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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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**This Document Prepared by
and after Recording Return to:**

Dykema Gossett PLLC
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attn: Derek L. Cottier, Esq.

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") is entered into as of December 23, 2008 by and among (i) U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Senior Lender"); (ii) ILLINOIS HOUSING DEVELOPMENT AUTHORITY, a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 *et seq.*, as amended from time to time ("IHDA"); (iii) CASA MARAVILLA APARTMENTS CORP., an Illinois corporation ("General Partner"); and (iv) CASA MARAVILLA LP, an Illinois limited partnership ("Borrower").

Recitals

A. Pursuant to the terms and conditions of that certain Construction and Permanent Loan Agreement by and between Senior Lender and Borrower of even date herewith (the "Senior Loan Agreement"), the Senior Lender has agreed to make to Borrower: (i) a convertible term loan in the stated principal amount of \$1,250,000.00 (the "Convertible Term Loan"), and (ii) a construction bridge loan in the stated principal amount of \$6,423,384.00 (the "Construction Bridge Loan"; and together with the Convertible Term Loan, the "First Mortgage Loan"). The First Mortgage Loan is or will be secured by that certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith granted by Borrower to Senior Lender (the "First Mortgage") encumbering that certain multifamily housing project to be located in Chicago, Illinois commonly known as Casa Maravilla Apartments (the "Property"). The Property is more fully described in Exhibit A attached hereto. The Convertible Term Loan is evidenced by that certain Promissory Note of even date herewith made by Borrower to the order of Senior Lender in the stated principal amount of \$1,250,000.00 (as amended from time to time, the "Convertible Term Note"), and the Construction Bridge Loan is evidenced by that certain Promissory Note of even date herewith made by Borrower to the order of Senior Lender in the stated principal amount of \$7,000,000.00 (the "Construction Bridge Note"; and together with the Convertible Term Note, the "Senior Notes"). The Convertible Term Note matures on December 23, 2025 (unless earlier terminated) and the Construction Bridge Note matures on December 23, 2010.

B. The Borrower has requested that Senior Lender permit the City of Chicago ("City") to make a subordinate loan to Borrower in the amount of \$4,000,000.00 (this principal

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sum of \$4,000,000.00, together with interest to accrue thereon and any and all other Payments Obligations (as hereinafter defined) in connection therewith, is referred to herein as the "**Second Subordinate Loan**") and to secure the Second Subordinate Loan by, among other things, placing a mortgage lien against the Property. The City is not a party to this Agreement, and this Agreement does not address the relationship between the Senior Lender and the City or the relationship between the City and the Subordinate Lenders.

C. The Borrower has requested that Senior Lender permit IHDA to make a subordinate loan to Borrower in the amount of \$1,250,000.00 (this principal sum of \$1,250,000.00, together with interest to accrue thereon and any and all other Payments Obligations (as hereinafter defined) in connection therewith, is referred to herein as the "**Third Subordinate Loan**") and to secure the Third Subordinate Loan by, among other things, placing a mortgage lien against the Property. Senior Lender acknowledges that the Third Subordinate Loan shall not be funded until all indebtedness evidenced by the Construction Bridge Note shall have been repaid in full, thereby reducing the outstanding principal amount of the Senior Loan to an amount not greater than \$1,250,000.00, and a modification to the Senior Mortgage shall have been recorded to reflect such repayment.

D. The Borrower has requested that Senior Lender permit the General Partner to make a subordinate loan to Borrower in the amount of \$108,400.00 (this principal sum of \$108,400.00, together with interest to accrue thereon and any and all other Payments Obligations (as hereinafter defined) in connection therewith, is referred to herein as the "**Fourth Subordinate Loan**") and to secure the Fourth Subordinate Loan by, among other things, placing a mortgage lien against the Property.

E. The Borrower has requested that Senior Lender permit the General Partner to make an additional subordinate loan to Borrower in the amount of \$126,264.00 (this principal sum of \$126,264.00, together with interest to accrue thereon and any and all other Payments Obligations (as hereinafter defined) in connection therewith, is referred to herein as the "**Fifth Subordinate Loan**") and to secure the Fifth Subordinate Loan by, among other things, placing a mortgage lien against the Property.

F. The Senior Lender has agreed to permit the Subordinate Lenders (as defined below) to make their respective Subordinate Loans (as defined below) and to place subordinate mortgage liens against the Property subject to all of the conditions contained in this Agreement.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lenders to make the Subordinate Loans to the Borrower and to place subordinate mortgage liens against the Property, and in consideration thereof, the Senior Lender, the Subordinate Lenders and the Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

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"**Affiliate**" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term "control" for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

"**Borrower**" means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Property after the date of this Agreement.

"**Business Day**" means any Monday, Tuesday, Wednesday, Thursday or Friday on which Lender is open and conducting customary banking transactions in the State of Illinois.

"**Default Notice**" means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a First Mortgage Loan Default has occurred under the First Mortgage Loan; or (b) a copy of the written notice from any Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under any of the Subordinate Loans. Each Default Notice shall specify the default upon which such Default Notice is based.

"**First Mortgage Loan**" shall have the meaning set forth in the Recitals hereto.

"**First Mortgage Loan Default**" means the occurrence of an "Event of Default" as that term is defined in the First Mortgage Loan Documents.

"**First Mortgage Loan Documents**" means the Senior Loan Agreement, the Senior Notes, the First Mortgage and all other documents evidencing, securing or otherwise executed and delivered in connection with the First Mortgage Loan.

"**Payment Obligation**" means, with respect to the First Mortgage Loan and each of the Subordinate Loans, any and all fees, expenses and payment obligations of whatever nature payable in connection therewith (including, but not limited to, administrative fees, protective advances and payments with respect to indemnification obligations).

"**Person**" means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

"**Regulatory Agreements**" shall mean those certain agreements listed on Exhibit B attached hereto.

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"**Senior Lender**" means the Person named as such in the first paragraph on page 1 of this Agreement.

"**Subordinate Lender**" means individually, IHDA and General Partner, and "Subordinate Lenders" means collectively, IHDA and General Partner. The City is not a party to this Agreement, and this Agreement does not address the relationship between the Senior Lender and the City or the relationship between the City and the Subordinate Lenders.

"**Subordinate Loan**" means individually, the Third Subordinate Loan, Fourth Subordinate Loan, and Fifth Subordinate Loan, and "**Subordinate Loans**" mean collectively, the Third Subordinate Loan, Fourth Subordinate Loan, and Fifth Subordinate Loan.

"**Subordinate Loan Default**" means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

"**Subordinate Loan Documents**" means the Subordinate Notes, the Subordinate Mortgages, any Regulatory Agreements in connection therewith, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loans.

"**Subordinate Mortgage**" means individually the mortgage encumbering the Property as security for any Subordinate Loan, which each Subordinate Lender will cause to be recorded among the applicable land records immediately before this Agreement; and "**Subordinate Mortgages**" means collectively the mortgages encumbering the Property as security for the Subordinate Loans, which the Subordinate Lenders will cause to be recorded among the applicable land records immediately before this Agreement.

"**Subordinate Note**" means individually each promissory note of even date herewith issued by the Borrower to each Subordinate Lender to evidence each of the Subordinate Loans; and "**Subordinate Notes**" mean collectively the promissory notes of even date herewith issued by the Borrower to each of the Subordinate Lenders to evidence each of the Subordinate Loans.

2. **Permission to Place Mortgage Lien Against Property.**

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the First Mortgage Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lenders to record the Subordinate Mortgages and other recordable Subordinate Loan Documents against the Property (which with the exception of the Regulatory Agreements listed as items 1, 2 and 3 on Exhibit B hereto [the "**Senior Regulatory Agreements**"] are subordinate in all respects to the lien of the First Mortgage and which shall have

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the priorities indicated in their defined terms) to secure the Borrower's obligation to repay the Subordinate Notes and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lenders under and in connection with the Subordinate Loans.

3. Borrower's and Subordinate Lenders' Representations and Warranties.

The Borrower and each of the Subordinate Lenders (with respect to its Subordinate Loan only) make the following representations and warranties to the Senior Lender:

(a) **Relationship of Borrower to Subordinate Lenders.** With the exception of the General Partner, no Subordinate Lender is an Affiliate of the Borrower.

(b) **Term.** The term of each of the Subordinate Notes does not end prior to the maturity date of the Convertible Term Note.

(c) **Subordinate Loan Documents.** Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(d) **First Mortgage Loan Documents.** Borrower shall deliver to each Subordinate Lender an executed copy of each of the First Mortgage Loan Documents, certified to be true, correct and complete.

4. Terms of Subordination.

(a) **Agreement to Subordinate.** Subject to the terms of this Agreement, the Senior Lender and each of the Subordinate Lenders agree that: (i) the indebtedness evidenced by each of the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior indefeasible payment in full of the indebtedness evidenced by the First Mortgage Loan Documents, and (ii) the Subordinate Mortgages and the other Subordinate Loan Documents (other than the Senior Regulatory Agreements) are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the other First Mortgage Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage and the other First Mortgage Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage Loan Documents or for any other purpose expressly permitted by the First Mortgage or the First Mortgage Loan Documents, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) **Subordination of Subrogation Rights.** Each Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property

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which (but for this subsection) would be senior to the lien of the First Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the First Mortgage.

(c) **Payments Before First Mortgage Loan Default.** Until a Subordinate Lender receives a Default Notice of a First Mortgage Loan Default from the Senior Lender, such Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents; provided, however, that Borrower shall not make, and no Subordinate Lender shall accept, a prepayment, in whole or in part, of a Subordinate Loan without the prior written consent of the Senior Lender.

(d) **Payments After First Mortgage Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a First Mortgage Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by any of the Subordinate Mortgages) without the Senior Lender's prior written consent. Each Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing such Subordinate Lender not to accept payments from the Borrower on account of such Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by such Subordinate Mortgage) without the Senior Lender's prior written consent. If any Subordinate Lender receives written notice from the Senior Lender that the First Mortgage Loan Default which gave rise to a Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to such Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to such Subordinate Lender by the Borrower prior to such Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d). Notwithstanding the foregoing, nothing in this Section 4(d) or any other provision of this Agreement shall prevent a Subordinate Lender from directing Greater Illinois Title Company, as escrow agent under that certain Escrow Agreement of even date herewith by and between Senior Lender, City, IHDA, Borrower and Greater Illinois Title Company (the "**Construction Escrow Agreement**"), to return funds in such Subordinate Lender's subaccount in accordance with the terms of the Construction Escrow Agreement.

(e) **Remitting Subordinate Loan Payments to Senior Lender.** Except as otherwise set forth in this Agreement, if, after a Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, such Subordinate Lender receives any payments under the Subordinate Loan Documents which pursuant to Section 4(d) hereof it is precluded from accepting, such Subordinate Lender agrees that such payment or other distribution will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the Borrower's obligations under the First Mortgage Loan in accordance with the provisions of the First

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Mortgage Loan Documents. By executing this Agreement, the Borrower specifically authorizes each Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the applicable Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by any of the Subordinate Lenders, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise credited against such respective Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of a Subordinate Lender to retain such payment or apply such payment to its Subordinate Loan.

(f) **Bankruptcy Provisions.** In the event of any proceedings to liquidate, dissolve or wind up the Borrower, or of any execution, sale, receivership, insolvency, bankruptcy, liquidation, readjustment, reorganization, or other similar proceedings relative to the Borrower or its property (a "**Bankruptcy Proceeding**"), to the fullest extent permitted by law, the payment and lien priorities set forth in this Agreement shall be respected and enforced in any such Bankruptcy Proceeding, and each Subordinate Lender and Borrower agree not to contest such priorities in any Bankruptcy Proceeding. Without limitation to the foregoing, the First Mortgage Loan shall be preferred in payment over the Subordinate Loans and any obligations thereunder shall be paid in full before any payment is made upon any of the Subordinate Loans; and any payment or distribution of any kind or character, whether in cash, property or securities, made upon or in respect of any of the Subordinate Loans as a result of any such proceeding shall be paid over to the Senior Lender for payment of any obligations of the First Mortgage Loan unless and until the Senior Notes have been paid in full and all other obligations under the First Mortgage Loan shall have been satisfied in full. Each Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding with respect to the Borrower without (i) sixty (60) days prior written notice to the Senior Lender of such intent, and (ii) the indefeasible payment in full of the Senior Notes and the satisfaction of all obligations under the First Mortgage Loan, together with all other amounts secured by the First Mortgage.

5. **Default Under Subordinate Loan Documents.**

(a) **Notice of Default and Cure Rights.** Each Subordinate Lender shall use reasonable efforts to deliver to Senior Lender and each other Subordinate Lender a copy of any Default Notice delivered by the Subordinate Lender to Borrower concurrently with the delivery of such Default Notice to the Borrower. Failure of a Subordinate Lender to send a Default Notice to the Senior Lender and/or any other Subordinate Lender shall not prevent the exercise of any Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within the latest to occur of (i) the cure period, if any, granted to the Borrower under the applicable Subordinate Loan Documents; (ii) ten (10) days after delivery of the Default Notice to Senior Lender for any default that may be cured by the payment of money (a

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“**Monetary Default**”), and (iii) thirty (30) days after delivery of the Default Notice to Senior Lender for any default that may, by its nature, be cured but that cannot be cured solely by the payment of money (a “**Nonmonetary Default**”); provided, however that each Subordinate Lender shall be entitled, after the expiration of any cure period granted to the Borrower and subject to subsections 5(b) and 5(c) below, to continue to pursue its rights and remedies under the Subordinate Loan Documents. Notwithstanding the foregoing, the right of Senior Lender to cure Monetary Defaults under the Subordinate Loan shall be limited to two (2) curing payments during any twelve month period and five (5) curing payments during the term of the Subordinate Loan. All amounts paid by the Senior Lender to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the First Mortgage; provided, however, that in the event Senior Lender shall cure a default under the Fourth Subordinate Loan or the Fifth Subordinate Loan, any amounts so expended shall not have priority over amounts due IHDA under the Third Subordinate Loan.

(b) **IHDA’s Exercise of Remedies After Notice to Senior Lender.** If a Subordinate Loan Default occurs and is continuing under the Third Subordinate Loan, IHDA agrees that, without the Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Third Subordinate Loan Documents or exercise any other rights or remedies it may have under the Third Subordinate Loan Documents which would materially adversely affect the rights of the Senior Lender with respect to the Property or the Borrower, including, but not limited to accelerating any Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver, unless and until it has given the Senior Lender at least 60 days' prior written notice; during such 60 day period, however, IHDA shall be entitled to exercise and enforce all other rights and remedies available to IHDA under the Subordinate Loan Documents and/or under applicable laws, including without limitation, rights to enforce covenants and agreements of the Borrower relating to income, rent, or affordability restrictions contained in any Third Subordinate Loan Documents or any Regulatory Agreement by and between IHDA and the Borrower.

(c) **General Partner’s Exercise of Remedies After Notice to Senior Lender and IHDA.** If a Subordinate Loan Default occurs and is continuing under the Fourth Subordinate Loan or the Fifth Subordinate Loan, General Partner agrees that, without the Senior Lender's and IHDA’s prior written consent, it will not commence any enforcement or remedial actions under either the Fourth Subordinate Loan Documents or the Fifth Subordinate Loan Documents, including but not limited to commencing foreclosure proceedings with respect to the Property, accelerating the Fourth Subordinate Loan or the Fifth Subordinate Loan, collecting rents, or appointing (or seeking the appointment of) a receiver.

6. **Default Under First Mortgage Loan Documents.**

(a) **Notice of Default and Cure Rights.** The Senior Lender shall use reasonable efforts to deliver to IHDA a copy of any Default Notice delivered by the Senior Lender to Borrower concurrently with the delivery of such Default Notice to the Borrower. Senior Lender shall not be required to send General Partner a copy of any Default Notice

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delivered by the Senior Lender to Borrower. Failure of Senior Lender to deliver a copy of any Default Notice to IHDA or General Partner shall not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. IHDA, but not General Partner, shall have the right, but not the obligation, to cure any Senior Loan Default within the latest to occur of (i) the cure period, if any, granted to the Borrower under the applicable First Mortgage Loan Documents; (ii) ten (10) days after delivery of the Default Notice to IHDA for any Monetary Default, and (iii) thirty (30) days after delivery of the Default Notice to IHDA for any Nonmonetary Default. Senior Lender shall forebear from exercising its remedies under the First Mortgage Loan Documents during the pendency of the cure periods for IHDA provided under clauses (i) and (ii) of the preceding sentence, and will also forebear from exercising its remedies during the cure period provided in clause (iii) of the preceding sentence so long as (A) IHDA keeps current all payments required by the First Mortgage Loan Documents, and (B) Senior Lender, in its sole discretion, determines that such non-monetary default does not impair, threaten or jeopardize the continued operation and safety and the value of the Property, and the priority, validity and enforceability of the liens created by the First Mortgage or any of the other First Mortgage Loan Documents. Notwithstanding the foregoing, the right of IHDA to cure Monetary Defaults under the Senior Loan shall be limited to two (2) curing payments during any twelve month period and five (5) curing payments during the term of the First Mortgage Loan. All amounts paid by IHDA to the Senior Lender to cure a First Mortgage Loan Default shall be deemed to have been advanced by IHDA pursuant to, and shall be secured by the lien of, IHDA's Subordinate Mortgage.

7. Conflict.

The Borrower, the Senior Lender and the Subordinate Lenders each agree that, in the event of any conflict or inconsistency between the terms of the First Mortgage Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the Senior Lender and the Subordinate Lenders in the Property; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Lenders under the First Mortgage and the Subordinate Mortgages, respectively; and (c) solely as between the Senior Lender and the Subordinate Lenders, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Lenders have agreed to as expressly provided in this Agreement. Other than with respect to the issues specifically addressed in subsection (a), (b) and (c) of the preceding sentence, in the event of a conflict between this Agreement and any of the Senior Regulatory Agreements, the applicable Senior Regulatory Agreement shall control. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any First Mortgage Loan Default or Subordinate Loan Defaults, as the case may be; give the Borrower the right to notice of any First Mortgage Loan Default or Subordinate Loan Defaults, as the case may be other than that, if any, provided, respectively under the First Mortgage Loan Documents or the Subordinate Loan Documents; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lenders.

8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the First Mortgage Loan Documents.

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Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) **Protection of Security Interest.** The Subordinate Lenders shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that IHDA shall have the right to advance funds to cure First Mortgage Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to IHDA's Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums; constructing, renovating, repairing, furnishing, fixturing or equipping the Property; making necessary repairs to the Property and curing other defaults by the Borrower under the Third Subordinate Loan Documents.

(b) **Condemnation or Casualty.** In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the First Mortgage remains a lien on the Property the following provisions shall apply:

(1) Each Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the First Mortgage Loan Documents with respect thereto, and each Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lenders to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to any obligations under the First Mortgage Loan) in the manner determined by the Senior Lender in accordance with the provisions of the First Mortgage; provided, however, that if the Senior Lender elects to apply such proceeds to any obligations under the First Mortgage Loan, any proceeds remaining after the satisfaction of all obligations under the First Mortgage Loan shall be paid to, and may be applied by, each Subordinate Lender in accordance with the relative priorities and applicable provisions of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with each Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lenders over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

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(c) **Payment and Performance Bonds.** Each of Borrower, Senior Lender, and each Subordinate Lender has been named as a co-obligee, as their respective interests may appear, under certain payment, performance, completion or similar bonds, indemnities and/or surety agreements (the “**Performance Bonds**”) issued in connection with the construction of the housing units to be constructed on the Property (the “**Project**”). The Subordinate Lenders and Borrower each acknowledge and agree that, until such time as all obligations under the First Mortgage Loan have been fully performed and the Senior Notes have been indefeasibly paid in full, (a) the First Mortgage Loan Documents shall control the exercise of rights under or arising out of the Performance Bonds and application of any and all proceeds of the Performance Bonds (the “**Performance Bond Proceeds**”), and (b) Senior Lender, in accordance with the provisions of the First Mortgage, shall make all determinations as to the application of Performance Bond Proceeds, either to repayment of indebtedness secured by the Property, or to the completion of the Project; provided, however, that if the Senior Lender elects to apply such proceeds to any obligations under the First Mortgage Loan, any proceeds remaining after the satisfaction in full of such obligations and the indefeasible payment in full of the Senior Notes shall be paid to, and may be applied by, each Subordinate Lender in accordance with the relative priorities of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with each Subordinate Lender in determining the application of Performance Bond Proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lenders over the application of Performance Bond proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

(d) **No Modification of Subordinate Loan Documents.** The Borrower and each of the Subordinate Lenders (with respect to its Subordinate Loan) each agree that until all First Mortgage Loan obligations have been fully performed and each of the Senior Notes has been indefeasibly paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of its Subordinate Loan, increase the required payments due under its Subordinate Loan, decrease the term of its Subordinate Loan, increase the interest rate on its Subordinate Loan (other than through institution of default rate interest in accordance with the terms and conditions of the applicable Subordinate Loan Documents), or otherwise amend its Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the First Mortgage Loan Documents. Senior Lender acknowledges, and consents to, provisions presently in the Subordinate Loan Documents providing for the accrual of interest thereunder, and any increase in the outstanding principal balance of any Subordinate Loan pursuant to any such accrued and unpaid interest. Any unauthorized amendment of any of the Subordinate Loan Documents or assignment of a Subordinate Lender's interest in a Subordinate Loan without the Senior Lender's consent, as required above, shall be void ab initio and of no effect whatsoever.

9. **Assignment, Modification or Refinancing of First Mortgage Loan.**

(a) **Assignment of the First Mortgage Loan.** Each Subordinate Lender acknowledges and agrees that Senior Lender, at any time, shall have the right to sell,

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assign, transfer, or negotiate the First Mortgage Loan and the First Mortgage Loan Documents, in whole or in part, and to grant participation interests in the First Mortgage Loan and the First Mortgage Loan Documents, without the consent of the Subordinate Lenders. Senior Lender shall deliver written notice to the Subordinate Lenders of any assignment of the First Mortgage Loan not later than the date of such assignment.

(b) **Modification of the First Mortgage Loan.** Senior Lender shall not, without the prior written consent of IHDA, amend the First Loan Mortgage Documents to increase the outstanding principal balance of the First Mortgage Loan (from and after the date of disbursement of the Third Subordinate Loan, and subject to the right of Senior Lender to make Protective Advances, as defined below), increase the required payments due under the First Mortgage Loan, change the term of the First Mortgage Loan, or increase the default interest rate on the First Mortgage Loan; provided further, however, that the foregoing restrictions shall not affect the right of Senior Lender to exercise any rights or remedies provided in the First Mortgage Loan Documents as of the date hereof, including but not limited to acceleration of the First Mortgage Loan and/or the charging of default rate interest upon the occurrence of a First Mortgage Loan Default, or the making of Protective Advances. As used herein, "**Protective Advances**" shall mean any advances necessary in Senior Lender's reasonable judgment to protect the security for the First Mortgage Loan, such as, by way of example and not limitation, advances to pay real estate taxes, insurance premiums or necessary repair, maintenance or construction costs. Senior Lender may modify the Senior Loan Documents in any manner without the consent of General Partner, and any such modification shall not affect the continuing validity or enforceability of any of the agreements of the General Partner hereunder.

10. **Default by the Subordinate Lender or Senior Lender.**

If any one of the Subordinate Lenders or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief to the extent necessary to compensate and restore the non-defaulting lender to the position it would have been in had the defaulting lender performed or observed such terms, covenants or conditions.

11. **Notices.**

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lenders are required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

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To Senior Lender: U.S. Bank National Association
209 South LaSalle Street
Suite 210
Chicago, Illinois 60604
Attn: Katie Holden

With copy to: Dykema Gossett PLLC
Suite 2700
180 North LaSalle Street
Chicago, Illinois 60601
Attn: Derek L. Cottier

To Borrower and
General Partner: Casa Maravilla LP
1818 South Paulina Street
Chicago, Illinois 60608
Attn: Guacolda Reyes

With copies to: Thompson Coburn LLP
55 East Monroe Street, 40th Floor
Chicago, Illinois 60603
Attn: Mark J. Lenz

and: NEF Assignment Corporation
120 South Riverside Plaza
15th Floor
Chicago, Illinois 60606

To IHDA: Illinois Housing Development Authority
401 N. Michigan Ave.
Chicago, Illinois 60611
Attn: Legal Department

Any party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

12. **General.**

(a) **Assignment/Successors.** This Agreement shall be binding upon the Borrower, the Senior Lender, the Subordinate Lenders and their respective legal successors and assigns, and shall inure to the benefit of the Senior Lender, the Subordinate Lenders and their respective legal successors and assigns.

(b) **No Partnership or Joint Venture.** The Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute the Senior Lender

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as a joint venturer or partner of any of the Subordinate Lenders. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) **Senior Lender's and Subordinate Lenders' Consent.** Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever Subordinate Lenders' consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by a Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) **Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

(e) **Governing Law.** This Agreement shall be governed by the laws of the State of Illinois.

(f) **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(g) **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the indefeasible payment and performance of all obligations under the Senior Notes and the First Mortgage Loan; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which a Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure; or (iv) the acquisition by a Subordinate Lender of title to the Property pursuant to a foreclosure.

(h) **Counterparts.** 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.

(i) **Limitation on Liability.** There shall be no personal liability or recourse against any of the elected and appointed officials, commissioners, members, officers, board members, agents or employees of IHDA (collectively, "**Agents**"), with respect to any obligation covenant, warranty or agreement of IHDA contained in this Agreement.

[DOCUMENT EXECUTION OCCURS ON THE FOLLOWING PAGES]

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

SENIOR LENDER:

U.S. BANK NATIONAL ASSOCIATION, a national banking association

By: *Kate Holder*
Name: *Kate Holder*
Title: *VP*

Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, *Heather Aeschleman* a Notary Public in and for said County, in the State aforesaid, do hereby certify that *Kate Holder*, the *VP* of U.S. Bank National Association, a national banking association ("**Bank**"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such *VP*, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this *23* day of December, 2008.

Heather Aeschleman
NOTARY PUBLIC

(SEAL)



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IHDA:

**ILLINOIS HOUSING DEVELOPMENT
AUTHORITY**, a body politic and corporate

By: [Signature]
Name: Wally R. Kenney
Title: GENERAL COUNSEL

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Tanika King a Notary Public in and for said County, in the State aforesaid, do hereby certify that Wally R. Kenney, GENERAL COUNSEL of **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, a body politic and corporate ("IHDA"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Executive Director, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of IHDA, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 23rd day of December, 2008.

Tanika King
NOTARY PUBLIC

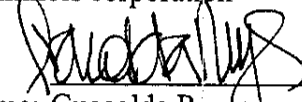
(SEAL)



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GENERAL PARTNER:

CASA MARAVILLA APARTMENTS CORP.,
an Illinois corporation

By: 
Name: Guacolda Reyes
Title: Secretary/Treasurer

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Heather Aeschleman a Notary Public in and for said County, in the State aforesaid, do hereby certify that Guacolda Reyes, the Secretary/Treasurer of **CASA MARAVILLA APARTMENTS CORP.**, an Illinois corporation ("**Corp**"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Secretary/Treasurer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Corp, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 23 day of December, 2008.




NOTARY PUBLIC

(SEAL)



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BORROWER:

CASA MARAVILLA LP, an Illinois limited partnership

By: Casa Maravilla Apartments Corp., an Illinois corporation

Its: General Partner

By: *Guacolda Reyes*
Name: Guacolda Reyes
Title: Secretary/Treasurer

Property of Cook County Clerk's Office

ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Guacolda Reyes, the Secretary/Treasurer of Casa Maravilla Apartments Corp., an Illinois corporation (“**General Partner**”), the general partner of **CASA MARAVILLA LP**, an Illinois limited partnership (“**Borrower**”), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of General Partner in General Partner’s capacity as general partner of Borrower, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 23 day of December, 2008

Heather Aeschleman
Notary Public

(SEAL)



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EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF BLOCK 18 IN WALSH AND MCMULLEN'S SUBDIVISION OF THE SOUTH 3/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF SAID BLOCK 18, SAID POINT OF BEGINNING BEING LOCATED ON THE EAST RIGHT OF WAY LINE OF SOUTH MORGAN STREET AND DISTANT 120.80 FEET SOUTH OF THE NORTHWEST CORNER OF SAID BLOCK 18; THENCE SOUTH 89 DEGREES 54 MINUTES 27 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTH 120.80 FEET OF SAID BLOCK 18 A DISTANCE OF 207.95 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 24 SECONDS WEST A DISTANCE OF 95.03 FEET TO A POINT; THENCE NORTH 89 DEGREES 50 MINUTES 08 SECONDS EAST A DISTANCE OF 21.50 FEET TO A POINT; THENCE SOUTH 00 DEGREES 05 MINUTES 06 SECONDS EAST A DISTANCE OF 74.30 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 152.00 FEET OF SAID BLOCK 18; THENCE NORTH 89 DEGREES 52 MINUTES 20 SECONDS WEST ALONG SAID NORTH LINE A DISTANCE OF 229.55 FEET TO A POINT IN THE WEST LINE OF SAID BLOCK 18 WHICH IS 152.00 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID BLOCK 18 A DISTANCE OF 169.06 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Common Address: 2021 South Morgan Street, Chicago, Illinois 60605

PIN: A portion of PIN 17-20-433-005-0000 and a portion of PIN 17-20-433-013-0000

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EXHIBIT B

REGULATORY AGREEMENTS

All documents dated as of the date hereof.

1. Regulatory Agreement by and between Borrower and the City of Chicago.
2. Low Income Housing Tax Credit Extended Use Agreement by and between Borrower and IHDA.
3. Regulatory and Land Use Restriction Agreement by and between Borrower and IHDA.
4. Donations Tax Credit Regulatory Agreement by and between the City of Chicago and Borrower