



EXHIBIT 20: HFA 109.06I. Year 15 Investor Exit and Aggregators

I, _____ [Name] the undersigned, hereby certify on behalf of _____ [Applicant/Developer] ("Applicant") that the application submitted for the 9% Low-Income Housing Tax Credit (LIHTC) for the _____ project will comply with the New Hampshire, Qualified Allocation Plan, effective March 12, 2024, as it pertains to Threshold Criteria 109.06 I. Year 15 Investor Exit and Aggregators, as set forth below:

1. Sponsors must commit to selecting a syndicator and/or investor acceptable to NH Housing. Such syndicator/investor cannot have been involved in any "aggregator" activity in New Hampshire seeking to undermine the exercise of a LIHTC right of first refusal or right of first option, including, without limitation, the following.

- Refusal to honor a LIHTC right of first refusal or right of first option in favor of a nonprofit sponsor executed with the initial tax credit equity closing for a LIHTC project.
- Lawsuit against a general partner and/or a nonprofit sponsor challenging the exercise of the LIHTC right of first refusal/right of first option.
- Lawsuit seeking to remove the general partner or managing member of the LIHTC limited partnership, absent clear evidence of fraud or serious mismanagement on the part of the general partner or managing member. For purposes of this provision, actions taken to preserve affordability of a LIHTC property and/or management in furtherance of the charitable mission of the nonprofit sponsor shall not constitute "serious mismanagement."

2. Sponsors are required to disclose whether any member of the development team, including the investor, has been involved in transfers of ownership or interest, including qualified contract requests, that resulted in affordable housing being converted to market rate prior to the end of the original period of affordability in New Hampshire.

3. Sponsors are required to disclose whether any member of the development team, including the investor, has been involved in litigation related to the transfer of ownership or interest of affordable housing in New Hampshire prior to the end of the original period of affordability.

4. All partnership agreements shall include the following provision.



- A provision requiring the limited partner to obtain the consent of the general partner before there is any transfer of the limited partnership interest or investor member interest, with the exception of transfer to an affiliate of either. For the purposes of this section, an “affiliate” shall be any entity under common ownership or control with investor member or limited partner.

5. All partnership agreements, where the Sponsor or Co-Sponsor is a nonprofit entity, shall include the following provisions.

- An acknowledgement and agreement from the investor that the right of first refusal permitted by the Internal Revenue Code §42(i)(7) is different from the common law right of first refusal and is not conditioned upon the consent of the investor and may be triggered by the receipt by the owner of any third-party offer.
- An acknowledgement and agreement from the investor that its return on investment is primarily in the form of the tax benefits conferred by the Internal Revenue Code and will not, upon the exercise of the nonprofit’s right of first refusal, include any cash proceeds attributable to the project’s appreciation in value.
 - A provision that in the event IRC Section §42(i)(7) is amended by Congress to permit a nonprofit to hold a purchase option after year 15, the terms of the Right of First Refusal agreement will be converted to a purchase option permitting a transfer through acquisition of partnership interests and including all partnership assets for an amount equal to the statutory minimum purchase price.

6. The IRC Section §42(i)(7) Nonprofit Right of First Refusal executed pursuant to IRC Section §42 shall be for a term of at least 24 months from the end of the compliance period and have a purchase price equal to the minimum price required under IRC Section §42(i)(7)(B).

By signing this statement, the Applicant acknowledges understanding and compliance with the regulations. The Applicant also understands that failure to adhere to these requirements may result in the rejection of the Application by NH Housing.

Applicant/Organization Name: _____



Signature: _____

Date: _____