

**CDBG-DR 2020 PIGGYBACK PRIME PROGRAM  
GAP FINANCING NOTE**

US \$[\_\_\_\_\_], \_\_\_\_\_, 2020

**FOR VALUE RECEIVED**, [\_\_\_\_\_], a Louisiana [\_\_\_\_\_] (“**Borrower**”) promises to pay to the order of **THE LOUISIANA HOUSING CORPORATION (“LHC”)**, the principal sum of [\_\_\_\_\_] DOLLARS (US \$[\_\_\_\_\_]), with interest accruing at the Interest Rate on the unpaid principal balance from the first Disbursement Date until fully paid on or before the Maturity Date. In evidence of the agreement between the parties, Borrower and LHC have executed this Gap Financing Note (this “**Note**”).

**1. Defined Terms.** In addition to the defined terms found elsewhere in this Note, as used herein, the following definitions shall apply. Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Loan Agreement.

**(a) Business Day:** Any day other than a Saturday, Sunday or any other day on which LHC is not open for business.

**(b) Debt Service Amounts:** Amounts payable under the Loan Agreement, this Note, the Mortgage or any other Loan Document from Surplus Cash.

**(c) Default Rate:** A rate equal to the lesser of four (4) percentage points above the Interest Rate or the maximum interest rate which may be collected from Borrower under applicable law; provided, however, that OCD may increase the Default Rate pursuant to Louisiana Revised Statute 9:3509 after an uncured Event of Default

**(d) Disbursement Date:** The date or dates of disbursement of Loan proceeds hereunder.

**(e) Guarantor:** a person or entity, acceptable to LHC, which has an economic interest in Borrower, or which will otherwise obtain a material financial benefit from the Loan, and which agrees to guaranty certain obligations of Borrower under this Note, including but not limited to [\_\_\_\_\_], and its permitted successors and assigns.

**(f) Indebtedness:** The principal of, interest on, or any other amounts due at any time on the Gap Financing Loan (including that evidenced by this Note), the Loan Agreement, the Mortgage or any other Loan Document, late charges, default interest, and advances to protect the security of the Mortgage under the terms of the Mortgage, reasonable attorney’s fees and court costs, and other fees and costs due and payable under the Loan Documents.

**(g) Interest Rate:** The annual rate of [zero] percent ([\_\_\_\_\_]%).

**(h) Loan:** The gap financing loan as described in the Loan Agreement, as evidenced hereby.

**(i) Loan Agreement:** The Gap Financing Loan Agreement between Borrower and LHC governing the terms and conditions of the Loan, as modified, amended, or supplemented from time to time in accordance with its terms.

**(j) Loan Term:** [Thirty-five (35)][Forty (40) years from the date of this Note.

(k) **Maturity Date:** The earliest to occur of (i) sale or refinancing of the Project not expressly permitted in the Loan Agreement; (ii) acceleration following an Event of Default under the Loan Documents that is not cured within any applicable grace or cure period; or (iii) the May 1 immediately following the [thirty-fifth][fortieth] year from the date of this Note.

(l) **Senior Lender:** the lender providing the Senior Loan, including but not limited to [\_\_\_\_\_], its successors and assigns.

(m) **Senior Loan:** the loan obtained by Borrower from the Senior Lender for the Project, and secured by the Senior Mortgage and evidenced by the Senior Note.

(n) **Senior Mortgage:** the mortgage, assignment of leases and rents, and security agreement delivered by Borrower to Senior Lender and encumbering the Property to secure the obligations of Borrower under the Senior Note.

(o) **Senior Note:** the promissory note evidencing the Senior Loan, in the maximum amount of \$[\_\_\_\_\_], accruing interest at a rate of [\_\_\_\_\_]%, amortized over [\_\_\_\_\_] months, and maturing [\_\_\_\_\_].

(p) **Surplus Cash:** any cash (excluding tenant security deposits) remaining as of December 31 after payment of all Operating Expenses for the Project for such fiscal year.

2. **Address for Payment.** All payments due under this Note shall be payable at Louisiana Housing Corporation, 2415 Quail Drive, Baton Rouge, Louisiana 70808, Attention: Piggyback Program, or such other place as may be designated by written notice to Borrower from or on behalf of LHC.

3. **Payment of Principal and Interest.** Principal and interest shall be paid as follows:

(a) **Interest Computation.** Interest under this Note shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(b) **Annual Installments:** The Gap Financing Loan shall be repaid in Annual Installments solely from Surplus Cash (each, an "**Annual Installment**"), to the extent Surplus Cash is generated from the operation of the Project, with all remaining indebtedness due on the Maturity Date. Each Annual Installment shall be an amount equal to fifty percent (50%) of Surplus Cash. Surplus Cash shall be calculated December 31 of each year and 50% of such calculation shall be paid to LHC as an Annual Installment the following May 1. Notwithstanding the requirement of repayment from Surplus Cash, the Gap Financing Loan shall not be construed as a joint venture, partnership or other association between Borrower and LHC, other than a debtor/creditor relationship. LHC's right to be paid from Surplus Cash shall terminate at such time as the principal and interest amounts due on the Note are paid in full.

(c) **Audit of Surplus Cash.** Annually, within one hundred twenty (120) days after the end of Borrower's fiscal year, Borrower shall provide LHC with an audited schedule of Surplus Cash for the previous fiscal year, certified to be true and correct by Borrower's chief financial officer. Borrower agrees that for the purposes of this Note, the definition of Surplus Cash stated herein shall govern, notwithstanding contradicting definitions contained in any other document to which Borrower is a party.

(e) **Accrued Interest.** Any accrued but unpaid interest shall be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note. Any reference herein to "**accrued interest**" shall refer to accrued interest that has not become part of the unpaid principal balance. Any amount added to principal pursuant to the Loan Documents shall bear

interest at the applicable rate or rates specified in this Note and shall be payable with such interest upon demand by LHC and absent such demand, as provided in this Note for the payment of principal and interest.

(f) **Subordination.** The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the Senior Loan indebtedness evidenced by the Senior Note, to the extent and in the manner provided in that certain Subordination Agreement of even date herewith between the Borrower, LHC, and the Senior Lender (the “**Subordination Agreement**”). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage as more fully set forth in the Subordination Agreement. The rights and remedies of the LHC and each subsequent holder of this Note under the Mortgage are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate LHC under the Subordination Agreement.

(g) **Cost Certification.** Borrower acknowledges and agrees that the principal amounts of the Loan were calculated based upon estimated costs for the development, restoration, replacement, rehabilitation, and/or construction of the Project provided by the Borrower. Borrower agrees to provide LHC with a cost certification audit acceptable to LHC (the “**Cost Certification Audit**”), prepared by an independent third party consulting or accounting firm acceptable to LHC, certifying the actual costs incurred and paid by Borrower in the development, restoration, rehabilitation, replacement and/or construction of the Project, and including such other information as LHC may require. Borrower agrees to cooperate with LHC and to provide any documentation deemed necessary by LHC for a complete audit. LHC agrees that any accounting firm providing the Low Income Housing Tax Credit Cost Certification acceptable to LHC is an acceptable accounting firm under this Section 3(g).

(h) **Reduction of Gap Financing Loan.** Notwithstanding anything to the contrary contained herein or in the Award Agreement, LHC may reduce the principal amounts of the Gap Financing Loan in the event the Cost Certification Audit or the final subsidy layering analysis of the Project completed by LHC discloses that the actual costs incurred by Borrower in the development, restoration, replacement, rehabilitation, and/or construction of the Project were less than the estimated costs for the development, restoration, replacement, rehabilitation, and/or construction of the Project upon which the calculation of the principal amount of the Gap Financing Loan as set forth in the Award Agreement were based. The principal amounts of the Gap Financing Loan may be reduced based on the actual Project costs incurred by Borrower, the amount of Low Income Housing Tax Credits awarded to the Project, and the final amount, terms and conditions of the Borrower’s Senior Loan and any other funding source. If the amount of Gap Financing Loan proceeds advanced to Borrower prior to completion of the Cost Certification Audit and final subsidy layering analysis, exceeds the principal amount of the Gap Financing Loan supported by the Cost Certification Audit and final subsidy layering analysis (“**Excess Proceeds**”), LHC may reduce the amount of the final disbursement, and Borrower shall pay LHC the amount of any remaining Excess Proceeds in one lump sum payment within thirty (30) days of receiving written notice from LHC that the Excess Proceeds are due and payable.

(i) **Due on Sale or Transfer Restrictions.**

(1) Subject to the terms of this Section, 100% of the Indebtedness, including without limitation, payment of all principal and accrued and unpaid interest, is due upon sale or refinancing of the Project, absent LHC’s written consent. LHC may, in its sole discretion, accept less than

100% of the amounts then due, but such waiver will not constitute forgiveness of any Indebtedness.

(2) Borrower hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof, without obtaining the prior written consent of LHC, which consent shall be in LHC's sole discretion. LHC may, in its sole discretion, allow the transferee to assume the remaining Indebtedness.

(3) Notwithstanding the foregoing to the contrary,

- i. the pledge to a [limited partner][member] by a [general partner][managing member] of the [general partner's][managing member's] interest contained in the [Partnership Agreement][Operating Agreement] as security for the performance of all of the [general partner's][managing member's] obligations under the [Partnership Agreement][Operating Agreement] shall not constitute a refinancing for purposes of this Agreement or the Loan Documents;
- ii. a sale, transfer, pledge, encumbrance or other disposition of any Investor [Member][Limited Partner] interests in Borrower shall not require LHC's consent nor constitute a sale of the Project for the purposes of this Section, (A) unless such transaction results in a sale of more than 51% of the Investor [Member][Limited Partner] interests in Borrower; or (B) such transfer of Investor [Member][Limited Partner] interest is to any successor which is an affiliate of such Investor [Member][Limited Partner] entity; and
- iii. the change in the [general partner][managing member] of Borrower as [general partner][managing member] of Borrower in accordance with the terms of the [Partnership Agreement][Operating Agreement] of Borrower shall not require LHC consent nor constitute a sale of the Project for the purposes of this Section;

provided, however, that for purposes of this Section 3.(i)(3) that (x) Borrower shall provide LHC with notice of any such transfer or change; and (y) any entity replacing the [general partner][managing member] of the Borrower is under direct or indirect common control or management, or has a Controlling Interest in, the Investor [Member][Limited Partner].

**4. Application of Payments.** If at any time LHC receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, LHC may apply that payment to amounts then due and payable in any manner and in any order determined by LHC, in LHC's discretion. Borrower agrees that neither LHC's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor LHC's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is also evidenced by the Loan Agreement, and secured, among other things, by the Mortgage, and reference is made to the Mortgage for other rights of LHC concerning the collateral for the Indebtedness.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest and all other amounts payable under this Note and any other Loan Document shall at once become due and payable, at the option of LHC, without any prior notice to Borrower. LHC may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge.** If any Annual Installment due hereunder is not received by LHC on or before the tenth (10<sup>th</sup>) day after such amount is due, or if any other amount payable under this Note or under the Mortgage or any other Loan Document is not received by LHC within ten (10) days after the date such amount is due, counting from and including the date such amount is due, Borrower shall pay to LHC, immediately and without demand by LHC, a late charge equal to the greater of \$5,000 or 5 percent (5%) of such Annual Installment or other amount due. Borrower acknowledges that its failure to make timely payments will cause LHC to incur additional expenses in servicing and processing the Loan and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Paragraph represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses LHC will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 8.

8. **Default Rate.** So long as any Annual Installment or any other payment due under this Note remains past due for thirty (30) days or more, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid Annual Installment or other payment due, as applicable, at the Default Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that its failure to make timely payments will cause LHC to incur additional expenses in servicing and processing the Loan, and that during the time that any Annual Installment or payment under this Note is delinquent for more than thirty (30) days, LHC will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on LHC's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any Annual Installment or other payment due under this Note is delinquent for more than thirty (30) days, LHC's risk of nonpayment of this Note will be materially increased and LHC is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses LHC will incur by reason of the Borrower's delinquent payment and the additional compensation LHC is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

Notwithstanding the foregoing to the contrary, if Surplus Cash is negative in any year during the Term of the Gap Financing Loan, no annual payment of principal hereunder shall be due for that year, but interest shall continue to accrue; the Default Rate shall not apply to failure to pay principal in any one year if the failure is due to negative Surplus Cash in that year.

9. **Limits on Personal Liability.**

(a) Except as otherwise provided in this Section 9, Borrower shall have no personal liability under this Note, the Mortgage or any other Loan Document for the repayment of the Indebtedness or for

the performance of any other obligations of Borrower under the Loan Documents, and LHC's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be LHC's exercise of its rights and remedies with respect to the Project, the Mortgaged Property and any other collateral held by LHC as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair LHC's enforcement of its rights against any Guarantor guaranteeing any indebtedness or obligations of Borrower under Section 9(b) or (c) of this Note or under any guaranty executed by Guarantor in favor of LHC with regards to the Project.

**(b)** Borrower shall be personally liable to LHC for the repayment of a portion of the Indebtedness equal to any loss or damage suffered by LHC as a result of:

- i. failure of Borrower to pay to LHC upon demand after an Event of Default, all rents, revenues and profits from the operation of the Project to which LHC is entitled under the Mortgage, and the amount of all security deposits collected by Borrower from tenants then in residence;
- ii. failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Loan Documents;
- iii. failure of Borrower to comply with the requirements in the Mortgage relating to the delivery of books and records, statements, schedules and reports;
- iv. failure to apply rents, revenues and profits, first, to the payment of Operating Expenses (other than Property management fees that are not currently payable) and then to Debt Service Amounts due, except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of the Senior Mortgage, or bankruptcy, receivership or similar judicial proceedings, or (ii) with respect to Surplus Cash distributed in any calendar year if Borrower has paid all Operating Expenses and Debt Service Amounts due for that calendar year; or
- (vi) failure of Borrower to pay all deductibles required under any of the insurance policies required to be maintained under Section 6.3 of the Loan Agreement.

**(c)** Borrower shall become personally liable to LHC for the repayment of all of the Indebtedness due upon the occurrence of any of the following Events of Default:

- (i) Borrower's acquisition of any property or operation of any business not permitted by the Mortgage;
- (ii) misappropriation of Loan proceeds by Borrower;
- (iii) fraud or any written material misrepresentation by Borrower or any officer, agent, director, partner, member or employee of Borrower in connection with the Application, the Loan Documents, or any request by LHC; or
- (iv) a Transfer that is an Event of Default under the Mortgage.

**(d)** To the extent that Borrower has personal liability under this Paragraph 9, LHC may exercise its rights against Borrower personally without regard to whether LHC has exercised any rights

against the Mortgaged Property or any other security, or pursued any rights against any Guarantor, or pursued any other rights available to LHC under the Loan Documents or applicable law.

(e) Notwithstanding the foregoing provisions, one or more Guarantors shall be personally liable to LHC for those obligations for which Borrower is personally liable under this Section 9, and shall agree to pay to LHC, or its assigns, on demand, all amounts for which Borrower is personally liable under the Loan Documents, including without limitation Paragraph 9(b) and (c) hereunder. The obligations of each Guarantor shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Mortgage. LHC may pursue its remedies against any Guarantor without first exhausting its remedies against the Borrower or the Project.

**10. Prepayments.** Borrower may prepay this Note in whole or in part with or without notice to LHC and without prepayment penalty.

**11. Costs and Expenses.** Borrower shall pay on demand all expenses and costs, including fees and out-of-pocket expenses of attorneys and expert witnesses and costs of investigation, incurred by LHC as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding.

**12. Forbearance.** Any forbearance by LHC in exercising any right or remedy under this Note, the Mortgage, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by LHC of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of LHC's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by LHC of any security for Borrower's obligations under this Note shall not constitute an election by LHC of remedies so as to preclude the exercise of any other right or remedy available to LHC.

**13. Waivers.** Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower, Guarantor, and all endorsers and guarantors of this Note and all other third party obligors.

**14. Loan Charges.** Borrower agrees to pay an effective rate of interest equal to the sum of the Interest Rate provided for in this Note and any additional rate of interest resulting from any other charges of interest or in the nature of interest paid or to be paid in connection with the loan evidenced by this Note and any other fees or amounts to be paid by Borrower pursuant to any of the other Loan Documents. Neither this Note nor any of the other Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest rate permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to LHC in excess of the permitted amounts shall be applied by LHC to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as

well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

15. **Commercial Purpose.** Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes.

16. **Counting of Days.** Except where otherwise specifically provided, any reference in this Note to a period of “days” means calendar days, not Business Days.

17. **Governing Law.** This Note shall be governed by the law of the State of Louisiana.

18. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

19. **Notices.** All notices, demands and other communications required or permitted to be given by LHC to Borrower pursuant to this Note shall be given in accordance with Section 14.6 of the Loan Agreement.

20. **Consent to Jurisdiction and Venue.** Borrower and Guarantor each agree that any controversy arising under or in relation to this Note shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower and Guarantor each irrevocably consent to service, jurisdiction, and venue of such courts for any such litigation and waive any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

21. **WAIVER OF TRIAL BY JURY. BORROWER, GUARANTOR AND LENDER EACH (A) AGREE NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER, GUARANTOR AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

**IN WITNESS WHEREOF**, Borrower has signed and delivered this Note or has caused this Note to be signed and delivered by its duly authorized representative.

**BORROWER:**

[ \_\_\_\_\_ ]  
a Louisiana [ \_\_\_\_\_ ]



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

**ACKNOWLEDGMENT AND AGREEMENT OF GUARANTOR TO  
PERSONAL LIABILITY FOR EXCEPTIONS TO NON-RECOURSE LIABILITY**

Guarantor, who has an economic interest in Borrower or who will otherwise obtain a material financial benefit from the Loan, hereby absolutely, unconditionally and irrevocably agrees to pay to LHC, or its assigns, on demand, all amounts for which Borrower is personally liable under Paragraph 9 of the Note to which this Acknowledgment is attached (the “**Note**”). The obligations of Guarantor shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Mortgage. LHC may pursue its remedies against Guarantor without first exhausting its remedies against the Borrower or the Project. All capitalized terms used but not defined in this Acknowledgment shall have the meanings given to such terms in the Loan Agreement. As used in this Acknowledgment, the term “Guarantor” (each if more than one) shall mean only those individuals or entities that execute this Acknowledgment.

The obligations of Guarantor shall be performed without demand by LHC and shall be unconditional irrespective of the genuineness, validity, or enforceability of the Note, or any other Loan Document, and without regard to any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Guarantor hereby waives the benefit of all principles or provisions of law, which are or might be in conflict with the terms of this Acknowledgment, and agrees that Guarantor’s obligations shall not be affected by any circumstances which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Guarantor hereby waives the benefits of any right of discharge and all other rights under any and all statutes or other laws relating to guarantors or sureties, to the fullest extent permitted by law, diligence in collecting the Indebtedness, presentment, demand for payment, protest, all notices with respect to the Note including this Acknowledgment, which may be required by statute, rule of law or otherwise to preserve LHC’s rights against Guarantor under this Acknowledgment, including notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest, notice of the incurring by Borrower of any obligation or indebtedness and all rights to require LHC to: (a) proceed against Borrower; (b) proceed against any general partner of Borrower; (c) proceed against or exhaust any collateral held by LHC to secure the repayment of the Indebtedness; (d) if Borrower is a partnership, pursue any other remedy it may have against Borrower, or any general partner of Borrower; or (e) demand or require collateral security from Borrower or any other Person as provided by applicable law or otherwise.

At any time without notice to Guarantor, and without affecting the liability of Guarantor hereunder: (a) the time for payment of the principal of or interest on the Indebtedness may be extended or the Indebtedness may be renewed in whole or in part; (b) the time for Borrower’s performance of or compliance with any covenant or agreement contained in the Note, or any other Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Indebtedness may be accelerated as provided in the Note or any other Loan Document; (d) the Note or any other Loan Document may be modified or amended by LHC and Borrower in any respect, including an increase in the principal amount; and (e) any security for the Indebtedness may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Indebtedness; (f) the payment of the Indebtedness or any security for the Indebtedness, or both, may be subordinated to the right to payment or the security, or both, of any other present or future creditor of Borrower; and (g) any payments made by Borrower to LHC may be applied to the Indebtedness in such priority as LHC may determine in its discretion.

Guarantor acknowledges that Guarantor has received a copy of the Note and all other Loan Documents. Neither this Acknowledgment nor any of its provisions may be waived, modified, amended, discharged, or terminated except by an agreement in writing signed by the party against which the enforcement of the waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in that agreement. Guarantor agrees to notify LHC (in the manner for giving notices provided in Section 14.6 of the Loan Agreement) of any change of Guarantor's address within 10 Business Days after such change of address occurs. Any notices to Guarantor shall be given in the manner provided in Section 14.6 of the Loan Agreement. Guarantor agrees to be bound by Paragraphs 20 and 21 of the Note.

**THIS ACKNOWLEDGMENT IS AN INSTRUMENT SEPARATE FROM, AND NOT A PART OF, THE NOTE. BY SIGNING THIS ACKNOWLEDGMENT, KEY PRINCIPAL DOES NOT INTEND TO BECOME AN ACCOMMODATION PARTY TO, OR AN ENDORSER OF, THE NOTE.**

**IN WITNESS WHEREOF**, Guarantor has signed and delivered this Acknowledgment or has caused this Acknowledgment to be signed and delivered by its duly authorized representative.

**GUARANTOR:**

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