

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**CARPENTER PARK APARTMENTS, LLC**

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**TAX AGREEMENT**

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**Property Address:**

Lot 3, Carpenter Park Road  
City of Ithaca  
Tompkins County, New York

**Tax Map Number:**

Portion of 36.-1-3.53

**Affected Tax Jurisdictions:**

Tompkins County  
City of Ithaca  
Ithaca City School District

**Dated as of December 1, 2021**

## TAX AGREEMENT

THIS TAX AGREEMENT, dated as of December 1, 2021 (the "Tax Agreement"), by and between the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York, having offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 (the "Agency") and **CARPENTER PARK APARTMENTS, LLC** (the "Company"), a limited liability company duly formed and validly existing under the laws of the State of New York, with offices at 46 Prince Street, Suite 2003, Rochester, New York 14607 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 535 of the Laws of 1971 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York (the "State"); and

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project"), consisting of: (A) the acquisition by the Agency of a leasehold or other interest in an approximately .834-acre parcel of land on Lot 3, Carpenter Park Road, in the City of Ithaca, Tompkins County New York, being more particularly identified as a portion tax map number 36.-1-3.53 (the "Land"); (B) the construction on the Land of: (i) a state-of-the-art four-story affordable residential rental building consisting of (a) approximately thirty-two living units (twenty-six one-bedroom units and six two-bedroom units) serving those at 50% or below of area median income ("AMI"); (b) approximately ten living units (eight one-bedroom units and two two-bedroom units) serving those at or below 60% AMI; (c) a community room, manager's office, community patio, playground and other amenities; and (d) approximately sixteen surface parking spaces (collectively, the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other items of tangible personal use (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct, reconstruct, renovate and equip the Facility, the Agency is willing to take a leasehold interest in the Facility and lease said Facility back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of December 1, 2021 (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Tompkins County (the "County"), the City of Ithaca (the "City") and the Ithaca

City School District (the "School District"; and, collectively with the County and the City, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section 1 - Payment in Lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the Agency by the taxable status date **March 1, 2023** (the "Taxable Status Date") of New York State Form RP-412-a "Application For Real Property Tax Exemption" (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law (the "RPTL") and Section 874 of the Act, the Facility shall be exempt from Real Estate Taxes (as defined hereafter) commencing with the (i) the **2023/2024** School District tax year, and (ii) the **2024** County and City tax years. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility, including the Land, the Existing Improvements and the Improvements, by the County, the City and the School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes.

B. Interim Real Estate Taxes. To the extent imposed by any of the Affected Tax Jurisdictions, the Company shall pay all Real Estate Taxes relating to the Land due and payable from the date hereof through the Taxable Status Date and any applicable time periods prior to those set forth within Section 1.5.

C. Agreement to Make Payments. As long as the Facility is owned by or subleased to the Agency, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before October 1 of each year for School District taxes and on or before January 1 of each year for County and City taxes (collectively, the "Payment Date"), commencing on October 1, 2023 and January 1, 2024, respectively, an amount equal to the Total Tax Payment, as defined on Schedule A, attached hereto. The Company shall make all such Total Tax Payments in the amounts and on the dates specified above, whether or not any such Total Tax Payment is billed by the Agency, the Affected Tax Jurisdictions, or any other party.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the Land is not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, *if any*, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to an alternative allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payments among the Affected Tax Jurisdictions, the Company shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County and City purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Payment Date. For School District purposes, the tax rates used to determine the Total Tax Payment shall be the rate relating to the School District year which includes the Payment Date. In the event the Company pays the full amount of the Total Tax Payment due on or prior to the applicable Payment Date but, in good faith, incorrectly determines the allocation of the Total Tax Payments due to the Affected Tax Jurisdictions, the Company shall not be deemed in default hereunder unless and until the Company fails to correct such misallocation within thirty (30) days written notice from any or all of the Affected Tax Jurisdictions.

1.4 Valuation of Future Additions to the Facility. If there shall be a future addition to the Facility constructed or added in any manner after the date of this Tax Agreement that is not contemplated by this Tax Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Addition made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Total Tax Payment until a different Total Tax Payment shall be established. If a lesser Total Tax Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Total Tax Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the **2023/2024** School District tax year through the **2057/2058** School District tax year, and (ii) **2024** County and City tax years through the **2058** County and City tax years. This Tax Agreement **shall expire December 31, 2058**; *provided, however*, the Company shall pay (i) the 2058/2059 School District tax bill, and (ii) the 2059 County and City tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said

tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Tax Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility while this Tax Agreement is in effect which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the RPTL. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section 2 - Special District Charges, Special Assessments and other Charges. Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section 3 - Transfer of Facility. In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section 1 herein, or this Tax Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

Section 4 - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company and (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section 5 - Changes in Law. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section 6 - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder: (a) the failure by the Company to: (i) make the payments described in Section 1 within thirty (30) days of the Payment Date (the "Delinquency Date") or (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; (b) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable cure periods; and (c) the determination of the Agency to suspend, discontinue and/or recapture any financial assistance previously conferred to the Company by the Agency in accordance with the Agency's Project Recapture Policy (a copy of which is attached hereto as **Exhibit A**) in effect as of the date hereof. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity or under the Agency's Recapture Policy in effect as of the date hereof, the Agency and/or the Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the Act and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount. The Agency shall provide notice of any Event of Default to the Company's Investor Member and the Investor Member shall have the option, but not the obligation, to cure such Event of Default and such cure shall be accepted as if made by the Company.

6.2 If payments pursuant to Section 1 herein are not made by the Delinquency Date, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section 1 herein, if said payment is not received by the Delinquency Date, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest as determined hereunder or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section 7 - Assignment. No portion of any interest in this Tax Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed; provided, however, that in the event the holder of any mortgage acquires the Facility by deed-in-lieu, foreclosure, or otherwise, this Tax Agreement and the rights and obligations hereunder shall, at the option of such mortgagee, be assigned to it or its designee. Any such assignment shall be conditioned on the assumption of the obligations hereunder by such mortgagee or its designee.

Notwithstanding anything to the contrary contained herein, the following transfers are hereby permitted and shall not require the prior written approval of the Agency:

(i) the transfer by the Investment Member or the Special Member (as such terms are defined in the Amended and Restated Operating Agreement of the Company (the "Operating Agreement")) of membership interests in the Company to any other entity which is an affiliate of the Investment Member or the Special Member or which is controlled by Hudson Housing Capital LLC;

(ii) a change in the beneficial ownership of the Investment Member or the Special Member, so long as such entity remains controlled by Hudson Housing Capital LLC or an affiliate thereof;

(iii) the pledge and encumbrance of the interests of the Investment Member or the Special Member to or for the benefit of any financial institution which enables the Investment Member to make its capital contributions to the Company as well as the taking of such interests by such financial institution and their admission as a member in the Company;

(iv) the removal of any managing member of Company by the Special Member pursuant to the terms of the Operating Agreement and the replacement of such managing member with the Special Member or an affiliate of the Special Member.

Section 8 - Miscellaneous.

8.1 This Tax Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: Tompkins County Industrial Development Agency  
401 E. State Street, Suite 402B  
Ithaca, New York 14850  
Attn: Heather McDaniel, Administrative Director

With a Copy To: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company: Carpenter Park Apartments, LLC  
46 Prince Street, Suite 2003  
Rochester, New York 14607  
Attn: Andrew Bodewes

With a Copy To: Woods Oviatt Gilman LLP  
1900 Bausch & Lomb Place  
Rochester, New York 14604  
Attn: James P. Pronti, Esq.

And a Copy To: Hudson Housing Capital LLC  
630 Fifth Avenue, 28<sup>th</sup> Floor  
New York, New York 10111  
Attn: Joseph A. Macari  
Fax No.: (212) 218-4467

With a Copy To: Bocarsly Emden Cowan Esmail & Arndt LLP  
7700 Old Georgetown Road, Suite 600  
Bethesda, Maryland 20814  
Attn: Craig A. Emden  
Fax No.: (301) 560-8906

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8.3 This Tax Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in the Tompkins County, New York.

8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. No member of the Agency nor any person executing this Tax Agreement on its behalf shall be liable personally under this Tax Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer,



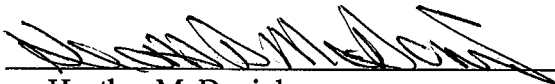
agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Tax Agreement.

*[Remainder of Page Intentionally Left Blank]*

[Signature Page to Tax Agreement]

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

**TOMPKINS COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
Name: Heather McDaniel  
Title: Administrative Director

**CARPENTER PARK APARTMENTS, LLC**

By: Carpenter Park Apartments MM, LLC,  
its Managing Member

By: Park Grove Development, LLC,  
its Managing Member

By: \_\_\_\_\_  
Name: Andrew Bodewes  
Title: Member

[Signature Page to Tax Agreement]

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

**TOMPKINS COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Name: Heather McDaniel  
Title: Administrative Director

**CARPENTER PARK APARTMENTS, LLC**

By: Carpenter Park Apartments MM, LLC,  
its Managing Member

By: Park Grove Development, LLC,  
its Managing Member

By: \_\_\_\_\_  
Name: Andrew Bodewes  
Title: Member

**SCHEDULE A (RESIDENTIAL APARTMENTS)**

To

Tax Agreement

Dated as of December 1, 2021

By and Between

Tompkins County Industrial Development Agency

and

Carpenter Park Apartments, LLC

"Total Tax Payment" shall mean an amount equal to the following:

<b>Tax Year</b>	<b>City and County Tax Year</b>	<b>School District Tax Year</b>	<b>Total Tax Payment</b>
1	2024	2023/2024	\$17,957.00
2	2025	2024/2025	\$18,316.00
3	2026	2025/2026	\$18,682.00
4	2027	2026/2027	\$19,056.00
5	2028	2027/2028	\$19,437.00
6	2029	2028/2029	\$19,825.00
7	2030	2029/2030	\$20,222.00
8	2031	2030/2031	\$20,626.00
9	2032	2031/2032	\$21,039.00
10	2033	2032/2033	\$21,460.00
11	2034	2033/2034	\$21,889.00
12	2035	2034/2035	\$22,327.00
13	2036	2035/2036	\$22,773.00
14	2037	2036/2037	\$23,229.00
15	2038	2037/2038	\$23,693.00
16	2039	2038/2039	\$24,167.00
17	2040	2039/2040	\$24,650.00
18	2041	2040/2041	\$25,143.00
19	2042	2041/2042	\$25,646.00
20	2043	2042/2043	\$26,159.00
21	2044	2043/2044	\$26,682.00
22	2045	2044/2045	\$27,216.00
23	2046	2045/2046	\$27,760.00
24	2047	2046/2047	\$28,316.00
25	2048	2047/2048	\$28,882.00
26	2049	2048/2049	\$29,460.00
27	2050	2049/2050	\$30,049.00
28	2051	2050/2051	\$30,650.00
29	2052	2051/2052	\$31,263.00

30	2053	2052/2053	\$31,888.00
31	2054	2053/2054	\$32,526.00
32	2055	2054/2055	\$33,176.00
33	2056	2055/2056	\$33,840.00
34	2057	2056/2057	\$34,517.00
35	2058	2057/2058	\$35,207.00

The Total Tax Payment includes taxation of the Land and any existing improvements located thereon.