of the Property to Optionee;

(x) All prepaid rents and refundable security deposits under the Tenant Leases (unless credited against the Purchase Price);

(xi) All books, records and documents relating to the Tenant Leases, maintenance, and/or management of the Property, as well as all keys and access codes;

(xii) All electronic data and records related to or used in the operation of the Property shall be delivered to Optionee or otherwise made available to the Optionee; provided, however, that Optionee shall be responsible for procuring and maintaining, at its sole cost and expense, any application software required to receive or access such data and records;

(xiii) A final closing statement, prepared by Escrow Agent and agreed to by Owner and Optionee (the “**Closing Statement**”);

(xiv) A valid and effective pay-off statement and prepayment approval for any and all mortgages and other similar liens on the Property not assumed by Optionee and sufficient to enable the Title Company to issue title policies to Optionee and its lender at Closing without taking exception for any mortgage or other monetary lien;

(xv) Any title clearing documents and instruments as may be required to deliver title to the Optionee as required hereunder;

(xvi) One or more affidavits and/or indemnities in favor of the Title Company as necessary for the Title Company to remove standard exceptions and complete a so-called gap closing;

(xvii) A certificate confirming that Owner’s representations and warranties contained herein remain true and correct as of the Closing Date;

(xviii) An Assignment, Assumption and Amendment of Section 8 Housing Assistance Contract in substantially the form attached as **Exhibit F** (“**HAP Contract Assignment**”) or in such form as may be required by HUD and reasonably acceptable to the Optionee and Owner;

(xix) Notification letters to all tenants in form and substance reasonably acceptable to Owner and Optionee prepared and executed by Optionee and Owner (“**Tenant Notification Letters**”), which shall be delivered to all tenants by Optionee immediately after Closing; and

(xx) Any transfer tax forms, reports or returns required under applicable law (**“Transfer Tax Forms”**).

B. **Optionee’s Delivery.** At Closing, Optionee shall deliver the following:

(i) Cash in the amount of the Purchase Price (subject to adjustments and pro-rations as set forth herein).

(ii) A counterpart of the Assignment and Assumption of Leases.

(iii) A counterpart of the Assignment and Assumption of Service Contracts.

(iv) To the extent required, a counterpart of the Transfer Agreement.

(v) A counterpart of the Closing Statement;

(vi) The HAP Contract Assignment;

(vii) A certificate confirming that Optionee’s representations and warranties contained herein remain true and correct as of the Closing Date;

(viii) Such evidence as the Title Company may reasonably require as to the authority of the person or persons executing documents on behalf of Optionee;

(ix) Any declaration or other statement that may be required to be submitted to the Optionee to the local assessor in connection with the sale of the Property;

(x) Tenant Notification Letters executed by Optionee; and

(xi) Any Transfer Tax Forms required to be executed by Optionee.

Section 6. **Optionee’s Closing Conditions.** The obligations of Optionee under this Agreement are contingent upon each of the following conditions:

A. On the Closing Date, each of the representations and warranties of Owner in this Agreement shall be true and correct in all material respects as if the same were made on the Closing Date, subject to Owner’s right to update such representations and warranties as provided in this Agreement.

B. By the Closing Date, Owner shall have performed all covenants and obligations in all material respects and complied with all material conditions required by this Agreement to be performed or complied with by Owner.

C. Receipt of the Required Approvals (which may be conditioned on Closing) pursuant to **Section 3** above.

D. At Closing, Owner shall deliver the Property substantially in the same manner and physical condition as of the Option Exercise Date, pursuant to its normal course of

business, subject to reasonable wear and tear and further subject to any destruction by casualty or taking by eminent domain in accordance with Section 9 below.

E. The Title Company shall be prepared to issue to Optionee at Closing a standard policy of title insurance (the “**Title Policy**”), insuring Optionee’s title subject to all of the following, all of which shall be deemed to be “**Exceptions**”, but shall contain no additional exceptions: (1) all matters shown in a Commitment for Title Insurance, issued by the Title Company for the Property (“**Title Commitment**”), including, without limitation, any standard exceptions not customarily removed by a title affidavit; (2) the rights and interests of parties claiming under Leases; (3) the lien to secure taxes and assessments not yet due and payable; (4) zoning ordinances and regulations and other laws or regulations governing use or enjoyment of the Property; (5) such state of facts as may be shown on a survey of the Property; (6) matters affecting title created by, on behalf of, or with the consent of Optionee; and (7) the HAP Contract; and (8) the LURAs not listed in the Commitment listed on Schedule 6.4 attached hereto and made a part hereof. Notwithstanding the foregoing provisions of Section D, Owner shall cause any monetary encumbrance, mechanic’s lien or judgment lien against the Property, other than liens or encumbrances created by, on behalf of, or with the consent of Optionee, to be removed as exceptions to the Title Policy on or before the Closing Date.

If any conditions in Section 6, have not been satisfied on or before the applicable date set forth in Section 6 with respect to each condition, and Owner does not elect to cure such failed condition (Owner having the right, but not the obligation, to do so) after Optionee’s written notice thereof to Owner, then Optionee may, by written notice to Owner, as its sole remedy, terminate this Agreement solely with respect to the Property affected by such failure of a condition, in which case neither party shall have any further liability with respect to such Property except for those obligations that survive termination hereunder. If Optionee proceeds to Closing despite failure of a condition, time being of the essence, then Optionee is deemed to have waived that condition. The conditions in this Section 6 are specifically stated and for the sole benefit of Optionee. Optionee in its discretion may unilaterally waive (conditionally or absolutely) the fulfillment of any one or more of the conditions, or any part thereof, by notice to Owner.

Section 7. Owner’s Closing Conditions. The obligations of Owner under this Agreement are contingent upon each of the following conditions:

A. On the Closing Date, each of the representations and warranties of Optionee in Section 10 shall be true and correct in all material respects as if the same were made on the Closing Date, subject to Optionee’s right to update such representations and warranties as provided in this Agreement.

B. By the Closing Date, Optionee shall have performed all covenants and obligations in all material respects and complied with all material conditions required by this Agreement to be performed or complied with by Optionee.

C. Receipt of the Required Approvals (which may be conditioned on Closing) pursuant to Section 3 above.

If the conditions in Section 7 have not been satisfied on or before the applicable date set forth in Section 7 with respect to each condition, then Owner may, as its sole remedy, terminate this

Agreement by providing written notice to Optionee on or before the applicable date, in which event neither party shall have any further liability except for those obligations that survive termination hereof. If Owner does not timely and properly terminate this Agreement by the applicable date or proceeds to Closing despite failure of a condition known to Owner at the time, time being of the essence, then Owner is deemed to have waived that condition. The conditions in this Section 7 are specifically stated and for the sole benefit of Owner. Owner in its discretion may unilaterally waive (conditionally or absolutely) the fulfillment of any one or more of the conditions, or any part thereof, by notice to Optionee.

Section 8. Operations Pending Closing. From the date of this Agreement until Closing, Owner agrees to manage and operate the Property free from waste and neglect and consistent with current management practices. Owner further agrees: (i) to maintain or cause to be maintained the Property in its current condition and repair (normal wear and tear and casualty loss excepted); (ii) to maintain the existing property and casualty insurance on the Property; (iii) to perform or cause to be performed all of its material obligations under any existing licenses, permits, LURAs, Tenant Leases, Service Contracts and any other documents and approvals applicable to the Property; (iv) to not lease, rent or otherwise permit any person or persons to occupy any portion of the Property other than pursuant to tenant leases executed in the ordinary course of business consistent with Owner's current policies and practices, and each new lease entered into after the Option Exercise Date must be on Owner's standard form, without material amendment or deletion, except as may be approved by Optionee; (v) to not enter into any new contracts which are not terminable on thirty (30) days' notice without the approval of Optionee, which approval shall not be unreasonably withheld, conditioned or delayed, (vi) to not cause or allow to continue any mechanics or materialman's or other liens to attach to the Property; and (vii) to not cause or permit any encumbrance to be placed on the record title to the Property not consented to by Optionee or not otherwise removed at or prior to Closing.

Section 9. Destruction/Condemnation of Property. If, after the Option Exercise Date, but prior to the Closing Date, the Property or any portion thereof is damaged or destroyed by a casualty or Owner receives a written offer to acquire the Property or any portion thereof from any governmental agency pursuant to the powers of eminent domain, Owner shall notify Optionee of such event or offer. Owner shall have no obligation to repair or replace any such damage, destruction or taken property. Owner shall, upon consummation of the transaction herein provided, assign to Optionee all claims of Owner respecting any condemnation or casualty insurance coverage, as applicable, and all condemnation proceeds or proceeds from any such casualty insurance received by Owner on account of any casualty or condemnation, less any portion of such proceeds paid or to be paid to Owner on account of the loss of rents, loss of use or other items applicable to any period prior to the Closing Date and reasonable costs and expenses of collection and repairs. In connection with any assignment of insurance proceeds hereunder, Owner shall credit Optionee with an amount equal to the applicable deductible amount under Owner's insurance (but not more than the amount by which (x) the cost as of the Closing Date to repair the damage is greater than (y) the insurance proceeds and coverage to be assigned to Optionee). Notwithstanding the foregoing, in the event that either of Wells Fargo Bank, N.A., a national banking association, or Fannie Mae, or any successor or assignee thereof, does not make insurance or condemnation proceeds available to Owner that result from damage or destruction to the Property or proposed taking of the Property (or portion thereof), (or in the event of an uninsured casualty, Owner does not elect, in its sole and absolute discretion to credit Optionee at closing an

amount equal to the cost to repair such uninsured casualty), then either Optionee or Owner may, at its option, terminate this Agreement by notice to the other, given on or before the Closing Date, whereupon no party hereto shall have any further obligation in connection herewith except under those provisions that expressly survive a termination of this Agreement. To the extent that Owner elects to commence any repairs prior to Closing, then Owner shall be entitled to receive and apply available insurance proceeds to any portion of such repairs completed or installed prior to Closing, with Optionee being responsible for completion of such repairs after Closing, provided that Optionee will have the right to review and approve the proposed repairs and any contracts entered into in connection therewith in Optionee's reasonable judgment, not to be unreasonably withheld, delayed or conditioned. To the extent that any repairs have been commenced prior to Closing, then the Service Contracts shall include, and Optionee shall assume at Closing, all construction and other contracts entered into by Owner in connection with such repairs and Owner shall assign to Optionee at Closing, all warranties and guarantees that Owner has received in connection with the work performed for such repairs to the extent transferrable. The provisions of this Section 9 shall survive the Closing and delivery of the Deed to Optionee.

Section 10. Optionee's Representations and Warranties. Optionee represents and warrants to Owner that as of the Option Exercise Date and as of the Closing Date:

A. Authority; Organization; No Conflict. This Agreement has been duly authorized, executed and delivered by Optionee and is a valid and binding obligation of Optionee. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will: (a) be in violation of Optionee's organizational documents; (b) to Optionee's best knowledge, conflict with or result in a breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Optionee; or (c) constitute a breach of any agreement to which Optionee is a party or by which Optionee is bound.

B. No Violation of Anti-Terrorism Laws. Optionee and each and every person affiliated with Optionee or that to Optionee's knowledge has an economic interest in Optionee is: (a) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and all modifications thereto or thereof (as used in this Section only, the "Annex"); (b) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "OFAC"); (c) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Owner for Owner's review and inspection during normal business hours and upon reasonable prior notice; (d) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (e) not listed as a "Specially Designated Terrorist" or as a "blocked" person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (f) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (g) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to

the prohibitions contained in the Patriot Act. Optionee covenants and agrees that in the event Optionee receives any notice that Optionee (or any of Optionee's beneficial owners or affiliates) has become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Optionee shall immediately notify Owner. All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the "**Patriot Act**") and are incorporated into this Section.

Section 11. Owner's Representations and Warranties. Owner represents and warrants to Optionee, that as of the of the Option Exercise Date and as of the Closing Date:

A. Authority; Organization; No Conflict. Owner is organized and validly existing under the laws of the State of its formation and is authorized to do business in the state where the Property is located. Owner has obtained all necessary third party consents to this Agreement, other than the Required Approvals. Owner is fully authorized to own and operate the Property in the manner in which the Property is currently operated. This Agreement has been duly authorized, executed and delivered by Owner and is a valid and binding obligation of Owner. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will: (a) be in violation of Owner's organizational documents, or (b) constitute a breach of any agreement to which Owner is a party, or by which Owner is bound.

B. United States Persons. Owner and all persons or entities having beneficial interests in the Property are "United States Persons," as defined in Section 1445(f)(3) and Section 7701(g) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the purchase of the Property by Optionee as contemplated herein will not be subject to the withholding requirements of Section 1445(a) of the Code.

C. Bankruptcy; Insolvency. None of the following has occurred with respect to the Owner: (a) the commencement of a case under any federal or state bankruptcy, insolvency or similar law; (b) the appointment of a trustee or receiver of any property interest; (c) an assignment for the benefit of creditors; (d) an attachment, execution or other judicial seizure of a substantial property interest; (e) the taking of, failure to take, or submission to any action indicating an inability to meet its financial obligations as they accrue; or (f) admitted in writing its inability to pay its debts as they become due.

D. Rent Roll. As of the date set forth thereon, the Rent Roll attached hereto as **Exhibit H** (the "**Rent Roll**") is true, correct and complete in all material respects, and the Rent Roll delivered at Closing, shall be correct and complete in all material respects as of the Closing Date.

E. Compliance with the LURAs. To Owner's knowledge, it is in compliance in material respects with the term and conditions of the LURAs.

F. No Violation of Anti-Terrorism Laws. Owner and each and every person affiliated with Owner, or that, to Owner's knowledge, has an economic interest in Owner is: (a) not

a “blocked” person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and all modifications thereto or thereof (as used in this Section only, the “**Annex**”); (b) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, “**OFAC**”); (c) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Optionee for Optionee’s review and inspection during normal business hours and upon reasonable prior notice; (d) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (e) not listed as a “Specially Designated Terrorist” or as a “blocked” person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (f) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (g) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to the prohibitions contained in the Patriot Act. Owner covenants and agrees that in the event Owner receives any notice that Owner (or any of Owner’s beneficial owners or affiliates) has become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Owner shall immediately notify Optionee. All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the “**Patriot Act**”) and are incorporated into this Section.

G. HAP Contract. The HAP Contract is in full force and effect.

H. Employees. All persons or entities presently employed in connection with the operation and maintenance of the Property are not employed by the Owner, and shall be terminated as of the day prior to the Closing Date. No proration of management fees, salaries or benefits shall be made with respect to Owner’s property management agent or any of such employees.

Section 12. As-Is Purchase. OPTIONEE IS PURCHASING THE PROPERTY “AS IS WHERE IS” IN ITS PRESENT CONDITION EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN. OPTIONEE HAS HAD THE OPPORTUNITY TO INSPECT THE PROPERTY AND DOCUMENTATION IN OWNER’S POSSESSION AS PROVIDED HEREIN. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF OWNER EXPRESSLY SET FORTH HEREIN AND IN THE DEED AND THE OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING, OWNER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO, HEREBY DISCLAIMS AND SHALL HAVE NO LIABILITY FOR: (A) THE CONDITION OF THE PROPERTY OR ANY BUILDINGS, STRUCTURE OR IMPROVEMENTS THEREON OR THE ROOFS, STRUCTURAL COMPONENTS, OR HEATING, VENTILATING, AIR CONDITIONING,

MECHANICAL, PLUMBING, ELECTRICAL, OR FIRE AND LIFE SAFETY SYSTEMS THEREON OR THEREIN OR THE SUITABILITY OF THE PROPERTY FOR HABITATION OR FOR OPTIONEE'S INTENDED USE; (B) ANY APPLICABLE BUILDING, ZONING OR FIRE LAWS OR REGULATIONS OR WITH RESPECT TO COMPLIANCE THEREWITH OR WITH RESPECT TO THE EXISTENCE OF OR COMPLIANCE WITH ANY REQUIRED PERMITS, IF ANY, OF ANY GOVERNMENTAL AGENCY; (C) THE AVAILABILITY OR EXISTENCE OF ANY WATER, SEWER OR UTILITIES, ANY RIGHTS THERETO, OR ANY WATER, SEWER OR UTILITY DISTRICTS; (D) ACCESS TO ANY PUBLIC OR PRIVATE SANITARY SEWER OR DRAINAGE SYSTEM; OR (E) THE PRESENCE OF ANY HAZARDOUS SUBSTANCES AT THE PROPERTY OR IN ANY IMPROVEMENTS ON THE PROPERTY, INCLUDING WITHOUT LIMITATION ASBESTOS OR UREA-FORMALDEHYDE, OR THE PRESENCE OF ANY ENVIRONMENTALLY HAZARDOUS WASTES OR MATERIALS ON OR UNDER THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN THE DEED AND THE OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING, OWNER SHALL HAVE NO LIABILITY WITH RESPECT TO THE CONDITION OF THE PROPERTY UNDER COMMON LAW, OR ANY FEDERAL, STATE, OR LOCAL LAW OR REGULATION, INCLUDING BUT NOT LIMITED TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980 AS AMENDED, 42 U.S.C.A. SECTIONS 9601 ET SEQ., OR APPLICABLE STATE LAW, AND EXCEPT FOR ANY CLAIMS ARISING UNDER THIS AGREEMENT, THE DEED, OR ANY OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING, OPTIONEE HEREBY RELEASES AND WAIVES ANY AND ALL CLAIMS WHICH THE OPTIONEE HAS OR MAY HAVE AGAINST OWNER WITH RESPECT TO THE CONDITION OF THE PROPERTY. OPTIONEE ACKNOWLEDGES THAT OPTIONEE IS GIVEN THE OPPORTUNITY UNDER THIS AGREEMENT TO FULLY INSPECT THE PROPERTY AND OPTIONEE ASSUMES THE RESPONSIBILITY AND RISKS OF ALL DEFECTS AND CONDITIONS, INCLUDING, WITHOUT LIMITATION, SUCH DEFECTS AND CONDITIONS, IF ANY, THAT CANNOT BE OBSERVED BY CASUAL INSPECTION, EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN THE DEED AND THE OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING.

IF OWNER PROVIDES OR HAS PROVIDED ANY DOCUMENTS, SUMMARIES, OPINIONS OR WORK PRODUCT OF CONSULTANTS, SURVEYORS, ARCHITECTS, ENGINEERS, TITLE COMPANIES, GOVERNMENTAL AUTHORITIES OR ANY OTHER PERSON OR ENTITY WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE OFFERING PREPARED BY BROKER, OPTIONEE AND OWNER AGREE THAT OWNER HAS DONE SO OR SHALL DO SO ONLY FOR THE CONVENIENCE OF BOTH PARTIES, EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN THE DEED AND THE OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING, OPTIONEE SHALL NOT RELY THEREON AND THE RELIANCE BY OPTIONEE UPON ANY SUCH DOCUMENTS, SUMMARIES, OPINIONS OR WORK PRODUCT SHALL NOT CREATE OR GIVE RISE TO ANY LIABILITY OF OR AGAINST OWNER'S INDEMNIFIED PARTIES. OPTIONEE ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN THE DEED AND THE OTHER DOCUMENTS DELIVERED TO OPTIONEE AT CLOSING, NO REPRESENTATION HAS BEEN MADE AND NO RESPONSIBILITY IS ASSUMED BY OWNER WITH RESPECT

TO CURRENT AND FUTURE APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS OR THE COMPLIANCE OF THE PROPERTY WITH ANY OTHER LAWS, RULES, ORDINANCES OR REGULATIONS, THE FINANCIAL EARNING CAPACITY OR EXPENSE HISTORY OF THE PROPERTY, THE CONTINUATION OF AGREEMENTS, CONTINUED OCCUPANCY LEVELS OF THE PROPERTY, OR ANY PART THEREOF, OR THE CONTINUED OCCUPANCY BY TENANTS OF ANY LEASES OR, WITHOUT LIMITING ANY OF THE FOREGOING, OCCUPANCY AT CLOSING. OPTIONEE IS SOLELY RESPONSIBLE FOR OBTAINING ANY CERTIFICATE OF OCCUPANCY, OCCUPANCY PERMIT OR ANY OTHER APPROVAL OR PERMIT NECESSARY FOR THE TRANSFER OR OCCUPANCY OF THE PROPERTY AND FOR ANY REPAIRS OR ALTERATIONS NECESSARY TO OBTAIN THE SAME, ALL AT OPTIONEE'S SOLE COST AND EXPENSE. OPTIONEE AGREES THAT THERE IS NO OBLIGATION ON THE PART OF OWNER TO MAKE ANY CHANGES, ALTERATIONS OR REPAIRS TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, TO CURE ANY VIOLATIONS OF ANY FEDERAL, STATE, COUNTY OR MUNICIPAL LAW, ORDINANCE, ORDER, REGULATION OR REQUIREMENT AFFECTING THE PROPERTY, COMPLY WITH THE REQUIREMENTS OF ANY INSURER OR OTHERWISE. PRIOR TO CLOSING, OWNER SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO ENFORCE ITS RIGHTS AGAINST ANY AND ALL PROPERTY OCCUPANTS, GUESTS OR TENANTS IN THE ORDINARY COURSE OF BUSINESS. OPTIONEE AGREES THAT THE DEPARTURE OR REMOVAL, PRIOR TO CLOSING, OF ANY OF SUCH GUESTS, OCCUPANTS OR TENANTS SHALL NOT BE THE BASIS FOR, NOR SHALL IT GIVE RISE TO, ANY CLAIM ON THE PART OF OPTIONEE, NOR SHALL IT AFFECT THE OBLIGATIONS OF OPTIONEE UNDER THIS AGREEMENT IN ANY MANNER WHATSOEVER; AND OPTIONEE SHALL CLOSE TITLE AND ACCEPT DELIVERY OF THE DEED WITH OR WITHOUT SUCH TENANTS IN POSSESSION AND WITHOUT ANY ALLOWANCE OR REDUCTION IN THE PURCHASE PRICE UNDER THIS AGREEMENT EXCEPT AS EXPRESSLY SET FORTH HEREIN. OPTIONEE HEREBY RELEASES OWNER FROM ANY AND ALL CLAIMS AND LIABILITIES RELATING TO MATTERS WAIVED ABOVE. THE DISCLAIMERS, RELEASES AND LIMITATIONS OF LIABILITY SET FORTH IN THIS Section 12 AND ELSEWHERE IN THIS AGREEMENT FOR THE BENEFIT OF OWNER ARE INTENDED TO APPLY TO AND BE BINDING ON OPTIONEE AND ALL PARTIES CLAIMING BY OR THROUGH OPTIONEE, DIRECTLY OR INDIRECTLY, AND INCLUDING ANY ASSIGNEE OR SUCCESSOR OF OPTIONEE'S RIGHTS, CLAIMS OR CAUSES OF ACTION UNDER THIS AGREEMENT.

THE PROVISIONS OF THIS Section 12 SHALL SURVIVE THE CLOSING.

Section 13. Negotiation and Construction. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either party.

Section 14. Brokers and Finders. Optionee and Owner each represents and warrants to the other that no broker is representing either party in this transaction. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection with this Agreement, Optionee, if such claim is based upon any agreement alleged to have been made by Optionee,

hereby agrees to indemnify Owner against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Owner may sustain or incur by reason of such claim. Owner, if such claim is based upon any agreement alleged to have been made by Owner, hereby agrees to indemnify Optionee against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Optionee may sustain or incur by reason of such claim. Notwithstanding anything to the contrary herein, the provisions of this Section 14 shall survive the termination of this Agreement or the Closing.

Section 15. Possession. Optionee shall be entitled to possession of the Property on the date of Closing, subject only to the Tenant Leases.

Section 16. [INTENTIONALLY OMITTED].

Section 17. Default and Remedies.

A. Default by Optionee. If this Agreement is not terminated on or before the end of the Review Period or if Optionee fails without legal excuse, including, without limitation, the failure of a condition precedent, to complete the purchase of the Property in accordance with the terms of this Agreement, Owner may terminate this Agreement as the sole and exclusive remedy available to Owner for such failure. Owner expressly waives all other remedies, including, but not limited to the right of specific performance. The foregoing limitation of remedies shall not apply to Optionee's indemnification obligations under this Agreement.

B. Default by Owner. If Owner fails without legal excuse including, without limitation, the failure of a condition precedent, to complete the sale of the Property in accordance with the terms of this Agreement, Optionee may elect one of the following remedies (Optionee hereby waiving any and all other remedies): (a) Optionee may seek specific performance of this Agreement, provided an action thereon is commenced with thirty (30) calendar days of such Owner's failure to perform, or (b) rescind this Agreement and neither party shall have any further obligation or liability to the other (other than those obligations that expressly survive a termination of this Agreement), or (c) waive the default and proceed to Closing.

Section 18. Survival. All provisions of this Agreement which involve obligations, duties or rights to be performed after the date of Closing or the recording of the Deed, and all representations, and warranties made in or to be made pursuant to this Agreement shall survive the date of Closing and/or the recording of the Deed only to the extent expressly provided herein.

Section 19. Time. Time is of the essence of this Agreement and each and every provision hereof. Any extension of time granted for the performance of any duty under this Agreement shall not be considered as an extension of time for the performance of any other duty under this Agreement. As used in this Agreement, "business day" refers to any day which is not a Saturday, Sunday or a holiday in the State of New York or the state in which the Property is located. In the event the time for performance of any obligation hereunder shall fall on a Saturday, Sunday or a holiday, such time for performance shall be extended to the next business day.

Section 20. [INTENTIONALLY OMITTED].

Section 21. Limitation of Liability. Notice is hereby given that all persons dealing with Owner or the Optionee shall look to the assets of Owner or Optionee, respectively, for the enforcement of any claim against Owner or Optionee. None of the trustees, officers, directors, employees, members, owners, partners or shareholders of Owner or Optionee shall have any personal liability for any of the liability or obligations of Owner or Optionee.

Section 22. Lead Based Paint Disclosure. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

Section 23. ADA Disclosure. Optionee acknowledges that the Property may be subject to the federal Americans With Disabilities Act, 42 U.S.C.A. §§ 12101-12213 (as amended from time to time, the “**ADA**”) and the federal Fair Housing Act, 42 U.S.C.A. §§ 3601-3619, 3631 (as amended from time to time, the “**FHA**”). The ADA requires, among other matters, that tenants and/or owners of “public accommodations” remove barriers in order to make the Property accessible to disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons. Owner makes no warranty, representation or guarantee of any type or kind with respect to the Property’s compliance with the ADA or the FHA (or any similar state or local law), and Owner expressly disclaims any such representation.

Section 24. Radon Notice. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN THE STATE WHERE THE PROPERTY IS LOCATED. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

Section 25. Intentionally Omitted.

Section 26. Tax Deferred Exchange. Each party shall cooperate with the other party in the event a party hereto elects to close the sale of the Property as part of a tax-deferred exchange under and pursuant to Section 1031 of the Internal Revenue Code, as amended and restated; provided, that, (i) such exchange shall not impose upon the non-exchanging party any additional liability or financial obligation related to or arising from the exchanging party’s exchange and the exchanging party shall hold the non-exchanging party harmless from any liability arising from such exchange, and (ii) the consummation of a tax-deferred exchange shall not be a condition precedent to the exchanging party’s obligations hereunder.

List of Exhibits, Schedules and Addendums

Exhibit A – Legal Description for Land

Exhibit B – Deed

Exhibit C – Bill of Sale

Exhibit D – Assignment and Assumption of Leases

Exhibit E – Assignment and Assumption of Service Contracts and Intangibles

Exhibit F - HAP Contract Assignment

Exhibit G – Rent Roll

Schedule 6.4 – LURAs

Exhibit A

Legal Description of Land

Exhibit B

[TO BE PROVIDED IN CONNECTION WITH OPTION EXERCISE]

Exhibit C

FORM OF BILL OF SALE

THIS BILL OF SALE is executed as of the _____ day of _____, 20__, by HS INVESTORS LLC (“**Owner**”):

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, Owner does hereby grant, bargain, sell, convey, assign, transfer, and set over unto JAVELIN 2022, LLC (“**Optionee**”) all of Owner’s right, title and interest in and to the Personal Property, as such term is defined in that certain Purchase Option Agreement, dated _____, by and between the Owner and Optionee (as amended and assigned, the “**Contract**”) with respect to the sale of certain Land described therein and Improvements located thereon. Any term with its initial letter capitalized and not otherwise defined herein shall have the meaning set forth in the Contract.

Owner does hereby covenant that it will forever warrant and defend the Personal Property against all persons whomsoever claiming by, through or under Owner or its predecessors in interest, but not otherwise. In all other respects, the Personal Property is being transferred in its “as is, where is” condition, and without representation or warranty, except as set forth in Section _____ of the Contract.

IN WITNESS WHEREOF, Owner has executed and delivered this Bill of Sale as of the day and year first above written.

OWNER: _____

Exhibit D

FORM OF ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS

This Assignment and Assumption of Leases and Security Deposits (this "Assignment"), effective as of the ____ day of _____, 20__, is made by and between HS INVESTORS LLC ("Assignor"), [_____] ("Assignee"):

In consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Property. The "Property" means the real property located in Greenville, Greenville County, South Carolina, commonly known as the Highland Square, together with the building, structures and other improvements located thereon.

1. Leases. The "Leases" means the leases affecting the Property, more particularly described in the rent roll attached hereto as Exhibit B, which Assignor hereby certifies to be true, accurate and complete as of the date hereof.

2. Security Deposits. "Security Deposits" means the refundable security and other refundable deposits held by or for Assignor on account of tenants under the Leases with respect to which Assignee received a credit at the closing of the transaction pursuant to this Assignment. The Security Deposits are also set forth in the Exhibit B.

3. Assignment. Assignor hereby grants, transfers and assigns to Assignee the entire right, title and interest of Assignor in and to the Leases and the Security Deposits.

4. Assumption. Assignee hereby assumes the covenants, agreements and obligations of Assignor as landlord or lessor under the Leases which are applicable to the period and required to be performed from and after the date of this Assignment, but not otherwise, and Assignee further assumes all liability of Assignor for the proper refund or return of the Security Deposits if, when and as required by the Leases. No person or entity, other than Assignor shall be deemed a beneficiary of the provisions of this Section 5.

5. Indemnification. Assignor shall indemnify and hold Assignee harmless from and against all obligations of the "lessor" or "landlord" under the Leases to the extent such obligations were applicable to the period and required to be performed prior to the date of this Assignment. Assignee shall indemnify and hold Assignor harmless from and against all obligations of the "lessor" or the "landlord" under the Leases to the extent that such obligations are applicable to the period and required to be performed from and after the date of this Assignment.

6. Legal Expenses. If either party to this Assignment brings suit or otherwise becomes involved in any legal proceedings seeking to enforce the terms of this Assignment, or to recover damages for their breach, the prevailing party shall be entitled to recover its costs and expenses (including fees of attorneys, expert witnesses, accountants, court reporters and others) incurred in connection therewith including all such costs and expenses incurred in: (a) in trial and appellate

court proceedings, (b) in connection with any and all counterclaims asserted by one party to this Assignment against another whether or not such counterclaims arise out of or are otherwise related to this Assignment, (c) in bankruptcy or other insolvency proceedings, and (d) in post-judgment collection proceedings.

7. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

8. Power and Authority. Each party represents and warrants to the other that it is fully empowered and authorized to execute and deliver this Assignment, and the individual signing this Assignment on behalf of such party represents and warrants to the other party that he or she is fully empowered and authorized to do so.

9. Counterparts. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of, which shall constitute one agreement, binding on all parties.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the date first written above.

ASSIGNOR: _____

ASSIGNEE: _____

Exhibits

Exhibit A: Legal Description

Exhibit B: Certified Rent Roll

Exhibit E

FORM OF ASSIGNMENT AND ASSUMPTION OF SERVICE CONTRACTS AND INTANGIBLES

THIS ASSIGNMENT AND ASSUMPTION OF SERVICE CONTRACTS AND INTANGIBLES (this "Assignment") is entered into as of the ____ day of ____, 20__, by and between HS INVESTORS LLC ("Assignor"), and [____] ("Assignee"), who agree as follows:

1. **Property.** The "Property" means the real property located in Greenville, Greenville County, South Carolina, commonly known as Highland Square, together with the building, structures and other improvements located thereon.

2. **Service Contracts.** "Service Contracts" means those maintenance, supply and service agreements, equipment leases, and utility agreements relating to the Property as listed on Exhibit B attached to this Assignment.

3. **Intangibles.** "Intangibles" shall have the meaning set forth in that certain Purchase Option Agreement, dated _____, by and between the Owner and Optionee, as amended and assigned, with respect to the sale of certain Land described therein and Improvements located thereon.

4. **Assignment.** For good and valuable consideration received by Assignor, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby grants, transfers and assigns to Assignee the entire right, title and interest of Assignor in and to the Service Contracts and the Intangibles. Assignor shall continue to be responsible for and shall perform and satisfy its obligations under the Service Contracts insofar as such obligations relate to the period on or before the date of this Assignment.

5. **Assumption.** Assignee hereby assumes the covenants, agreements and obligations of Assignor under the Service Contracts which are applicable to the period and required to be performed from and after the date of this Assignment, but not otherwise. No person or entity other than Assignor shall be deemed a beneficiary of the provisions of this Section 5.

6. **Indemnification.** Assignor shall indemnify and hold harmless Assignee from and against all obligations of the Assignor under the Service Contracts to the extent such obligations were applicable to the period and required to be performed prior to the date of this Assignment. Assignee shall indemnify and hold harmless Assignor from and against all obligations assumed by the Assignee under the Service Contracts to the extent that such obligations are applicable to the period and required to be performed from and after the date of this Assignment.

7. **Legal Expenses.** If either party to this Assignment brings suit or otherwise becomes involved in any legal proceedings seeking to enforce the terms of this Assignment, or to recover damages for their breach, the substantially prevailing party shall be entitled to recover its costs and expenses (including fees of attorneys, expert witnesses, accountants, court reporters and others) incurred in connection therewith including all such costs and expenses incurred: (a) in trial and appellate court proceedings, (b) in connection with any and all counterclaims asserted by one party to this Assignment against another whether or not such counterclaims arise out of or are otherwise

related to this Assignment, (c) in bankruptcy or other insolvency proceedings, and (d) in post-judgment collection proceedings.

8. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

9. Power and Authority. Each party represents and warrants to the other that it is fully empowered and authorized to execute and deliver this Assignment, and the individual signing this Assignment on behalf of such party represents and warrants to the other party that he or she is fully empowered and authorized to do so.

10. Counterparts. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of, which shall constitute one agreement, binding on all parties.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first above written.

ASSIGNOR: _____

ASSIGNEE: _____

Exhibit A: Legal Description

Exhibit B: Service Contracts

Exhibit F

**ASSIGNMENT, ASSUMPTION AND AMENDMENT AGREEMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT
(UNINSURED PROJECT)**

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT OF SECTION 8 HOUSING ASSISTANCE CONTRACT (herein called the "Agreement") is made this _____ day of _____, 20__, by the United States of America, acting through the (herein called "the Contract Administrator"), insert name of Owner (current ownership entity), a insert limited partnership, general partnership, limited liability company, corporation, or sole proprietor (herein called "the Owner"), and insert name of Optionee, a insert limited partnership, general partnership, limited liability company, corporation, or sole proprietor. (herein called "the Optionee").

WHEREAS, the Contract Administrator and insert name of prior owner or the Owner, pursuant to Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437(f), entered into a Section 8 Housing Assistance Payments Contract (herein called the "HAP Contract") identified as HAP Contract Number _____ - _____ for units in the insert project name (herein called "the Property"), a copy of which is attached hereto as "Exhibit A". insert or delete following as applicable: Said HAP Contract, executed by the Prior Owner by an assignment of HAP Contract, executed by Prior Owner and approved by HUD, dated _____ .

WHEREAS, the Owner, and the Optionee have entered onto a Real Estate Purchase and Sale Agreement, dated as of insert date and month, 200__, wherein the Owner agrees to sell the Property and the Optionee agrees to purchase the Property, including, without limitation, the improvements situated thereon, and has agreed to accept the assignment of and assume all obligations under the HAP Contract;

WHEREAS, the Optionee has submitted to the Secretary of HUD (herein called "the Secretary") an Application and documents in support thereof (herein collectively referred to as the "Application") requesting the Secretary's approval of the proposed assignment of the HAP Contract to the Optionee as set forth in the aforesaid Real Estate Purchase and Sale Agreement; and

WHEREAS, the Owner and the Optionee mutually desire to assign the HAP Contract; and it is necessary to and the Contract Administrator and the Optionee mutually desire to amend the HAP Contract to allow for physical inspections in accordance with 24 CFR Part 5 Subpart G and require financial reporting in accordance with 24 CFR Part 5 Subpart H;

NOW, THEREFORE, in consideration of the foregoing, the sum of Ten Dollars (\$10.00) in hand paid and other good consideration, the receipt of which is hereby acknowledged, and in order to comply with the requirements of the Secretary, the National Housing Act of 1937, and the regulations adopted pursuant thereto, the parties hereto agree as follows:

1. The Owner hereby irrevocably assigns HAP Contract to the Optionee together with all rights and obligations in and under said contract;
1. Effective as of the date of this Agreement the Optionee agrees to assume and to be bound by said HAP Contract as modified herein, and is responsible for filing the Annual Financial Statement (AFS) from the date of this Agreement through the end of the Optionee's fiscal year.
2. Effective as of the date of this Agreement, the Owner is released from any future obligations under the HAP Contract, excepting that the Owner shall remain responsible for filing the AFS through the day before this Agreement if said HAP Contract includes an AFS filing requirement. Nothing in this Agreement shall waive, compromise, impair, or prejudice any right HUD may have against the Owner for any violation of the HAP Contract that may have occurred prior to the date of this Agreement.
3. Part II of the HAP Contract shall be amended as follows to include the following provisions:

Physical Conditions Standards and Inspection Requirements. The Owner shall comply with the Physical Condition Standards and Inspection Requirements of 24 CFR Part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Properties of 24 CFR Part 200, Subpart P, including any changes in the regulation and related Directives. This obligation shall apply both during the current term of the HAP contract and during each successive renewal term.

Financial Reporting Standards. The Owner shall comply with the Uniform Financial Reporting Standards of 24 CFR Part 5, Subpart H, including any changes in the regulation and related Directives. This obligation shall apply during the current term of the HAP contract and for each successive renewal term.

4. This Agreement shall be construed under the laws of the State of *insert project location* and to the extent inconsistent with the laws of the State of *insert project location*, the laws of the United States of America. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
5. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.
6. The Secretary, by the signature of his authorized representative below, consents to assignment made hereby. Said consent shall be void ab initio if the Secretary determines that Optionee, or any principal or interested party of the Optionee, is debarred, suspended or subject to a limited denial of participation under 24 CFR Part 24, or is listed on the U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

NOTHING in this Agreement shall in anyway impair the HAP Contract or alter, waive, annul, vary or affect any provision, condition, covenant therein, except as herein specifically provided, or affect or impair any rights, powers, or remedies under the HAP Contract, it being the intent of the parties hereto that the terms and conditions of the HAP Contract shall continue in full force and effect except as amended hereby.

IN WITNESS WHEREOF, the Owner, the Optionee and the Contract Administrator have caused this agreement to be executed.

OWNER

Name of Owner (Print)

By _____
Signature of authorized representative

Name and title (Print)

OPTIONEE

Name of Optionee (Print)

By _____
Signature of authorized representative

CONTRACT ADMINISTRATOR (HUD or PHA)

Name and title (Print)

Name of Contract Administrator (Print)

By _____
Signature of authorized representative

Name and title (Print)

Exhibit H

Rent Roll

(attached hereto)

Schedule 6.4

LURAs

EXHIBIT C
MEMORANDUM OF OPTION

MEMORANDUM OF PURCHASE OPTION AGREEMENT

(Highland Square)

NOTICE IS HEREBY GIVEN that a PURCHASE OPTION AGREEMENT dated as of _____, 2022 (the “Memorandum”) has been entered into by and among HS INVESTORS LLC, a Delaware limited liability company (the “Owner”), and JAVELIN 2022, LLC, a Delaware limited liability company (the “Optionee”).

Owner and Optionee are parties to that certain Purchase Option Agreement dated as of the date hereof (the “Agreement”).

Pursuant to the Agreement, the Owner has granted to Optionee the right, on the terms and conditions stated in the Agreement, to purchase the Property (as defined in the Agreement); said Property being located on the land in Greenville, South Carolina more fully described in Exhibit A attached hereto.

The purchase option commencing on the Effective Date (as defined in the Agreement) and ending on March 31, 2032 on the terms and conditions set forth in the Agreement and subject to the conditions precedent to exercise of the purchase option specified therein.

Owner and Optionee acknowledge and agree that the Agreement and by extension this Memorandum are subordinate in all respects to the rights of the holders of any indebtedness of Owner secured by the Property and the terms of any documents evidencing the same, including but not limited to indebtedness in favor of Wells Fargo Bank National Association together with its successors and/or assigns, including, without limitation Fannie Mae.

This Memorandum incorporates by this reference all the terms and provisions of the Agreement as though fully set forth herein.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend, or supplement the Agreement, of which this is a memorandum.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has executed this Memorandum of Purchase Option Agreement as of the date first hereinabove written.

OWNER
HS INVESTORS LLC

By _____
Signature of authorized representative

NOTARIZED

STATE OF _____
COUNTY OF _____

By _____

IN WITNESS WHEREOF, the undersigned has executed this Memorandum of Purchase Option Agreement as of the date first hereinabove written.

OPTIONEE:

JAVELIN 2022, LLC, a Delaware limited liability company

By: _____
Matthew Finkle, Vice President

STATE OF NEW YORK

)
) ss:
)

On the ____ of March, 2022, before me, the undersigned, personally appeared Matthew Finkle, as Vice President of Javelin 2022, LLC, a Delaware limited liability company, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public
Printed Name:
My Commission Expires:

EXHIBIT A- LEGAL DESCRIPTION