

**PURCHASE OPTION AND
RIGHT OF FIRST REFUSAL AGREEMENT**

Preamble

This agreement is made by and among _____, A Louisiana Limited Partnership (the “**Partnership**”) and _____, (the “**Grantee**”) and the _____ (Owner) _____ (Tenant)

LOUISIANA HOUSING FINANCE AGENCY, a public body corporate and politic constituting a political subdivision and instrumentality of the State of Louisiana (the "**State**"), duly created, organized and existing under the laws of the State (the "**Agency**").

WHEREAS, the Partnership is developing or will own a _____ unit affordable housing project located in _____, Louisiana, known as _____ (the “**Project**”);

WHEREAS, in order to provide funds to develop and construct the Project, the Partnership has secured Low Income Housing Tax Credits through the allocation process administered by the Louisiana Housing Finance Agency;

WHEREAS, the Project is subject the Tax Credit Regulatory Agreement, including therein an extended use agreement (the “**Tax Credit Regulatory Agreement**”) in connection with the allocation of Low Income Housing Tax Credits;

WHEREAS, the Tax Credit Regulatory Agreement contains use restrictions (the “**Use Restrictions**”) restricting the use of the Project to housing for persons of low to very low incomes;

WHEREAS, the Partnership has been instrumental in the development of the Project and desires to provide for the continuation of the Project as housing for persons of low to very low incomes at the end of the 15-year Compliance Period by granting to the Grantee and, if the Grantee fails to exercise this option, to the Agency, the right to purchase the Project at a purchase price determined under this Agreement and to operate the Project in accordance with the Use Restrictions.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties agree as follows:

1. **Grant of Option.** The Partnership hereby grants to Grantee and, if the Grantee fails to exercise this option, to the Agency, an option (the “**Option**”) to purchase the Project, including the real estate, fixtures, movable and personal property comprising the Project or associated with the physical operation thereof, located at the _____ and owned by the Partnership at the time of purchase (the “**Property**”) on and after [15 years after the PIS date]_, which date is after the close of the fifteen (15) year compliance period for the low-income housing tax credit for the Project (the “**Compliance Period**”) as determined under Section 42 (i)(1) of the Internal

Revenue Code of 1986, as amended (the “Code”), on the terms and conditions set forth in this Agreement and subject to the conditions to exercise of the Option specified herein.

2. ***Grant of Refusal Right.*** In the event that the Partnership receives a bona fide offer to purchase the Project, which offer the Partnership intends to accept, Grantee and, if the Grantee fails to exercise such right, the Agency, shall have a right of first refusal to purchase the Property (the “**Refusal Right**”) on and after [w/in 24 months of end of compliance period], _____, on the terms and conditions set forth in this Agreement and subject to all other applicable conditions set forth in this Agreement).

3. ***Purchase Price Under Option.*** The purchase price for the Property pursuant to the Option shall not be less than the minimum purchase price as defined in Section 42 (i)(7) of the Code and shall be an amount sufficient to pay (i) the principal amount of outstanding debt secured by the Property (other than indebtedness incurred within the five (5) year period ending on the date of the sale to the Grantee; (ii) all federal, state and local taxes attributable to such sale; and (iii) to distribute to the Partnership cash proceeds equal to the taxes projected to be imposed on the Partners of the Partnership as a result of the sale pursuant to the Option.

4. ***Purchase Price Under Refusal Right.*** The purchase price for the Property pursuant to the Refusal Right shall not be less than the minimum purchase price as defined in Section 42 (i)(7) of the Code and shall be an amount sufficient to pay (i) the principal amount of outstanding debt secured by the Property; (ii) all federal, state and local taxes attributable to such sale; and (iii) a distribution to the Partnership cash proceeds equal to the taxes projected to be imposed on the Partners of the Partnership as a result of the sale pursuant to the Refusal Right.

5. ***Exercise of Option or Refusal Right.*** The Option and the Refusal Right may each be exercised by Grantee (or by the Agency if the Grantee fails to exercise either right in a timely manner) by (a) giving prior written notice of their intent to exercise the Option or the Refusal Right to the Partnership and (b) complying with the contract and closing requirements of paragraph 7 hereof. Any such notice of intent to exercise the Option shall be given on or before [w/in 24 months of end of compliance period]. Any such notice of intent to exercise the Refusal Right shall be given within one hundred and eighty (180) days after Grantee has received the Partnership’s notice of a bona fide offer pursuant to Paragraph 2 hereof. The notice of intent shall specify a closing date within one hundred eighty (180) days immediately following the date of the written notice from the Partnership. If the foregoing requirements (including those of Paragraph 8 hereof) are not met as and when provided herein, the Option or the Refusal Right, or both, as applicable, shall expire and be of no further force or effect. Upon notice by Grantee or Agency of the intent to exercise the Option or the Refusal Right, all rights under the other shall be subordinate to the rights then being so exercised unless and until such exercise is withdrawn or discontinued, and upon the closing of any sale of the Property pursuant to such notice shall expire and be of no further force or effect, provided that in the event that the Option and the Refusal Right are hereafter held by different parties by reason of any permitted assignment or

otherwise, Grantee in its assignment(s) or such parties by written agreement may specify any other order of priority consistent with the other terms and conditions of this Agreement.

6. ***Determination of Price.*** Upon notice by Grantee or Agency of the intent to exercise the Option or the Refusal Right, the Partnership and Grantee or Agency shall exercise their best efforts in good faith to establish the purchase price for the Property.

7. ***Contract and Closing.*** Upon determination of the purchase price, the Partnership and Grantee or the Agency, as the case may be, shall enter into a written contract for the purchase and sale of the Property in accordance with this Agreement and containing such other terms and conditions as are standard and customary for similar commercial transactions in the area, providing for a closing not later than the date specified in Grantee's or Agency's notice of intent to exercise the option or the Refusal Right, as applicable, or ninety (90) days after the purchase price has been determined, whichever is later. In the absence of any such contract, this Agreement shall be specifically enforceable upon the exercise of the Option or the Refusal Right, as applicable.

8. ***Use Restrictions.*** In consideration of the Option and the Refusal Right granted hereunder at the price specified herein, Grantee hereby agrees that the deed or instrument conveying title of the Project to Grantee shall contain appropriate language sufficient to constitute a covenant running with the land, restricting use of the Project to housing of person of low to very low incomes to the extent required by those Use Restriction contained in the Extended Use Agreement and the Regulatory Agreement.

9. ***Applicable Law.*** This Agreement shall be liberally construed in accordance with the laws of the State of Louisiana.

10. ***Counterparts.*** This Agreement may be executed by the parties hereto in several counterparts and all counterparts so executed shall constitute one agreement binding on all parties.

This Purchase Option and Right of First Refusal Agreement is executed this ____ day of _____, 20____, in _____, Louisiana.

PARTNERSHIP:

A LOUISIANA PARTNERSHIP IN COMMENDAM

By: _____
Name/Title:

GRANTEE:

TENANT (Print)

By: _____
Name

AGENCY:

LOUISIANA HOUSING FINANCE AGENCY

By: _____