

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (“Assignment”), dated _____, 20__
by and between:

(a) _____, a Kentucky _____ corporation,
_____ (the “Borrower”); and

(b) **KENTUCKY HOUSING CORPORATION**, a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, with its principal place of business and post office address located at 1231 Louisville Road, Frankfort, Kentucky 40601 (“KHC”).

RECITALS

WHEREAS, Borrower has requested that KHC lend it the sum of _____ (\$ _____) funded pursuant to Section 1602 of the American Recovery and Reinvestment Tax Act (the “Tax Credit Assistance Program Funds”), _____ (\$ _____) from [*Name Funding Source*], evidenced by Borrower’s note of even date herewith, due and payable and bearing interest as provided therein (“Note”), secured by a mortgage (“Mortgage”) covering the real estate more particularly described in Paragraph 6 hereof (“Property”); and

WHEREAS, Borrower and KHC have entered into a Tax Credit Assistance Program Assistance Agreement dated _____ (“Loan Agreement”), providing, among other things, that the Borrower is to construct and/or rehabilitate improvements on the Property under the terms and conditions contained in the Loan Agreement in accordance with Plans and Specifications (the “Improvements”) approved by KHC and that KHC, on certain conditions and in the manner set forth in the Loan Agreement, will lend to Borrower the sum set forth above to enable Borrower to acquire the Property and construct or rehabilitate the Improvements thereon; and

WHEREAS, KHC’s obligation to make any advances of loan funds under the Loan Agreement are conditioned upon execution of this Assignment and its delivery to KHC.

NOW, THEREFORE, in consideration of these premises and in order to induce KHC to make this loan, and as additional security for the Note and the Mortgage securing the Note and the performance of Borrower’s obligations under the Loan Agreement, the Declaration of Land Use Restrictive Covenants for Low Income Housing Tax Credits and Subordination Agreement, or any other documents or instruments securing payment of the Note or executed and delivered pursuant to the terms and conditions of the Loan Agreement, the Borrower does hereby covenant and agree with KHC as follows:

1. Borrower hereby grants, transfers and assigns to KHC all of its right, title and interest in and to all leases heretofore executed, or hereafter to be executed by Borrower, as lessor, covering premises in, or all or any portion of, the Improvements on the property, together with all rents, issues and profits therefrom, any extensions thereof or any guarantees of the lessees' obligations thereunder (said leases, together with all such guarantees, modifications and extensions, being hereinafter collectively called the "Leases").

2. Borrower agrees with respect to each of the Leases that:

A. Borrower will (i) at the sole cost and expense of the Borrower, enforce the performance or observance of each and every covenant and condition of the Leases by the lessees to be performed and observed thereunder; and (ii) not anticipate the rents thereunder for more than 30 days prior to accrual;

B. The rights assigned hereunder include all of Borrower's right and power to modify the Leases or to terminate or accept the surrender thereof or to waive or release the lessees from the performance or observance by lessees of any obligation or condition thereof or to anticipate rents thereunder for more than 30 days prior to accrual;

C. At Borrower's sole cost and expense, Borrower will appear in and defend any action growing out of or in any manner connected with the Leases or the obligations or liabilities of the lessor, lessees or any guarantors thereunder;

D. Borrower, without prior written consent of KHC, will not cause or permit any leasehold estate under the Leases to merge with the Borrower's reversionary interest; and

3. In the event Borrower fails to pay the Note or any installment of interest and/or principal thereunder when the same becomes due and payable, whether by acceleration or otherwise, or Borrower defaults in the performance of any obligation hereunder, or any event of default occurs under the Note, the Mortgage, the Loan Agreement, or any other instrument or document securing payment of the Note or executed and delivered pursuant to the terms and conditions of the Loan Agreement, KHC, after any applicable cure period, at its option, without notice to Borrower and without regard to the adequacy of the security for the indebtedness evidenced by the Note, either in person or by agent with or without bringing any action or proceeding, or by a receiver to be appointed by any court having jurisdiction, may (i) enter upon, take possession of and operate the Improvements and the Property; (ii) make, enforce, modify and accept the surrender of the Leases; (iii) obtain and evict tenants; (iv) fix or modify rents; and (v) do any acts which KHC deems proper to protect the security hereof until all the indebtedness secure hereby is paid in full; and either with or without taking possession of the Improvements and the

Property, in its own name, sue for or otherwise collect and receive all rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including reasonable attorney's fees permitted by law), to the payment of the Indebtedness secured hereby in such order as KHC may determine. The entering upon and taking possession of the Improvements and the Property, the collection of said rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any event of default.

4. KHC shall not, by reason of this Assignment, be obligated to perform or discharge any obligation under the Leases, or under or by reason of this Assignment, and Borrower hereby agrees to indemnify KHC against and hold it harmless from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against KHC by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms of the Leases, except, however any damages realized by KHC as the result of its gross negligence or willful misconduct. Should KHC incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees permitted by law, together with interest thereon at the rate specified in the Note, shall be secured hereby and by the Mortgage, and Borrower shall reimburse KHC immediately upon demand.

5. This Assignment shall be binding upon and inure to the benefit of the parties, their respective heirs, personal representatives, successor and assigns, and shall be construed and governed by the laws of the Commonwealth of Kentucky.

6. The Property is located in _____ County, Kentucky, and is more particularly described on Exhibit A attached hereto and made a part hereof.

PROVIDED, HOWEVER, that

A. So long as Borrower shall pay the Indebtedness evidenced by the Note and the interest thereon, when the same becomes due and payable or no event of default shall occur under the Note, the Mortgage, the Security Agreement, the Loan Agreement, or any other document or instrument securing payment of the Note or executed and delivered pursuant to the terms and conditions of the Loan Agreement, or in the performance of any obligation of Borrower hereunder, Borrower shall have the right to collect, but no more than 30 days prior to accrual, all rents, issues and profits from the leases, the Improvements and the Property and to retain, use and enjoy the same; and

B. If Borrower shall pay the Note according to its terms and perform all the covenants, conditions, stipulations and agreements set out in the same, the Mortgage, the Security Agreement, the Loan Agreement and any other document or instrument securing payment of the Note or executed and delivered pursuant to the terms and conditions of the Loan Agreement, then this Assignment shall be void, and KHC shall, at Borrower's cost and expense, release the same.

IN TESTIMONY WHEREOF, Borrower has executed this Assignment the day and year first above written.

[ENTITY NAME]

BY: _____

TITLE: _____

COMMONWEALTH OF KENTUCKY)

COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ as _____ of _____, for and on behalf of the corporation.

My commission expires: _____

Notary Public, State at Large, Kentucky

THIS INSTRUMENT PREPARED BY:

Lisa Beran, General Counsel
KENTUCKY HOUSING CORPORATION
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