

APPENDIX D

Update on Agency Requirements for Targeting Plans for 2016 Tax Credit Allocations

The following documents are required to be submitted to the Agency by the specified dates.

- (a) **Targeting Unit Agreement (TUA):** An agreement drafted and pre-populated by the Agency outlining the participation requirements and Owner's obligations for the Targeting Program. This document – replacing the formerly required Targeting Plan – will be made available for download by the owner in the Agency's Rental Compliance Reporting System (RCRS) and must be executed by an owner's representative as well as the management agent. The management agent execution assures the Agency that the management company is aware of the owner's obligations as they relate to the Targeting Program. The TUA must be submitted by **November 30, 2017** but in no case later than six months prior to the project's placed in service date.
- (b) **Owner Agreement to Participate (OAP) (if applicable):** An agreement drafted and pre-populated by the Agency for the Owner to accept Key Program operating assistance on households residing in targeted units if no other subsidy is available. This document will be made available for download by the owner in the Rental Compliance Reporting System (RCRS). The Agreement details the terms of the Key assistance and must be executed by an owner's representative. The (OAP) must be submitted by **November 30, 2017** but in no case later than six months prior to the project's placed in service date.
- (c) **Property Profile:** A property-specific questionnaire needed by NC DHHS and the local referral agencies to effectively match the needs of their clients with the appropriate properties available in the locality requested by the client. The Agency initiates and completes this questionnaire to the extent property information is available and sends it to the management agent for completion. Completed questionnaires are due back to the Agency within 30 days of receipt by the management agent.
- (d) **Tenant Selection Plan:** A description of the property's tenant selection and screening criteria created by the property owner or management agent. The Plan must conform to the Agency's current Tenant Selection Plan Policy published on the Agency's website, and must be updated from time to time to conform to any updates published by the Agency. The Tenant Selection Plan must be submitted by **November 30, 2017** but in no case later than six months prior to the project's placed in service date.
- (e) **Rental Assistance Plan (if applicable):** A description of the source of project-based rent assistance created by the property owner, but only necessary for projects using a source of rent assistance other than Key. The description must include how that source works, how Targeting applicants will access the source and who (the property owner, the management agent, or a local PHA) makes the decisions of the award of the rent assistance to households in the property. If the rent assistance source has a waiting list requirement, do the regulations governing the source allow the Targeting applicant to be offered a unit ahead of someone else on the rent assistance waitlist to comply with the Targeted Unit set-aside? The Rental Assistance Plan must be submitted by **November 30, 2017** but in no case later than six months prior to the project's placed in service date.
- (f) **Affirmative Fair Housing Marketing Plan:** A description of an owner's plan to effectively market the availability of housing opportunities to individuals of both

minority and non-minority groups that are least likely to apply for occupancy and demonstrate the owner's commitment to offering equal housing opportunities regardless of race, color, national origin, religion, sex, familial status or disability completed using a HUD approved form and must be updated from time to time to comply with the requirements established by HUD. The Affirmative Fair Housing Marketing Plan must be submitted by **November 30, 2017** but in no case later than six months prior to the project's placed in service date.

All documents must be submitted by upload to RCRS. For further information on accessing RCRS, contact Tanya Clark at (919) 877-5665 or tbclark@nchfa.com.

(a) Targeting Unit Agreement

Terms and Conditions

Targeting Program Participation Agreement

The Property Owner identified in Part I of this Agreement hereby agrees to comply, or cause its Management Agents of the property to comply, with the below terms and conditions. These terms and conditions apply to all Required Targeted Units and Voluntary Targeted Units as defined below. If the property owner replaces the Management Agent listed in Part I of this Agreement, it will provide the North Carolina Housing Finance Agency (the Agency) written notice and shall cause the new management company to comply with this Agreement.

Targeting Program Participation Requirements

Required Targeted Units (Required Targeted Units) are as established in the Qualified Allocation Plan (QAP) for the year in which the property received an allocation of Low Income Housing Tax Credits (LIHTC), if applicable, or as may otherwise be required under other applicable Agency programs. Required Targeted Units are required to be available and participate in the Targeting Program for the duration of the compliance and extended use periods, unless released by the Agency.

Voluntary Targeted Units (Voluntary Targeted Units) are units in excess of the Required Targeted Units. Voluntary Targeted Units not occupied by a Targeting Program participant may be withdrawn from program participation provided the Property Owner/Agent serves the Agency with 90 days written notice. Voluntary Targeted Units occupied by a Targeting Program participant can be withdrawn from the program once the participant vacates the unit. Targeting Program participants may only be evicted for repeated lease violations or other good cause. In addition, Targeting Program participants cannot be evicted or their leases not renewed for the purpose of facilitating withdrawal of the Voluntary Targeted Unit from the Targeting Program.

Property Owners and Management Agents of properties participating in the Targeting Program must comply with the following for all Required Targeted Units and Voluntary Targeted Units:

1. All Targeting and Key program (if applicable) policies and procedures as published in the Targeting Program Manual and as may be modified, supplemented or amended from time to time by the Agency in its sole discretion. Modifications, supplements, and additions to the Targeting Program Manual shall become effective upon the date issued or as noted in the modification, supplement, or addition and may be disseminated by mail, e-mail, or other web-based format including posting to the Agency's web site. The Owner is responsible for checking the website for modifications, supplements or additions to the Targeting Program Manual. All provisions for the Targeting Program Manual are hereby incorporated into this Agreement by reference and are considered a material part of this agreement. Owner's receiving Key assistance for some or all of their Targeted Units are also subject to the terms and conditions of the Owner Agreement to Participate (OAP).
2. Targeting Program participants must have a disabling condition or be homeless in order to be program eligible for Targeted Units. The fact that the participant has a disability will not be disclosed beyond the issuance of the referral letter by DHHS stating that the person is program eligible. The nature of the participant's disability may only be disclosed by the program participant and should only be needed by the Property Owner or Management Agent to the extent it is necessary in order to evaluate a request for reasonable accommodation. Property Owner and

Management Agent staff should not disclose Targeting Program participation to anyone else, especially other tenants and other site staff. Strict confidentiality must be practiced and adhered to.

3. Property Owner or Management Agent may not require a Targeted Unit tenant to participate in supportive services as a condition of tenancy.
4. Property Owner or Management Agent shall educate initial and all subsequent on-site property managers and all management agent staff responsible for property regulatory compliance as it relates to household eligibility, of the Targeting Program requirements and the obligations committed to by the Property Owner under this agreement and ensure staff have access to the most current Targeting Program Manual. Assure that all management agent staff working with the Targeting Program receive annual training in the program rules and procedures as issued in writing by either the Agency or the Department of Health and Human Services (DHHS). Notify the DHHS Regional Housing Coordinator assigned to the specified property and NCHFA by updating the Rental Compliance Reporting System (RCRS) of the names and contact information of management agent staff working with the Targeting Program and update as staff turnover occurs.
5. The Property Owner (or their designee) and Management Agent will establish a positive and cooperative working relationship with the Agency staff as well as DHHS staff administering the Targeting and Key programs.
6. The Property Owner and Management Agent will develop and implement policies and procedures to promote the effective access and use of Targeting Units by Targeting Program participants referred by DHHS. To the extent that the total Targeting Units committed at the property are not filled with a Targeting Program participant, the Property Owner and Management Agent will ensure that the DHHS Regional Housing Coordinator is notified within two business days of notice of each impending vacancy and contact them weekly until DHHS either provides a referral for the unit or releases the unit for rental by a non-Targeting participant household.
7. Targeted Units will not be segregated within the property or in any way distinguishable (beyond the presence of accessible features or assistive technology, if needed by the program participant) from non-targeted units, and the Targeted Unit size and mix of units will depend on the needs of the referred households.
8. If the property is under construction and not yet placed in service at the time this Agreement is executed, the Property Owner or Management Agent will notify the NCHFA Targeting Program rent up coordinator designated by the Agency and the DHHS Regional Housing Coordinator or other position designated by DHHS, at least 90 days prior to anticipated availability for occupancy in order to coordinate application processing for Targeted Program referrals.
9. For a period of 90 days subsequent to the completion of construction, starting with the date of the certificate of occupancy, hold an adequate number of units (primarily 1 bedroom units, if they are in the property mix, 2 bedroom if there are no 1 bedroom units at the property) to meet the Targeted Unit obligation and only rent them to Targeted Program Applicants referred by DHHS during the 90 day period, unless this requirement is met, waived or modified by DHHS in writing.
10. After the 90 day lease up period, if all of the Required Targeted Units and Voluntary Targeted Units are not filled with an eligible Targeting Program participant, then as turn-over occurs and units become vacant or notices of impending vacancy are received by the management agent,

notify the DHHS Regional Housing Coordinator of the vacancy or impending vacancy and hold the unit for a period of no less than 30 days from the written notification by the management agent to DHHS in order for a program eligible applicant to be referred. If no eligible applicant is referred within the 30 days, the unit may be rented to any otherwise eligible applicant. The Owner may request in writing and DHHS may agree in writing to shorten this period if there is no viable prospect for DHHS referral.

11. Have a written Tenant Selection Policy that includes: (1) all screening criteria, including the eligibility requirements of the governing financing source(s), with enough specificity for an applicant to determine their eligibility before applying to the property; (2) a description of the population eligible to live at the property and, if a property is built to specifically serve the elderly must disclose the elderly definition selected. Unless there is a compelling reason agreed to by the Agency, the Owner must use the age 55 definition and specifically allow persons age 45 or older to occupy at least 10% of the units; (3) the right to request a Reasonable Accommodation. A copy of the Tenant Selection Policy must be provided to all Targeting unit applicants at the time they request an application.
12. Have reasonable screening criteria that ensures that Targeting Program applicants fair housing rights are adhered to during the screening process and take actions to work with DHHS and NCHFA to fill the Targeted Units with program eligible households referred by DHHS, including making applicants aware of their right to request a reasonable accommodation, if they have a disabling condition. If the screening criteria includes a minimum income, the value of any rental assistance must be included in the calculation of household income for the purpose of meeting the minimum income. Minimum income policies may not unreasonably exclude Targeting Program applicants with SSI or SSDI benefits and a source of rental assistance. All screening criteria must be acceptable to the Agency.
13. In the event an applicant for a Targeted Unit is denied housing, promptly notify the applicant and the DHHS Regional Housing Coordinator in writing of the reason for denial and the applicant's right to request a reasonable accommodation in accordance with federal and state Fair Housing law. The Property Owner and Management Agent must allow a minimum period of 5 business days for the Targeting Unit applicant to prepare and submit a request for reasonable accommodation. The Property Owner and Management Agent must expeditiously review requests for reasonable accommodation and render decisions as quickly as possible. The unit must be held for the applicant until the request is resolved. The applicant and the DHHS Regional Housing Coordinator must also be notified in writing of the outcome of the reasonable accommodation request. DHHS will either release the unit for re-rental or ask for reconsideration in writing after reviewing the written notification of outcome from the Property Owner or Management Agent.
14. Communicate tenancy issues of Targeting Program participants to the DHHS Regional Housing Coordinator (or other position designated by DHHS) in a timely manner to keep DHHS aware and provide the opportunity for DHHS intervention, if needed.
15. Contact or notify the DHHS Field Operations Manager and Program Manager for technical assistance or if the DHHS Regional Housing Coordinator is unable to assist you.
16. Owner and management agent will defend, indemnify and hold the Agency and its officers, directors, employees and agents, harmless from and against any claim, liability, loss, cost, or expense, whether direct or indirect, (including reasonable attorney's fees) arising out of or resulting from Owner or management agent's negligence, misconduct or omission in connection

with the performance of the work under this Agreement or the violation of any federal or state law, regulation or ordinance related to the work performed under this Agreement including, but not limited to, those laws related to fair housing and privacy or confidentiality of information.

17. This Section intentionally left blank and will be used to describe affordability mechanisms that will be in place should Key assistance not be used as the source of rental assistance or if provisions required by a funding source must be recognized and adhered to in order to maintain regulatory compliance, or if referrals will be made by a source other than DHHS, if approved by DHHS.

(b) Owner Agreement to Participate (if applicable)

Terms and Conditions

RECITALS

- A. The Agency, in conjunction with the NC Department of Health and Human Services, operates a program that provides financial assistance to owners of rental housing projects in order to provide more affordable housing opportunities for persons with disabilities (the “Key Program”); and
- B. The Owner owns and operates a rental project and has requested financial assistance under the Key Program; and
- C. The Agency is willing to provide financial assistance to the Owner (the “Operating Subsidy”), subject to the terms and conditions outlined in this Agreement;

NOW THEREFORE, in consideration of the payment of Ten Dollars (\$10.00) by the Owner to the Agency, the exchange of the mutual promises set forth herein and other good and valuable consideration, the Owner and the Agency agree as follows:

Section 1: Procedures and Requirements

This Agreement, and any assistance provided under it, is made pursuant to certain Key Program procedures and requirements found in the Targeting Program Manual issued by the Agency, as may be modified, supplemented or amended from time to time by the Agency in its sole discretion. Modifications, supplements, and additions to the Targeting Program Manual shall become effective upon the date issued or as noted in the modification, supplement, or addition and may be disseminated by mail, e-mail, or other web-based format including posting to the Agency’s website. The Owner is responsible for checking the website for modifications, supplements, and additions to the Targeting Program Manual. All provisions for the Targeting Program Manual are hereby incorporated into this Agreement by reference and are considered a material part of this Agreement. Additionally, this Agreement is made to support the commitments made by the Owner in the Targeting Unit Agreement executed by the Owner and the Agency, or in any subsequent modifications, updates or revisions to the Targeting Unit Agreement.

Section 2: Term and Termination

The term of this Agreement will be for a period of ten (10 years) from the date first written above (“Initial Term”). After the Initial Term, the Agreement will automatically renew for subsequent 12 month terms until the earlier of 1) the date the Agency serves written notice to the Owner of their intent to terminate this Agreement, or 2) the date the Agency provides written acceptance of the Owner’s written notice to terminate, or 3) the date that funding for the Key Program is exhausted, insufficient or otherwise not available to the Agency. This Agreement may also be terminated at any time in accordance with Section 3b. In the event of termination, the Operating Subsidy will not be provided for any new move-ins subsequent to the date of termination, but will continue for the existing residents participating in the Key Program prior to the date of termination until said existing tenant 1) moves from the property or 2) becomes ineligible for subsidy, or 3) funding for the Key Program is exhausted or otherwise not available to the Agency.

This Agreement may be terminated for cause for an Event of Default described in Section 8.

In the event of termination, the Owner shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this Agreement. The Agency may withhold any disbursement to the Owner until such time as the exact amount of damages due the Agency from the Owner

is determined. Termination of this Agreement will not waive, diminish or otherwise alter the Owner's obligations under the Tenant Lease(s). In the event of either:

- (a) voluntary termination by the Owner or
- (b) termination due to a breach by the Owner

In the event of a termination under (a) or (b) above, the Owner will renew all Tenant Lease(s) at the tenant-paid share of the contract amount for a period of three (3) additional years. During this time the Owner shall have rights to elect to not renew a lease or may evict a Tenant for repeated lease violations or other good cause, and may increase the contract rent based on the allowed Key Program payment standard for that year.

Section 3: Operating Subsidy

The Agency agrees to provide ongoing financial assistance to the Owner as described in this Section provided the Owner is in compliance with the terms and requirements outlined in this Agreement, the Targeting Unit Agreement, and the Targeting Program Manual.

- (a) The Operating Subsidy is made to provide assistance to a residential housing project known as <Project Name> (the "Project") located in <County Name> County.
- (b) The assistance will be for the number of Key units as specified in the current executed Targeting Unit Agreement, as may be modified from time to time and occupied and leased pursuant to the requirements of the Targeting Program Manual. In the event the number of Key units is modified to zero, this agreement will terminate automatically.
- (c) The Operating Subsidy will fund the difference between the tenant-paid rent amount and the payment standard, each as determined under the Targeting Program Manual.
- (d) The Owner authorizes the management company responsible for the Project to submit requests for the Operating Subsidy in a form and manner approved by the Agency.
- (e) The Targeting Program Manual will be updated from time to time and once published to the Agency website will supersede all previous versions.
- (f) **Any Operating Subsidy required to be paid by the Agency to the Owner is contingent upon the availability of funding for the Key Program and may be terminated at any time the funding is exhausted, insufficient or otherwise not available to the Agency.**

Section 4: Representations of the Owner

The Owner hereby makes the following representations, warranties and covenants to the Agency and the truth and accuracy of such representations and warranties and compliance with and performance of such covenants are continuing obligations of the Owner. In the event that any of the material representations or warranties made herein cease to be true and correct or the Owner breaches any of its material covenants made herein, the Owner agrees to notify the Agency immediately and the same shall constitute an Event of Default under this Agreement:

- (a) The Owner is duly organized and validly existing under the laws of the State of North Carolina with full power to undertake the obligations as contemplated by this Agreement. The execution and delivery of the Agreement have been duly authorized by all necessary corporate action on the part of the Owner, its partners, members, officers, and/or directors, as applicable.
- (b) There is no action, suit or proceeding at law or in equity, or by or before any governmental instrumentality or agency, or to the knowledge of the Owner, threatened against or affecting it, which, if adversely determined, would materially impair its right or ability to carry on business substantially as now conducted, or as contemplated to be conducted under this Agreement, or that would materially adversely affect the Owner's financial condition.

- (c) The Owner shall take all reasonable actions necessary to ensure it has the capacity to implement the services contemplated under this Agreement and the Targeting Program Manual.
- (d) The Owner is in compliance and covenants that all services under this Agreement will be performed in compliance with, all Federal, state, and local laws, regulations, regulatory guidance, statutes, ordinances, codes and requirements applicable to the business of the Owner and the provisions of services by Owner under this Agreement. This includes, but is not limited to all Federal and state laws and regulations related to privacy/confidentiality, tenant's rights, and those designed to prevent unfair, deceptive, and discriminatory housing practices.
- (e) The Owner covenants that: (i) it will perform its services and obligations in accordance with this Agreement and Applicable Laws, and will promptly provide such performance or other reporting as may be reasonably required by the Agency; (ii) it will maintain complete, accurate and appropriate records of, and supporting documentation for, all services provided in connection with the Key Program; and (iii) all data and other information reported by the Owner to the Agency under this Agreement will be true, complete and accurate in all material respects, and consistent with all relevant business records, as and when provided.
- (f) The Owner will be responsible for the supervision and management of any property management company it engages to assist in the performance of the services or any obligation under this Agreement. The Owner shall ensure that all of its property managers comply with the terms and provisions of this Agreement.
- (g) The Owner agrees to maintain at all times, at Owner's expense, until final completion of the services covered under this Agreement, unless otherwise agreed to by the Agency, insurance in the following forms and amounts:
 - a. Workers Compensation and Employer's Liability Insurance
 - b. Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage liability.
 - c. Professional Liability insurance covering acts, errors, or omissions shall be maintained with limits not less than \$1,000,000 annual aggregate.
 - d. Business Personal Property Coverage on commercially reasonable amounts and on commercially reasonable policy forms.
- (h) The Owner has not executed and will not execute any agreements with provisions contradictory to, or in opposition to, the provisions of this Agreement.

Section 5: Conditions Precedent to Disbursements

As a condition to its obligation to make the disbursements of funds hereunder, the Owner shall submit any documentation the Agency may reasonably require in a manner specified by the Agency.

Section 6: Direct Deposit

The Owner authorizes the North Carolina State Treasurer, at the direction of the Agency, to initiate ACH credit entries for payments due under this Agreement, pursuant to the "Established Operational Procedures for State Treasurer's electronic payments system," which may be in effect from time to time. The Owner also authorizes any necessary ACH debit entries or adjustments for any ACH credit entries made in error to the account.

Section 7: Books and Records

The Owner shall keep and maintain at all times complete and accurate books of accounts and records, all written contracts, leases and other instruments which may relate to the Operating Subsidy. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Agency, its auditor, or agents.

In addition to any obligation to retain records under applicable laws, the Owner covenants to retain all data, books, reports, documents, audit logs and records, including electronic records, or copies thereof, related to its obligations under this Agreement (“Records”). Unless otherwise directed by the Agency, the Owner shall retain these Records for a period of three years or for such longer period as may be required pursuant to Applicable Laws or pursuant to the Agency’s request (“Retention Period”). If any litigation, claim, or audit is started before expiration of the three year period, the records will be retained until the litigation, claim, or audit findings involving the records have been resolved and final action taken.

Section 8: Events of Default

Each of the following shall be an Event of Default by the Owner:

- (a) the breach by the Owner of any of Owner’s material representations, warranties, or covenants set forth in this Agreement, the Targeting Unit Agreement or the Targeting Program Manual;
- (b) the failure of the Owner to perform any of its obligations under this Agreement, the Targeting Unit Agreement or the Targeting Program Manual;
- (c) the failure to return disbursed funds that are later determined to be not owed;
- (d) any representation by the Owner or its agents made in conjunction with this Agreement, the Targeting Unit Agreement, or any other document relating to the Key Program, is false or misleading in any material respect when given;
- (e) the dissolution, merger, consolidation or termination of existence of the Owner or the transfer of Owner’s interest in this Agreement without Agency’s prior written consent;
- (f) the application for the appointment of a receiver for Owner; or the filing of a petition under any provisions of the Bankruptcy Code or Act by Owner; or the filing of a petition under any provisions of the Bankruptcy Code or Act against Owner which is not dismissed within 90 days; or the filing of an answer in an involuntary proceeding by Owner admitting insolvency or inability to pay debts; or any assignment for the benefit of creditors by or against Owner; or the attachment, execution or other judicial seizure of any portion of Owner’s assets which is not discharged within ten (10) days (for the purposes of this Section the term Owner includes general partners, members and managers);
- (g) failure to maintain any part of the Project as decent, safe and sanitary as required under applicable local housing codes;
- (h) failure to comply with this Agreement, the Targeting Unit Agreement or the Targeting Program Manual, as any may be amended;
- (i) material noncompliance with the Project’s Targeting Agreement; or
- (j) violation of the Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits, if applicable.

The Agency will be in default if it does not make payment(s) within thirty (30) days of being due, so long as the Owner has met all requirements for disbursement and is not itself in default of this Agreement. The Owner’s sole remedy for the Agency’s default will be to bring legal action to enforce this Agreement. No action, omission or breach by the Agency will waive, diminish or otherwise alter the Owner’s obligations under the Tenant Lease(s).

Section 9: Agency Remedies

Upon occurrence of any default by the Owner, the Agency may, at its option, take any one or more of the following actions or remedies:

- (a) terminate this Agreement and any Key Program assistance;
- (b) reduce the amount of Key Program assistance;
- (c) obtain against the Owner a mandatory injunction or other equitable relief requiring performance by the Owner of any of its obligations under this Agreement or the Targeting Program Manual;

- (d) require the Owner to take corrective actions to correct the problem(s) and prevent any reoccurrence; and
- (e) declare the Owner “not in good standing” with the Agency.

The Agency will provide the Owner thirty (30) days written notice and opportunity to cure prior to implementing any of the above.

The taking of any action or exercise of any remedy shall not constitute an election of remedies or preclude Agency from taking any other action or exercising another remedy available at law or in equity. No failure to exercise any remedy or take any action enumerated shall constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy. No actions or remedies taken by the Agency under this Section will waive, diminish or otherwise alter the Owner’s obligations under the Tenant Lease(s).

Section 10: Prohibited Activities

- (a) None of the funds provided under the Program shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.
- (b) There shall be no religious instruction conducted in connection with the performance of the Agreement.
- (c) The Owner will not discriminate against any person employed in the performance of this Agreement, or against any applicant for housing assisted under this Agreement, because of race, sex, age, creed, color, disability, family status, or national origin.
- (d) No employee, officer or agent of the Owner shall create a conflict of interest, real or apparent, in administering the funds covered by this Agreement. Notwithstanding the foregoing, the Agency acknowledges that Owner has entered into a development and/or management Agreement with affiliates of and/or related parties to Owner, and fees paid pursuant thereto may be funded in part by the funds covered by this Agreement.

Section 11: Amendments

Any proposed changes in this Agreement will be in writing, submitted to, approved and executed by the Agency before the performance of any work involved in the proposed change.

Section 12: Notice

Delivery to the parties at the following addresses will satisfy the requirement to provide notice under this Agreement:

Agency: North Carolina Housing Finance Agency
Attn: Rental Investment
3508 Bush Street
Raleigh, NC 27609 (street address)

P.O. Box 28066
Raleigh, NC 27611-8066 (mailing address)

Owner: <Address, City, State, Zip>

Notice shall be effective upon the earliest of the following to occur: (a) actual receipt; (b) if mailed, three business days after deposited in the United States Mail; (c) the next business day if sent to the street address by recognized overnight courier (such as Federal Express) for next day or next business day delivery; or (d) upon refusal of the party being so notified to accept delivery. Either party may change their address for notice upon at least ten (10) days’ prior written notice to the other.

Section 13: LIMITATION OF LIABILITY

IN NO EVENT SHALL THE AGENCY, OR ITS OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OWNER WITH RESPECT TO THE SERVICES OR THIS AGREEMENT, OR FOR ANY ACT OR OMISSION OCCURRING IN CONNECTION WITH THE FOREGOING, FOR ANY DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO DIRECT DAMAGES, INDIRECT DAMAGES, LOST PROFITS, LOSS OF BUSINESS, OR OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE OR UNDER ANY LEGAL THEORY WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE REASONABLY FORESEEABLE.

Section 14: Governing Law

This Agreement shall be construed, governed, and enforced by and in accordance with the laws of the State of North Carolina. Each party expressly consents to the jurisdiction of the state courts of the State of North Carolina should litigation arise between the parties.

Section 15: Other Obligations of Owner

Nothing in this Agreement should be construed by the Owner to waive or relieve the Owner of any obligation under any other Federal or state law, regulation, program, loan, contract, or other agreement.

Section 16: Waiver

The waiver of any breach of this Agreement by either party shall not constitute a continuing waiver of subsequent breach of either the same or another provision of this Agreement.

Section 17: Assignment

The Owner has no power to transfer or otherwise assign any of the rights, obligations, or duties arising under this Agreement without the prior written consent of the Agency. The Agency may grant or deny its consent in its sole discretion. Any attempted transfer or assignment made without such consent from the Agency shall be void and of no effect.

Section 18: Survival

The terms of this Agreement shall bind and inure to the respective successors and assigns of the parties. Whenever used herein, the singular number shall include the plural, and the plural the singular.

(c) Property Profile

The Agency completes this questionnaire to the extent property information is available and sends it to a representative of the management company for completion and return to the Agency.

(d) Tenant Selection Plan

The Tenant Selection Plan is a description of the property's tenant selection and screening criteria. The Plan must conform to the Agency's current Tenant Selection Plan Policy published on the Agency's website: http://www.nchfa.com/sites/default/files/page_attachments/TenantSelectionPlanPolicy.pdf
The Plan must be updated from time to time to conform to any updates published by the Agency.

(e) Rental Assistance Plan (if applicable)

Only for projects using a source of project-based rent assistance other than Key, insert a description of how the source works, how Targeting applicants will access the source and who (the property owner, the management agent, or a local PHA) makes the decisions of the award of the source to households in the property. If the rent assistance source has a waiting list requirement, do the regulations governing the source allow the Targeting applicant to be offered a unit ahead of someone else on the rent assistance waitlist in order to comply with the Targeted Unit set-aside?

(f) Affirmative Fair Housing Marketing Plan

Use this version of HUD's Affirmative Fair Housing Marketing Plan form, unless a more recent version has been published by HUD:

<http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.pdf>