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111 East Wacker Drive  
Suite 1000  
Chicago, IL 60601  
Attn: Maureen G. Ohle, Esq.

Property Identification Nos: 20-22-418-028-0000, 20-22-418-029-0000, 20-22-418-061-0000

Property Address:  
737 E. 69th Street  
Chicago, IL 60637

41065573 (5 OF 20)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

and

BERRY MANOR APARTMENTS, LP,  
an Illinois limited partnership,  
as Borrower

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

TAX REGULATORY AGREEMENT

Dated as of September 1, 2022

When Recorded Send to:

Chapman and Cutler LLP  
320 S. Canal St., 27th Floor  
Chicago, Illinois 60606  
Attention: Steven Washington

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## TAX REGULATORY AGREEMENT

THIS TAX REGULATORY AGREEMENT (this "*Tax Regulatory Agreement*"), entered into as of September 1, 2022, by and among the ILLINOIS HOUSING DEVELOPMENT AUTHORITY, a body politic and corporate, organized and existing under the laws of the State of Illinois (the "*Issuer*"), BERRY MANOR APARTMENTS, LP, an Illinois limited partnership (the "*Borrower*"), and the Trustee (hereinafter defined).

### WITNESSETH:

WHEREAS, the Issuer is issuing its Multifamily Housing Revenue Bonds, Series 2022 (Berry Manor) (the "*Bonds*") under a Trust Indenture, dated as of September 1, 2022 (the "*Indenture*"), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "*Trustee*") for the purpose of lending the proceeds thereof to the Borrower pursuant to a Loan Agreement, dated as of September 1, 2022 (the "*Loan Agreement*"), to pay a portion of the costs of financing the acquisition, rehabilitation and equipping, on the real property described on *Exhibit A* attached hereto, of a 57-unit multifamily residential development for low and moderate income seniors located in Chicago, Illinois (the "*Project*"); and

WHEREAS, in order to assure the Issuer and the owners of the Bonds (the "*Bondholders*") that interest on the Bonds will be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the "*Code*"), and to further the public purposes of the Issuer, certain restrictions on the use and occupancy of the Project under the Code must be established;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Issuer and the Trustee agree with respect to the Project as follows:

*Section 1. Definitions.* In addition to terms defined elsewhere in this Tax Regulatory Agreement, unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Tax Regulatory Agreement:

"*Actually Outstanding*" shall mean, with respect to the Bonds, those Bonds the principal and interest on which has not yet been fully paid, whether or not such Bonds are deemed to be outstanding under the Indenture or the Loan Agreement.

"*Adjusted Family Income*" shall mean the adjusted gross income of all persons who reside in a single residential rental unit, calculated in the manner prescribed in Section 142(d)(2)(B) of the Code, and determined in accordance with *Exhibit B* attached hereto.

"*Affordable Units*" shall mean those units in the Project set aside for occupancy by Lower-Income Tenants.

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“*Area*” shall mean the Metropolitan Statistical Area in which the Project is located, as determined from time to time by HUD.

“*Available Units*” shall mean residential units in the Project (other than the unit occupied or to be occupied by agents, employees or representatives of the Borrower reasonably required for the proper maintenance or management of the Project) that are actually occupied and residential units in the Project that are unoccupied and have been leased at least once after becoming available for occupancy, *provided* that (i) a residential unit that is unoccupied on the later of (a) the date the Project is acquired or (b) the date of issuance of the Bonds, is not an Available Unit and does not become an Available Unit until it has been leased for the first time after such date, and (ii) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been leased for the first time after the renovations are completed.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended, and any final, temporary or proposed regulations applicable thereto or promulgated thereunder.

“*HUD*” shall mean the United States Department of Housing and Urban Development.

“*Lower-Income Tenants*” shall mean and include individuals or families with Adjusted Family Income that does not exceed sixty percent (60%) of Median Income, adjusted for family size; *provided* that Adjusted Family Income shall be determined in a manner consistent with determinations of lower income families and area median gross income made under the Section 8 Program.

“*Median Income*” shall mean the median gross income for the Area, as determined from time to time by HUD. For purposes of determining whether Adjusted Family Income qualifies a tenant for treatment as a Lower-Income Tenant, the Median Income shall be adjusted for family size.

“*Qualified Project Period*” shall mean the period beginning on the first day on which at least ten percent (10%) of the residential units in the Project are first occupied, and ending on the latest of (i) the date which is fifteen (15) years after the date on which at least fifty percent (50%) of the residential units in the Project are first occupied; (ii) the first day on which the Bonds are Actually Outstanding; and (iii) the date on which any assistance provided with respect to the Project under the Section 8 Program terminates.

“*Related Person*” shall mean a person whose relationship to such other person is such that (i) the relationship between such persons would result in a disallowance of losses under Sections 267 or 707(b) of the Code, or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein).

“*Section 8 Program*” shall mean the program of assistance under Section 8 of the United States Housing Act of 1937, as amended, and the regulations promulgated thereunder.

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“*Student*” shall mean an individual who during each of five (5) calendar months during the calendar year in which occupancy of a residential unit begins is a full-time student at an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or an individual pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

*Section 2. Rules of Construction.* Unless the context clearly requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, the words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Tax Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Tax Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Tax Regulatory Agreement or any provision hereof or in ascertaining intent, if any question of intent shall arise.

Terms and phrases used in this Tax Regulatory Agreement and not defined herein shall have the meanings assigned to those terms in the Indenture.

*Section 3. Project Restrictions.* The Borrower represents, warrants and agrees that, until the expiration of the Qualified Project Period:

(a) At no time will either the Borrower or any Related Person occupy a unit in the Project other than the unit occupied or to be occupied by agents, employees or representatives of the Borrower reasonably required for the proper maintenance or management of the Project;

(b) The Project consists of one building (i) containing 57 similarly constructed one-bedroom and two-bedroom dwelling units that are to be used on other than a transient basis and any facilities that are functionally related and subordinate to such units within the meaning of Sections 142(a)(7) and 142(d) of the Code, and (ii) each unit of which is to be rented or available for rental (except as permitted to be occupied by Borrower agents, employees or representatives in (a) above) on a continuous basis to members of the general public in accordance with the requirements of Sections 142(a)(7) and 142(d) of the Code;

(c) Each dwelling unit in the Project shall consist of separate and complete facilities for living, sleeping, eating, cooking and sanitation for a person, persons or family;

(d) Affordable Units will be substantially similar to all other units (if any) in the Project, and Lower-Income Tenants will enjoy equal access to all common facilities included in the Project;

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(e) The Project and the Affordable Units shall, at all times, be suitable for occupancy and in compliance with all applicable laws including, without limitation, health, safety and building codes;

(f) Except as provided in Subsection (f)(i) below, the Borrower certifies that none of the proceeds of the Bonds will be used to acquire any property unless such property was or will be first used by the Borrower.

(i) Subsection (f) hereof does not apply to any building included in the Project (and the equipment thereof) if the Rehabilitation Expenditures (as such term is defined in Subsection (f)(ii) below) incurred by the Borrower with respect to the Project (and the equipment thereof) equal or exceed in the aggregate 15% of the cost of acquiring such building and equipment that is financed with the proceeds of the Bonds. The Borrower covenants that the Rehabilitation Expenditures for the building (and the equipment thereof) acquired with proceeds of the Bonds will satisfy the conditions of the preceding sentence.

(ii) For purposes hereof, the term "*Rehabilitation Expenditures*" means any amount properly chargeable to capital account that is incurred by the Borrower in connection with the rehabilitation of a building; in the case of an integrated operation contained in a building prior to its acquisition, such term includes costs of rehabilitating existing equipment in such building or replacing such equipment with equipment having substantially the same function. The term "*Rehabilitation Expenditures*" does not include (i) any expenditure described in Section 47(c)(2)(B) of the Code, and (ii) any amount incurred more than two (2) years after the later of (A) the date on which the building is acquired by the Borrower, or (B) the date on which the Bonds are issued.

*Section 4. Rental Restrictions Regarding Affordable Units.* The Issuer and the Borrower hereby declare their understanding and intent that the Project be a "qualified residential rental project" as described in Sections 142(a)(7) and 142(d) of the Code and agree that:

(a) Each Available Unit in the Project will be rented or available for rental to the general public on a continuous basis during the Qualified Project Period and that during such Qualified Project Period:

(i) The Borrower will rent the Affordable Units to Lower-Income Tenants such that, at all times during the Qualified Project Period, at least 40% of the Available Units in the Project will be occupied by Lower-Income Tenants, and the Issuer elects to apply the requirements of Section 142(d)(1)(B) of the Code to determine the status of the Project as a "qualified residential rental project" within the meaning of Section 142(d) of the Code. Notwithstanding the foregoing, if at all times within 60 days after the later of (a) the date the Project is acquired, or (b) the issue date of the Bonds, occupancy of the Project equals or exceeds ten percent (10%), the failure to satisfy such occupancy restrictions during a period of 12 months beginning on the issue date of the Bonds (the "*Transition Period*") will



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not cause the Project to not be a qualified residential rental project within the meaning of Section 142(d) of the Code. If such occupancy restrictions are not satisfied on the last date of the Transition Period, such failure will cause the Project to not be a qualified residential rental project within the meaning of Section 142(d) of the Code as of the issue date of the Bonds unless all Bonds issued to finance the Project are redeemed as soon as possible, but in no event later than 18 months after the issue date of the Bonds.

(ii) The Borrower shall submit to the Secretary of the United States Department of the Treasury (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether the Project continues to meet the requirements of Section 142(d) of the Code, and the Borrower acknowledges that failure to do so will subject the Borrower to penalties under Section 6652(j) of the Code.

(iii) On or before the fifteenth day of February, May, September and November of each year during the Qualified Project Period and within thirty (30) days after any change (but only if material to the Borrower's continuing compliance with this Tax Regulatory Agreement) in occupancy of an Affordable Unit by a Lower-Income Tenant, the Borrower shall prepare and submit to the Issuer and the Trustee a Certificate of Continuing Compliance in substantially the form attached hereto as *Exhibit C*, the aforesaid quarterly reporting to commence with the Certificate of Continuing Compliance due on the fifteenth day of the first quarter after the Qualified Project Period commences.

(b) The Borrower shall lease or enter into residency agreements for the occupancy of Affordable Units in the Project to Lower-Income Tenants only pursuant to written leases or residency agreements, and each such lease or residency agreement shall be for a term of at least one year (or the remainder of the tenant's life, if less) in compliance with the requirements of the Code. The Borrower shall, upon initial occupancy and annually thereafter, obtain from each Lower-Income Tenant occupying an Affordable Unit information about income substantially in the form of *Exhibit B* hereto or in the form or forms provided or approved by HUD under Section 8 of the United States Housing Act of 1937, as amended, and shall obtain and maintain on file from each such Lower-Income Tenant evidence reasonably sufficient to verify the Lower-Income Tenant's income and assets, including as may be necessary (i) a copy of such Lower-Income Tenant's most recently filed Federal income tax return, (ii) a verification from the Lower-Income Tenant's employer, if any, of the Lower-Income Tenant's wages and other compensation, and (iii) verification of other sources of income, if any.

(c) A residential unit will not satisfy the income tests if all the occupants are Students unless each of those Students is (1) a single parent and children; (2) a Student receiving assistance under title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a Student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local laws; (4) a Student who was previously under the care and placement responsibility of a foster

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care program (under part B or E of title IV of the Social Security Act) or (5) a Student who is married and files a joint return. The single parents may not be dependents of another individual and the children may not be dependents of another individual other than of their parents.

(d) For purposes of this Tax Regulatory Agreement, each Affordable Unit in the Project leased to or occupied by Lower-Income Tenants shall be treated as continuing to be leased to or occupied by Lower-Income Tenants, notwithstanding that the Adjusted Family Income of such Lower-Income Tenants, as of any subsequent determination date, may exceed the applicable limitation; *provided, however*, that such Affordable Unit shall no longer be considered leased to or occupied by Lower-Income Tenants if the Adjusted Family Income of such tenants exceeds one hundred forty percent (140%) of the applicable limitation and after such determination, but before the next determination, any residential unit of comparable or smaller size in the Project is occupied by new residents who are not Lower-Income Tenants. In addition, each Affordable Unit in the Project that is leased to or occupied by Lower-Income Tenants shall continue to be considered leased to or occupied by Lower-Income Tenants after such Affordable Unit is vacated by such Lower-Income Tenants until such time as such residential unit is reoccupied, other than for a temporary period not in excess of thirty-one (31) days, at which time a redetermination of whether the Affordable Unit is occupied by Lower-Income Tenants shall be made.

(e) The Borrower hereby agrees that the Issuer shall not be liable for any losses, damages, costs, expenses or claims whatsoever arising from receipt or review by them (or by any person or entity acting on their behalf) of any certificates or reports as to compliance with the requirements of this Tax Regulatory Agreement. The Borrower further agrees that the Issuer (or any person or entity acting on its behalf) shall not be obligated to review any such report or certificate, or to take any action as a result thereof, but without prejudice to the right of the Issuer and the Bondholder to exercise their rights and remedies hereunder if any such report or certificate discloses noncompliance with the requirements hereof, or if such non-compliance is otherwise discovered. If the Borrower becomes aware of noncompliance with the requirements hereof, the Borrower shall promptly give written notice thereof to the Issuer and the Trustee.

(f) The parties to this Tax Regulatory Agreement shall treat as confidential any of the foregoing information relating to a specific Lower-Income Tenant or Affordable Unit provided by the Borrower in compliance with this Tax Regulatory Agreement, all applicable state and federal statutes and regulations, and shall implement adequate systems and procedures for maintaining the confidentiality of such information (but may release general statistical and other information about the Project, so long as the privacy rights and interests of the individual residents are protected). The Issuer and the Borrower shall not use any of the information obtained and/or furnished pursuant to Subparagraph (g) for any purpose described in the federal Fair Credit Reporting Act (15 U.S.C. §1681a(d)(1)) and Section 603(d)(1) of Public Law No. 91-508 or in any manner that would cause a lender or borrower to be considered a "consumer reporting agency" under the federal Fair Credit Reporting Act (15 U.S.C. §1681a(f) and 603(f) of Public Law No. 91-508).



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(g) The Borrower shall prepare and submit such additional reports as the Issuer may deem reasonably necessary to ensure compliance with the requirements of this Tax Regulatory Agreement.

(h) The Borrower shall maintain as part of its records for at least as long as the Bonds are outstanding, plus the period ending five years after the latest of the final payment date of the Bonds or the final payment date of any tax-exempt obligations or series of tax-exempt obligations issued to refund directly or indirectly all or any portion of the Bonds or for such longer period as may be required by the Tax Certificate (as defined in the Indenture), (i) copies of all leases and residency agreements of Affordable Units; (ii) all initial and annual income certifications by Lower-Income Tenants of Affordable Units and (iii) such additional records as the Issuer may deem necessary to ensure compliance with the requirements of this Tax Regulatory Agreement.

*Section 5. Transfer Restrictions; Covenants to Run with the Land; Duration of Tax Regulatory Agreement.* (a) The Borrower covenants and agrees that the Borrower will cause or require as a condition precedent to any conveyance, transfer, assignment or any other disposition of the Project, prior to the expiration of the Qualified Project Period (a "Transfer") that the transferee of that portion assume in writing, in a form acceptable to the Issuer, all duties and obligations of the Borrower under this Tax Regulatory Agreement, including this Section 5 in the event of a subsequent Transfer before the expiration of the Qualified Project Period. The Borrower shall deliver such written assumption agreement to the Issuer before the Transfer. Any conveyance, transfer or assignment by the Borrower of the Project not complying with this Section shall be null, void and without effect. Notwithstanding the foregoing, there shall be no Transfer without the prior written consent of the Issuer, which consent shall not be unreasonably withheld or delayed.

(b) The Borrower shall cause this Tax Regulatory Agreement and all amendments and supplements hereto to be recorded in the conveyance and real property records of Cook County, Illinois, and in such other places as the Issuer may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. The covenants contained herein shall run with the land and shall bind the Borrower and its successors and assigns and all subsequent owners of any part of the Project or any interest therein, and the benefits shall inure to the Issuer and the Bondholders and their respective successors and assigns, during the Qualified Project Period. Unless the covenants contained herein have been released by the Issuer in writing, they shall survive and be effective for the term of this Tax Regulatory Agreement regardless of whether any obligations owed to the Issuer or the Bondholder or to any assignees of the Issuer or the Bondholders have been fully paid and/or performed.

*Section 6. Reliance.* In performing their duties and obligations hereunder, the Issuer and the Trustee may conclusively rely upon statements and certificates of the Borrower or Lower-Income Tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project. In addition, the Issuer and the Trustee may consult with counsel of their selection, respectively, and the opinion of such counsel shall be full and complete authorization and

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protection in respect of any action taken or suffered by the Issuer or the Trustee hereunder in good faith and in conformity with the opinion of such counsel.

*Section 7. Access to Development and to Books and Records.* The Borrower will, upon reasonable request, permit the Issuer and the Trustee to have access to, and to inspect and copy, the Borrower's books and records with respect to the Project and the incomes of Qualifying Tenants and to have access to the Project during normal business hours. Such rights may be exercised by a representative, employee or agent of, or counsel to, the party making the request.

*Section 8. Term.* The terms and provisions of this Tax Regulatory Agreement shall become effective upon its execution and delivery. Except as otherwise provided in this Section, this Tax Regulatory Agreement shall remain in full force and effect until the end of the Qualified Project Period. It is expressly agreed and understood that the provisions hereof are intended to survive the payment of the Bonds. The foregoing notwithstanding, this Tax Regulatory Agreement and all restrictions hereunder may terminate: (A) if there is delivered to the Issuer, the Trustee and the Borrower an opinion of nationally recognized bond or tax counsel acceptable to the Issuer to the effect that failure to comply with this Tax Regulatory Agreement will not cause interest on the Bonds to become includable in the gross income of the holders thereof for Federal income tax purposes, or (B) in the event of an involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, condemnation or similar event, or a change in a federal law or an action of a federal agency after the date of issuance of the Bonds that prevents the Issuer from enforcing the terms of this Tax Regulatory Agreement, but only if, within a reasonable period, either the Bonds are repaid or amounts received as a consequence of such event are used to provide a residential rental project that meets the terms of this Tax Regulatory Agreement. Notwithstanding the foregoing, such requirements shall continue to apply to the Project subsequent to a foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time subsequent to such event, the obligor on the purpose investment (as defined in Section 1.148-1(b) of the Treasury Regulations) or a Related Person obtains an ownership interest in the Project or any part thereof for Federal tax purposes.

*Section 9. Enforcement.* (a) In addition to the information provided for in Sections 4(a)(iii) and 4(h) hereof, the Borrower shall submit any other information, documents or certifications reasonably requested by the Issuer or the Trustee that the Issuer or the Trustee deem reasonably necessary to substantiate continuing compliance with the provisions of this Tax Regulatory Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(b) The Issuer and the Borrower each covenant that it will not take or permit to be taken any action within its control that it knows would adversely affect the exclusion of interest on the Bonds from the gross income of the owners thereof for purposes of federal income taxation pursuant to Section 103 of the Code. Moreover, the Issuer and the Borrower covenant to take any lawful action within their control and the Trustee covenants to take any lawful action within the scope of its duties hereunder that it is directed to take by the Borrower, the Issuer or nationally recognized bond counsel (including amendment of this Agreement as may be necessary, in the opinion of Bond Counsel (as defined in the Indenture)) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by

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the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations issued under Section 142(d) of the Code and affecting the Project.

(c) The Borrower covenants and agrees to inform the Issuer and the Trustee by written notice of any violation of its obligations hereunder within ten days of first discovering any such violation. If any such violation is not corrected to the satisfaction of the Issuer and the Trustee within the period of time specified by either the Issuer or the Trustee, which shall be (A) 45 days after the effective date of any notice to or from the Borrower, or (B) such longer period as is specified in an opinion of Bond Counsel, and as in such opinion will not result in the loss of exclusion of interest on the Bonds, without further notice, the Issuer or the Trustee (at the direction of the Issuer) shall declare a default under this Tax Regulatory Agreement effective on the date of such declaration of default, and the Issuer or the Trustee (at the direction of the Issuer) shall apply to any court, state or federal, for specific performance of this Tax Regulatory Agreement or an injunction against any violation of this Tax Regulatory Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct noncompliance with this Tax Regulatory Agreement.

(d) The Borrower and the Issuer each acknowledges that the primary purpose for requiring compliance with the restrictions provided in this Tax Regulatory Agreement is to preserve the exclusion of interest on the Bonds from gross income for purposes of federal income taxation, and that the Issuer and the Trustee, on behalf of the owners of the Bonds, who are declared to be third-party beneficiaries of this Tax Regulatory Agreement, shall be entitled for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder, which in the opinion of the Issuer and nationally recognized bond counsel adversely affected the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

(e) In the enforcement of this Tax Regulatory Agreement, the Issuer and the Trustee may rely on any certificate delivered by or on behalf of the Borrower or any tenant with respect to the Project.

(f) Nothing in this Section shall preclude the Issuer, Trustee or the owners of the Bonds from exercising any remedies they might otherwise have, by contract, statute or otherwise, upon the occurrence of any violation hereunder, which in the opinion of the Issuer and Bond Counsel would adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

*Section 10. Governing Law.* This Tax Regulatory Agreement shall be governed by the internal laws of the State of Illinois except to the extent that laws of the United States of America may prevail.

*Section 11. Amendments.* This Tax Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto, and only upon receipt of an opinion of nationally recognized bond or tax counsel acceptable to the Issuer that such amendment or revision will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

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*Section 12. Notices.* Any notice required to be given hereunder shall be given by registered or certified mail at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto:

If to the Issuer:

Illinois Housing Development Authority  
111 East Wacker Drive, Suite 1000  
Chicago, Illinois 60601  
Attention: Multifamily Housing Department

with a copy to:

Illinois Housing Development Authority  
111 East Wacker Drive, Suite 1000  
Chicago, Illinois 60601  
Attention: General Counsel

If to the Trustee:

U.S. Bank Trust Company, National Association  
190 S. LaSalle Street  
Chicago, Illinois 60603  
Attention: Merci Stahl

If to the Borrower:

Berry Manor Apartments, LP  
c/o The NHP Foundation  
122 E. 42<sup>nd</sup> Street, Suite 4900  
New York, New York 10168  
Attention: Mecky Adnani

with a copy to:

Applegate & Thorne-Thomsen, P.C.  
425 S. Financial Place, Suite 1900  
Chicago, Illinois 60605  
Attention: Kimberly A. Lawson

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with a copy to:

NHT Equity, LLC  
2245 North Bank Drive, Suite 200  
Columbus, Ohio 43220  
Attention: President

With a copy to:

Holland & Knight LLP  
10 St. James Avenue, 11<sup>th</sup> Floor  
Boston, Massachusetts 02116  
Attention: Kristen M. Cassetta, Esq.

Merchants Capital Corp  
410 Monon Blvd., 5<sup>th</sup> Floor  
Carmel, Indiana 46032  
Attention: Nicole Swentek

with a copy to:

Krooth & Altman LLP  
1850 M Street NW #400  
Washington, DC 20036  
Attention: Harrison Smith

*Section 13. Severability.* If any provision of this Tax Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired.

*Section 14. Multiple Counterparts.* This Tax Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

*Section 15. Limitation of Liability.* It is understood and agreed by the Borrower that no covenant of the Issuer give rise to a pecuniary liability of the Issuer or a charge against its general credit. It is further understood and agreed that no covenant or agreement of any partner of the Borrower or the Issuer or any director, officer, agent, employee or representative of the Borrower or the Issuer in his or her individual capacity, and none of such persons shall be subject to any personal liability or accountability by reason of the execution hereof, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise.

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*Section 16. Change in Use.* The Borrower understands and acknowledges that Section 150(b)(2) of the Code provides that if the requirements for a “qualified residential rental project” are not met under Section 142(d) of the Code with respect to the Project, no deduction shall be allowed for interest paid on the Bonds that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date the Project meets the requirements.

*Section 17. Monitoring Requirements.* The Issuer may, from time to time, engage the service of a third-party monitoring agent for purposes of monitoring the Borrower’s performance under this Tax Regulatory Agreement. In such event, such monitoring agent shall have authority to act in all matters relating to the Borrower’s obligations under this Tax Regulatory Agreement. In the event the Issuer engages the service of a monitoring agent, all fees and expenses of such monitoring agent shall be paid by the Borrower. Further, such monitoring agent shall not be held liable for any action taken or, omitted under this Tax Regulatory Agreement so long as it shall have acted in good faith and without gross negligence.

*Section 18. Right to Cure.* This Tax Regulatory Agreement is a “Borrower Document” as defined in the Loan Agreement. Section 7.7 of the Loan Agreement grants to the Investor Limited Partner (as defined in the Indenture) the right to cure any default or event of default on the part of the Borrower. Reference is hereby made to said Section 7.7 of the Loan Agreement for a full statement of said cure right.

*Section 19. Trustee.* (a) The Trustee is executing and delivering this Tax Regulatory Agreement solely for the purposes of acknowledging the matters set forth herein and being bound to undertake only those duties and responsibilities specifically set forth with respect to the Trustee. With respect to matters set forth in the remaining Sections of this Tax Regulatory Agreement, the Trustee has made no investigation, makes no representation and undertakes no duties or responsibilities. No implied duties or responsibilities may be read into this Tax Regulatory Agreement against the Trustee, and the Trustee shall be entitled to the protections, privileges, exculpation and indemnities contemplated under the Indenture. After the date on which no Bonds remain outstanding as provided in the Indenture, the Trustee shall have no duties or responsibilities under this Tax Regulatory Agreement, and all references herein to the Trustee shall be deemed references to the Issuer.

(b) In determining whether any default or lack of compliance by the Borrower exists under this Tax Regulatory Agreement, the Trustee shall not be required to conduct any investigation into or review the operations or records of the Borrower and, absent actual knowledge of any default or noncompliance, may assume compliance by the Borrower with this Tax Regulatory Agreement unless otherwise specifically notified in writing.

(c) The permissive right of the Trustee to take actions permitted by this Tax Regulatory Agreement shall not be construed as an obligation or duty to do so.

(d) The Trustee shall be under no duty to confirm or verify any financial or other statements, reports or certificates furnished pursuant to any provisions hereof, and shall be under



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no other duty in respect of same except to retain the same in its files and permit the inspection of same at reasonable times by the Issuer.

(e) The Trustee has the right to appoint agents to carry out any of its duties and obligations hereunder, and shall, upon request, certify in writing to the other parties hereto any such agency appointment.

*Section 20. Incorporation of Rider.* The HUD Rider attached hereto as *Exhibit E* is hereby incorporated into this Agreement as if set forth at this place.

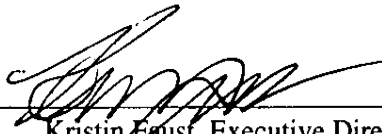
[SIGNATURES APPEAR ON FOLLOWING PAGES.]

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Tax Regulatory Agreement to be signed and sealed by their duly authorized representatives, all as of the date first written hereinabove.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

By:   
Kristin Faust, Executive Director

BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited partnership, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

Property of Cook County Clerk's Office

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

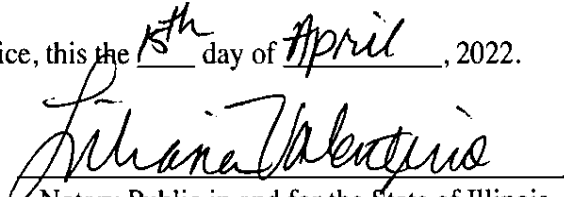
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# UNOFFICIAL COPY

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

BEFORE ME, the undersigned authority, on this day personally appeared Kristin Faust, Executive Director of the Illinois Housing Development Authority, a body politic and corporate duly organized and validly existing under the laws of the State of Illinois (the "Issuer"), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of the Issuer.

GIVEN UNDER MY HAND and seal of office, this the 15<sup>th</sup> day of April, 2022.

  
Notary Public in and for the State of Illinois



[SEAL]

My commission expires on:

07/21/2025

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IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Tax Regulatory Agreement to be signed and sealed by their duly authorized representatives, all as of the date first written hereinabove.


ILLINOIS HOUSING DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Kristin Faust, Executive Director

BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited partnership, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

By:   
Name: Mecky Adnani  
Title: Senior Vice President

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF IL )  
COUNTY OF COOK ) SS

BEFORE ME, the undersigned authority, on this day personally appeared Mecky Adnani, Senior Vice President of The NHP Foundation, a District of Columbia non-profit corporation, the manager of Berry Manor NHPF Manager, LLC, an Illinois limited liability company, the general partner of Berry Manor Apartments, LP, an Illinois limited partnership (the "Borrower"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her capacity as Senior Vice President, of The NHP Foundation, a District of Columbia non-profit corporation, the manager of Berry Manor NHPF Manager, LLC, an Illinois limited liability company, the general partner of the Borrower, as her free and voluntary act and deed and as the free and voluntary act and deed of the Borrower, for the uses and purposes therein set forth.

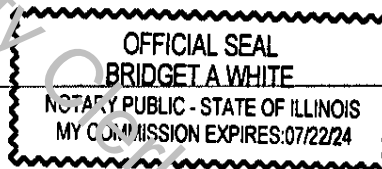
GIVEN UNDER MY HAND and seal of office, this the 31 day of August, 2022.

Bridget A. White

Notary Public in and for the State of ILLINOIS

[SEAL]

My commission expires on:



# UNOFFICIAL COPY

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Tax Regulatory Agreement to be signed and sealed by their duly authorized representatives, all as of the date first written hereinabove.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Kristin Faust, Executive Director


BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited partnership, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

By: \_\_\_\_\_  
Mecky Adnani  
Senior Vice President

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
as Trustee

By:  \_\_\_\_\_  
Merci Stahl  
Vice President

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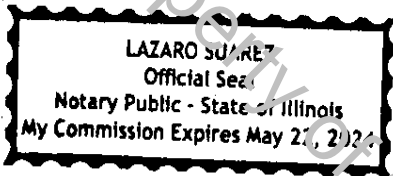


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STATE OF ILLINOIS    )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Merci Stahl, an authorized officer of U.S. Bank Trust Company National Association (the "Trustee"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her capacity as authorized officer of the Trustee, as her free and voluntary act and deed and as the free and voluntary act and deed of the Trustee, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND and seal of office, this the 6<sup>th</sup> day of SEPTEMBER, 2022.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public in and for the State of Illinois

[SEAL]

My commission expires on:

May 21, 2024

PROPERTY OF COOK COUNTY CLERK'S OFFICE

# UNOFFICIAL COPY

## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 12, 13 AND 14 IN SUPERIOR COURT PARTITION SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PINS: 20-22-418-028

20-22-418-029

20-22-418-061

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## EXHIBIT B

### INCOME COMPUTATION AND CERTIFICATION<sup>1</sup>

NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development (“HUD”) Regulations (24 CFR Part 5). You should make certain that this form is at all times up to date with HUD Regulations. All capitalized terms used herein shall have the meanings set forth in (or incorporated by reference in) the Tax Regulatory Agreement, dated as of September 1, 2022, between Berry Manor Apartments, LP, an Illinois limited partnership (the “Berry Manor Apartments Property Owner”) and the Illinois Housing Development Authority.

Re: Berry Manor Apartments  
Chicago, Illinois  
(the “Berry Manor Apartments Property”)

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment project for which application is made. Listed below are the names of all persons who intend to reside in the unit:

1. NAME OF MEMBERS OF THE HOUSEHOLD	2. RELATIONSHIP TO HEAD OF HOUSEHOLD	3. AGE	4. SOCIAL SECURITY NUMBER	5. PLACE OF EMPLOYMENT
	Head Spouse			

6. *Total Anticipated Income.* The total anticipated income, calculated in accordance with this paragraph 6, of all persons listed above for the 12-month period beginning the date that I/we plan to move into a unit (i.e., \_\_\_\_\_) is \$\_\_\_\_\_.

(A) Included in the total anticipated income listed above are:

(i) the full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(ii) the net income from operation of a business or profession or net income from real or personal property (without deducting expenditures for business expansion or amortization or capital indebtedness); an allowance for depreciation

<sup>1</sup> The form of Income Computation and Certification shall be conformed to any amendments made to 24 CFR Part 5, or any tax regulatory provisions promulgated in substitution therefor.

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of capital assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; include any withdrawal of cash or assets from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons;

(iii) interest and dividends (see 7(C) below);

(iv) the full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum amount or prospective monthly amounts for the delayed start of a periodic amount;

(v) payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay;

(vi) welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program to the extent such payments qualify as assistance under the TANF program definition at 45 CFR 260.31 and are not otherwise excluded under paragraph 6(B) below; if the welfare assistance payment includes any amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(a) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus

(b) the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities (if the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph 6(A)(vi)(b) shall be the amount resulting from one application of the percentage);

(vii) periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(viii) all regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph 6(B)(xvi) below); and

(ix) any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), except that such financial assistance is not considered annual income for persons over the age of 23 with dependent children and such financial assistance does not include loan proceeds.

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(B) Excluded from such anticipated total income are:

(x) income from employment of children (including foster children) under the age of 18 years;

(xi) payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(xii) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses;

(xiii) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(xiv) income of a live-in aide (a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who is determined to be essential to the care and well-being of the persons, is not obligated for the support of the persons and would not be living in the unit except to provide the necessary supportive services);

(xv) subject to paragraph 6(A)(ix) above, the full amount of student financial assistance paid directly to the student or to the educational institution;

(xvi) special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(xvii) amounts received under training programs funded by the Department of Housing and Urban Development ("HUD");

(xviii) amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(xix) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(xx) amounts received under a resident service stipend in a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Berry Manor Apartments Property Owner, on a part-time basis, that enhances the quality of life in the Berry Manor Apartments Property, including, but not limited to, fire patrol, hall monitoring, lawn maintenance and resident initiatives. coordination (no resident may receive more than one stipend during the same period of time);

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(xxi) incremental earnings and benefits resulting to any family member from participation in state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff, which compensation is received under employment training programs with clearly defined goals and objectives, and which compensation is excluded only for the period during which the family member participates in the employment training program;

(xxii) temporary, nonrecurring or sporadic income (including gifts);

(xxiii) reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(xxiv) earnings in excess of \$480 for each full-time student, 18 years or older, but excluding the head of household and spouse;

(xxv) adoption assistance payments in excess of \$480 per adopted child;

(xxvi) deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;

(xxvii) amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

(xxviii) amounts paid by a state agency to a family who has a member with a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and

(xxix) amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility of benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

7. *Assets.* (A) Do the persons whose income or contributions are included in Item 6 above:

(i) have savings, stocks, bonds, equity in real property or other forms of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles, equity in HUD homeownership programs, and interests in Indian trust land)? \_\_\_\_\_ Yes \_\_\_\_\_ No.

(ii) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? \_\_\_\_\_ Yes \_\_\_\_\_ No.



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(B) If the answer to (i) or (ii) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000? \_\_\_\_\_ Yes  
\_\_\_\_\_ No.

(C) If the answer to (B) above is yes, state:

(i) the total value of all such assets: \$ \_\_\_\_\_

(ii) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy of the unit that you propose to rent: \$ \_\_\_\_\_, and

(iii) the amount of such income, if any, that was included in Item 6 above:  
\$ \_\_\_\_\_

8. *Full-Time Students.* (a) Are all of the individuals who propose to reside in the unit full-time students? \_\_\_\_\_ Yes \_\_\_\_\_ No.

A full-time student is an individual who during each of 5 calendar months during the calendar year in which occupancy of the unit begins is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or an individual pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

A residential unit will not satisfy the income tests if all the occupants are students (as defined above) unless each of those students is (1) a single parent and children; (2) a student receiving assistance under title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of title IV of the Social Security Act) or (5) a student who is married and files a joint return. The single parents may not be dependents of another individual and the children may not be dependents of another individual other than of their parents.

(b) If the answer to 8(a) is yes, are each of the students (1) a single parent and children; (2) a student receiving assistance under title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of title IV of the Social Security Act) or (5) a student who is married and files a joint return? \_\_\_\_\_ Yes \_\_\_\_\_ No.

(c) If the answer to 8(b) is yes, and if any of the students is a single parent with children, is such single parent not a dependent of another individual and are the children not dependents of another individual other than parent? \_\_\_\_\_ Yes \_\_\_\_\_ No

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9. *Relationship to Project Owner.* The unit I/we propose to rent is part of a rental housing project owned by Berry Manor Apartments, LP (the "*Berry Manor Apartments Property Owner*"). Neither myself nor any other occupant of the unit I/we propose to rent has any ownership interest in the rental housing project in which the unit is located, has any family relationship to any partner (or direct or indirect owner of any partner) in the Berry Manor Apartments Property Owner, or owns directly or indirectly any interest in the Berry Manor Apartments Property Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member; ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. *Reliance.* This certificate is made with the knowledge that it will be relied upon by the Berry Manor Apartments Property Owner to determine maximum income for eligibility to occupy the unit and is relevant to the status under federal income tax law of the interest on bonds issued to provide financing for the apartment development for which application is being made. I/We consent to the disclosure of such information to the Illinois Housing Development Authority (the issuer of such bonds), the holders of such bonds, any trustee acting on their behalf and any authorized agent of the Treasury Department or the Internal Revenue Service, I/We declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable, and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. *Further Assistance.* I/We will assist the Berry Manor Apartments Property Owner in obtaining any information or documents required to verify the statements made herein, including, but not limited to, either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding two calendar years.

12. *Misrepresentation.* I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Berry Manor Apartments Property Owner to lease the unit, and may entitle the Berry Manor Apartments Property Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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I/We declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_, Illinois.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

[SIGNATURE OF ALL PERSONS OVER THE AGE OF 17 YEARS LISTED IN NUMBER 2 ABOVE REQUIRED.]

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(NOTARY SEAL)

Notary Public in and for the State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

FOR COMPLETION BY APARTMENT OWNER ONLY:

1. Calculation of eligible income:
  - a. Enter amount entered for entire household in 6 above: \$ \_\_\_\_\_
  - b. (1) if the amount entered in 7(C)(i) above is greater than \$5,000, enter the total amount entered in 7(C)(ii), subtract from that figure the amount entered in 7(C)(iii) and enter the remaining balance (\$ \_\_\_\_\_);
  - (2) multiply the amount entered in 7(C)(i) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(C)(i) would be if invested in passbook savings

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(\$ \_\_\_\_\_), subtract from that figure the amount entered in 7(C)(iii) and enter the remaining balance (\$ \_\_\_\_\_); and

(3) enter at right the greater of the amount calculated under (1) or (2) above: \$ \_\_\_\_\_

c. TOTAL ELIGIBLE INCOME (Line 1.a plus line 1.b(3)): \$ \_\_\_\_\_

2. The amount entered in 1.c is:

\_\_\_\_\_ Less than 60% of Median Gross Income for Area.<sup>2</sup>

\_\_\_\_\_ More than 60% of Median Gross Income for the Area.<sup>3</sup>

3. Number of apartment unit assigned:

Bedroom Size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_

4. The last tenants of this apartment unit for a period of at least 30 consecutive days [had/did not have] aggregate anticipated annual income, as certified in the above manner upon their initial occupancy of the apartment unit, of less than 60% of Median Gross Income for the Area.

5. Method used to verify applicant(s) income:

\_\_\_\_\_ Employer income verification.

\_\_\_\_\_ Copies of tax returns.

\_\_\_\_\_ Other ( \_\_\_\_\_ )

<sup>2</sup> "Median Gross Income for the Area" means the median income for the area where the Project is located as determined by the Secretary of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, or if programs under Section 8 are terminated, median income determined under the method used by the Secretary prior to the termination. "Median Gross Income for the Area" shall be adjusted for family size.

<sup>3</sup> See Footnote 2.

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BERRY MANOR APARTMENTS, LP, an Illinois  
limited partnership

By: Berry Manor NHPF Manager, LLC, an  
Illinois limited liability company, its  
General Partner

By: The NHP Foundation, a District of  
Columbia non-profit corporation, its  
Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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## INCOME VERIFICATION (FOR EMPLOYED PERSONS)

The undersigned employee has applied for a rental unit located in a project financed by the Illinois Housing Development Authority. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages \_\_\_\_\_

Overtime \_\_\_\_\_

Bonuses \_\_\_\_\_

Commissions \_\_\_\_\_

Total current income \_\_\_\_\_

I hereby certify that the statements above are true and complete to the best of my knowledge.

\_\_\_\_\_

Signature Date Title

I hereby grant you permission to disclose my income to Berry Manor Apartments, LP, an Illinois limited partnership, in order that it may determine my income eligibility for rental of an apartment located in its project which has been financed by the Illinois Housing Development Authority.

\_\_\_\_\_

Signature Date

Please send to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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## INCOME VERIFICATION (FOR SELF-EMPLOYED PERSONS)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding two calendar years and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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## EXHIBIT C

### CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

The undersigned, Authorized Borrower Representative of Berry Manor Apartments, LP, an Illinois limited partnership (the "*Borrower*"), hereby certifies as follows:

1. The undersigned has read and is thoroughly familiar with the provisions of the Tax Regulatory Agreement, dated as of September 1, 2022, among the Borrower and the Illinois Housing Development Authority (the "*Tax Regulatory Agreement*").

2. Based on Income Computations and Certifications on file with the Borrower, as of the date of this Certificate the following number of completed residential units in the Project (i) are occupied by tenants who are Lower-Income Tenants (as defined in the Tax Regulatory Agreement) (or are treated as such pursuant to the first sentence of Section 4(d) of the Tax Regulatory Agreement) who also satisfy the requirements of Section 4(c) of the Tax Regulatory Agreement ("*Qualifying Tenants*"), or (ii) were previously occupied by Qualifying Tenants and have been vacant and not reoccupied except for a temporary period of no more than 31 days:

Occupied by Qualifying Tenants. \_\_\_\_\_ No. of Units

Previously occupied by Qualifying Tenants (vacant and not reoccupied except for a temporary period of no more than 31 days): \_\_\_\_\_ No. of Units

3. The total number of completed residential units in the Project is \_\_\_\_\_.

4. No default has occurred and is continuing under the Tax Regulatory Agreement.



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BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited liability company, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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## EXHIBIT D

### TENANT INFORMATION ABOUT INCOME

(a) *Information to be Furnished.* Tenant agrees to provide to Landlord an annual certificate regarding Tenant's income. The certificate shall be provided each year and shall be on a form provided by Landlord. Tenant also agrees, at the request of the Landlord, to provide to Landlord copies of Tenant's federal income tax returns and any other information or certificates requested by Landlord. Landlord agrees to request the income tax returns and information only for the purpose of complying with the rules and regulations of the Department of Treasury or the Internal Revenue Service relating to tax-exempt financing of qualified residential rental housing projects.

(b) *Landlord May Disclose Financial Information.* Tenant agrees that the certificates, income tax returns and other information provided by Tenant may be disclosed by Landlord to the Department of Treasury, the Internal Revenue Service or any other person as may be required to satisfy Landlord's obligations relating to the tax-exempt financing for the [leased] [occupied] premises.

\_\_\_\_\_  
 Tenant Name

\_\_\_\_\_  
 Co-tenant(s) per Lease Agreement

\_\_\_\_\_  
 Date

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## EXHIBIT E

### HUD RIDER TO RESTRICTIVE COVENANTS

This RIDER TO RESTRICTIVE COVENANTS is made as of September 1, 2022, by Berry Manor Apartments, LP, an Illinois limited partnership ("*Borrower*") and Illinois Housing Development Authority ("*Authority*").

WHEREAS, Borrower has obtained financing from Merchants Capital Corp., a corporation organized and existing under the laws of Indiana ("*Lender*") for the benefit of the project known as Berry Manor Apartments, FHA Project No. 071-32541 ("*Project*"), which loan is secured by a [Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement] ("*Security Instrument*") dated as of September 1, 2022, and recorded in the Cook County, Illinois Recorder's Office ("*Records*") concurrently herewith, and is insured by the United States Department of Housing and Urban Development ("*HUD*"); and

WHEREAS, Borrower has received tax-exempt bond financing from the Authority, which Authority is requiring certain restrictions be recorded against the Project (the "*Restrictive Covenants*"); and

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Authority has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*HUD*" means the United States Department of Housing and Urban Development.

"*HUD Regulatory Agreement*" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

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“*Lender*” means Merchants Capital Corp., a corporation organized and existing under the laws of Indiana, its successors and assigns.

“*Mortgage Loan*” means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

“*Mortgage Loan Documents*” means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

“*National Housing Act*” means the National Housing Act of 1934, as amended.

“*Program Obligations*” has the meaning set forth in the Security Instrument.

“*Residual Receipts*” has the meaning specified in the HUD Regulatory Agreement.

“*Security Instrument*” means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

“*Surplus Cash*” has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “*HUD Requirements*”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements.

Notwithstanding the foregoing, nothing herein limits the Authority’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

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(e) Borrower and the Authority acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Authority's reporting requirement, in enforcing the Restrictive Covenants the Authority will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- (i) Available surplus cash, if the Borrower is a for-profit entity;
- (ii) Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- (iii) Available residual receipts authorized by HUD, if the Borrower is a non-profit entity.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Authority shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Authority may require the Borrower to indemnify and hold the Authority harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Authority relating to the subordination and covenants set forth in the Restrictive Covenants, *provided, however*, that Borrower's obligation to indemnify and hold the Authority harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

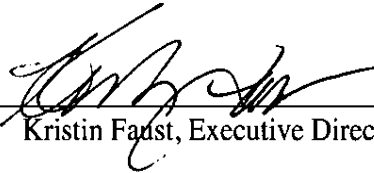
(i) No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.

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IN WITNESS WHEREOF, the Authority and the Borrower have caused this HUD Rider to Restrictive Covenants to be signed by their duly authorized representatives, all as of the date first written hereinabove.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

By:   
Kristin Faust, Executive Director

BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited liability company, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

BEFORE ME, the undersigned authority, on this day personally appeared Kristin Faust, Executive Director of the Illinois Housing Development Authority, a body politic and corporate duly organized and validly existing under the laws of the State of Illinois (the "Issuer"), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of the Issuer.

GIVEN UNDER MY HAND and seal of office, this the 15<sup>th</sup> day of April, 2022.

Liliana Valentino  
Notary Public in and for the State of Illinois



My commission expires on:

07/21/2025

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ILLINOIS HOUSING DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
Kristin Faust, Executive Director

BERRY MANOR APARTMENTS, LP, an Illinois limited partnership

By: Berry Manor NHPF Manager, LLC, an Illinois limited liability company, its General Partner

By: The NHP Foundation, a District of Columbia non-profit corporation, its Managing Member

By:  \_\_\_\_\_  
Name: Mecky Adnani  
Title: Senior Vice President

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