

## PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT

This Agreement is made as of \_\_\_\_\_, 2018 by and among APTITUDE 4<sup>TH</sup> STREET, LLC. a Kentucky limited liability company (the “Company”), LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“Metro Government”), a consolidated local government and political subdivision of the Commonwealth of Kentucky (the “Commonwealth”); and the BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY (the “School District”), a political subdivision of the Commonwealth.

### Recitals

A. Pursuant to the Industrial Buildings for Cities and Counties Act, as amended, KRS 103.200 to 103.285 (the “Act”) and its Ordinance No.\_\_\_\_, Series 2018, adopted August 2, 2018, Metro Government has concurrently herewith (i) entered into a Lease and Financing Agreement of even date herewith (the “Lease”) by and among Metro Government, as lessor, the Company, as lessee, and the Bondholder identified therein; (ii) has issued under the Lease its Louisville/Jefferson County Metro Government Industrial Building Revenue Bonds, Series 2018 (The Marshall at Louisville Project) in a principal amount not to exceed \$43,000,000 (the “Bonds”) to defray the costs of acquiring a parcel of land at 2400 S. Fourth Street, Louisville, Kentucky, and constructing, furnishing, and equipping thereon a residential rental apartment complex to be known as The Marshall at Louisville and consisting of a 10-story, approximately 380,000 sq. ft. structure containing approximately 231 apartment units on the upper eight floors, a parking garage on the lower two floors containing approximately 232 parking spaces, and related tenant amenities, for rental primarily to students at the University of Louisville and other local postsecondary educational institutions who desire off-campus housing (the land, buildings, improvements, furniture, fixtures, and equipment comprising such project, as more particularly described in the Lease, being referred to as the “Project”); and (iii) accepted a Deed and a Bill of Sale from the Company conveying the Project to Metro Government.

B. As set forth in the Bond Ordinance and the Lease, Metro Government has found and determined that the Project constitutes an “industrial building” within the meaning of KRS 103.210.

C. KRS 103.285 provides that all properties, both real and personal, which a city or county may acquire to be rented or leased to an industrial concern according to KRS 103.200 to 103.280 shall be exempt from taxation to the same extent as other public property used for public purposes, as long as the property is owned by the city or county.

D. KRS 132.200(7) provides that all privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit under the provisions of KRS Chapter 103 shall be subject to taxation for state purposes only, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing.

In order to induce the Company to undertake the acquisition, construction, furnishing, equipping, and operation of the Project, Metro Government is willing to afford to the Company an abatement, through the operation of KRS 103.285, 132.200(7), and 132.020(1)(b),

of all the ad valorem property taxes with respect to the Project that would otherwise be payable to Metro Government. However, as a condition to the issuance of the Bonds, Metro Government has required that the Company enter into this Agreement whereby the Company agrees to make payments in lieu of taxes (“PILOT Payments”) to the School District in amounts equal to and at the same times as the ad valorem taxes that would otherwise be due to the School District with respect to the Project.

NOW, THEREFORE, the parties hereto agree as follows:

1. During the term of this Agreement, as defined below, the Company shall make PILOT Payments to the School District, in amounts equal to and at the same times as the *ad valorem* taxes that would be due to the School District with respect to the Project were title thereto held by the Company rather than by Metro Government.

2. Metro Government acknowledges that, in consideration of the Company’s undertaking to acquire, construct, furnish, equip, and operate the Project pursuant to the Lease, Metro Government has agreed to issue the Bonds and to forego any PILOT Payments to Metro Government with respect to the Project during the term of this Agreement.

3. As used herein, the “term of this Agreement” means the first calendar year commencing after the date of this Agreement to and including the calendar year during which the Bonds are retired, the Lease terminates, and Metro Government no longer holds title to the Project.

4. Nothing in this Agreement shall preclude the Company from contesting as provided by law the assessed value of the Project or any portion thereof.

5. All bills, notices, and other communications hereunder shall be sent to the Company at the following address:

Aptitude 4<sup>th</sup> Street, LLC  
669 River Drive, Suite 402  
Elmwood Park, NJ 07407

Attention: Managing Member

or to such other address, or to the attention of such other person, as the Company designates in writing to the other parties hereto.

6. All references herein to the Company shall include its successors and assigns as lessee under the Lease.

7. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth.

8. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

APTITUDE U OF L, LLC,  
a New Jersey limited liability company

By: \_\_\_\_\_  
Jared Hutter  
Managing Member

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

By: \_\_\_\_\_  
Mayor

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_  
Matthew J. Golden  
Assistant County Attorney

BOARD OF EDUCATION OF JEFFERSON  
COUNTY, KENTUCKY

By: \_\_\_\_\_  
Superintendent