

## SHTC BRIDGE LOAN AGREEMENT

This **SHTC BRIDGE LOAN AGREEMENT** (“Agreement”) is entered into as of January \_\_, 2025, by and between **SPARKHAUS, LLC**, a Kentucky limited liability company (“Borrower”), whose address is c/o Northern Kentucky Riverport Authority, 300 Buttermilk Pike, Suite 332, Ft. Mitchell, KY 41017, and **KENTON COUNTY, KENTUCKY, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF KENTUCKY** (“Lender”), whose address, for purposes of this Agreement, is 1840 Simon Kenton Way, Covington, KY 41011.

### **PRELIMINARY STATEMENTS**

Lender has agreed to loan to Borrower amounts not to exceed [\$LOAN AMOUNT] (the “Loan”) in connection with the construction of the SparkHaus, a flexible office space for small business startups looking to scale their business, together with certain functionally related and subordinate facilities located at 727 Madison Ave, Covington, KY 41011 (the “Project”).

In connection with the funding and administration of the Loan, the parties hereto agree as follows:

### **ARTICLE 1. DEFINITIONS**

The following terms as used in this Agreement or in the other Loan Documents shall have the following meanings:

1.1. Act of Bankruptcy . The occurrence of any one or more of the following:

(a) If a court of competent jurisdiction enters a decree or order of relief in respect of Borrower in any involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of Borrower or of any substantial part of its property, or ordering the winding up of its affairs or liquidation of its property, and such decree or order continues unstayed and in effect for a period of sixty (60) days; or

(b) If the Borrower commences a voluntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, consents to the entry of an order for relief in an involuntary case under any such law, or consents to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar official of Borrower or of any substantial part of its property, or makes any general assignment for the benefit of creditors, or fails generally or admits in writing its inability to pay its debts as they become due, or takes any action in furtherance of any of the foregoing.

1.2. Architect . The architect engaged by Borrower for the Project.

1.3. Business Day . Any day that is not a Saturday, Sunday or banking holiday in the State.

1.4. Construction Account . A separate account established and held by the Borrower into which the Loan Proceeds will be deposited as set forth in Article 6 below.

1.5. SHTC . The Kentucky Certified Rehabilitation Tax Credit authorized under KRS 171.396, et. seq. and administered by and through the Kentucky Heritage Council.

1.6. Collateral . The property of the Borrower securing the payment of the Loan as set forth in the Security Documents or the other Loan Documents.

1.7. Contractor . The general contractor engaged by Borrower for the Project and approved by Lender.

1.8. Construction Consultant . Any construction consultant engaged by Lender, at Borrower's expense, to assist Lender in connection with the Project.

1.9. Closing Date . The date of this Agreement.

1.10. Costs . All fees, charges, costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after a Default) by Lender in making, funding, administering or modifying the Loan, in negotiating or entering into any "workout" of the Loan, or in exercising or enforcing any rights, powers and remedies provided in the Security Documents or any of the other Loan Documents, including reasonable attorneys' fees, court costs, receiver's fees, management fees and costs incurred in the repair, maintenance and operation of, or taking possession of, or selling, the Project.

1.11. Default . The occurrence of any of the events described in Section 8.1 of this Agreement, including expiration of any applicable notice and cure period set forth therein.

1.12. Default Rate . A rate equal to the highest rate of interest allowed by Law per annum.

1.13. [Reserved] .

1.14. [Reserved].

1.15. Environmental Due Diligence . Environmental due diligence for the Project acceptable to Lender, including a Phase I environmental site assessment.

1.16. [Reserved] .

1.17. Governmental Authority . Any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, service, district or other instrumentality of any governmental entity.

1.18. [Reserved] .

1.19. Improvements . The rehabilitation and equipping of the Project.

1.20. Indebtedness . With respect to any person at any time, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such person upon

which interest charges are customarily paid, (iv) all obligations of such person under conditionalsale or other title retention agreements relating to property purchased by such person, (v) all obligations of such person issued or assumed as the deferred purchase price of property or services (other than accounts payable to suppliers incurred in the ordinary course of business and not overdue), (vi) all obligations of others secured by any lien, security interest or encumbrance on property owned or acquired by such person, whether or not the obligations secured thereby have been assumed, (vii) all capitalized lease obligations of such person and (viii) all other obligations of such person that would be disclosed as a liability on the balance sheet or the footnotes thereto of such person in accordance with generally accepted accounting principles, consistently applied.

1.21. [Reserved] .

1.22. Land . The real property described in Exhibit A attached hereto.

1.23. Laws . All federal, state and local laws, statutes, rules, ordinances, regulations, codes, licenses, authorizations, decisions, injunctions, interpretations, orders or decrees of any court or other Governmental Authority having jurisdiction over the Project, as may be in effect from time to time.

1.24. Loan . The bridge loan in the amount of up to \$[LOAN AMOUNT], as evidenced by the Note. The terms of the Loan are provided for herein and in the Note and the other Loan Documents.

1.25. Loan Documents . The Note, the Security Documents, entered into in connection with the Loan, this Agreement, and any other documents or instruments evidencing or securing the Loan.

1.26. Loan Proceeds . Funds disbursed or to be disbursed under the Note pursuant to this Agreement.

1.27. Note. The Promissory Note of even date herewith, from Borrower to Lender in the principal amount of \$[LOAN AMOUNT].

1.27. Obligations . All present and future debts, obligations and liabilities of Borrower to Lender, whether now existing or arising later, including, without limitation, the obligations (a) to pay all principal, interest, late charges, prepayment premiums (if any) and other amounts due at any time under the Note; (b) to pay all expenses, indemnification payments, fees and other amounts due at any time under the Security Documents or any of the other Loan Documents, together with interest as provided in the Loan Documents; (c) [Reserved]; and (d) to perform, observe and comply with all of the terms, covenants and conditions, expressed or implied, which Borrower is required to perform, observe or comply with pursuant to the terms of the Loan Documents.

1.28. Person . An individual, a corporation, a partnership, a joint venture, a limited liability company, a trust, an unincorporated association, any Governmental Authority or any other entity.

1.29. Plans and Specifications . The final plans and specifications for the construction of the Improvements on the Property, as submitted and approved by Lender, and all amendments and modifications thereof approved by Lender in accordance with this Agreement.

1.30. Premises or Property . The Land, and all of the estate, right, title and interest of Borrower at law or in equity in and to the Land, and all of the buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land and all fixtures, machinery, appliances, equipment, furniture and personal property of every kind whatsoever now or hereafter owned by Borrower and located in or on, or attached to, and used or intended to be used in connection with the Land.

1.31. Project . Has the meaning set forth in the Preliminary Statements to this Agreement.

1.32. Project Contracts . Has the meaning set forth in Section 6.2(h).Security Agreement. Means that certain Security Agreement for the pledge of the Construction Account.

1.33. Security Documents . The Security Agreement any UCC financing statements registered in connection with the Loan, and any and all other Loan Documents that secure the Obligations.

1.34. State . The Commonwealth of Kentucky.

1.35. [Reserved].

1.36. [Reserved] .

1.37. [Reserved].

1.38. Term Loan . That certain loan to Borrower in the original principal amount of \$\_\_\_\_\_, evidenced by the Term Loan Agreement of even date herewith between Borrower and Lender.

1.39. Term Loan Documents . That certain Term Loan Agreement of even date herewith between Borrower and Lender and all other “Loan Documents” (as defined therein).

## **ARTICLE 2. WARRANTIES AND REPRESENTATIONS**

In consideration for Lender committing to fund the Loan, Borrower hereby represents and warrants to Lender, as follows:

2.1. Purpose of Loan . The Loan shall be used to finance the construction of the Improvements, payment of certain approved transaction costs, and for no other purpose. The Loan is for commercial purposes.

2.2. Pending Suits . Except as previously disclosed to Lender in writing, to Borrower’s knowledge, there are no suits, judgments, bankruptcies or executions pending or threatened against Borrower or the Premises.

2.3. Financial Statements . The financial projections delivered by Borrower to Lender are true and correct in all material respects, fairly present the respective financial projections of the subject thereof as of the respective dates thereof, no material adverse change has occurred in the financial condition reflected therein since the respective dates thereof, and no additional borrowings have been made by Borrower since the date thereof other than the borrowing contemplated hereby or other borrowing approved by Lender.

2.4. No Violation of Other Agreements . The consummation of the transactions contemplated by this Agreement and the performance of this Agreement and the other Loan Documents will not result in any breach of, or constitute a Default under, the Borrower's organizational documents or any other instrument or agreement to which Borrower is a party or by which it may be bound or affected.

### **ARTICLE 3. THE LOAN**

3.1. Use and Purposes: Repayment . Borrower agrees to borrow from Lender and Lender agrees to lend to Borrower the Loan Proceeds, such Loan Proceeds to be used for the purposes and subject to all of the terms, provisions and conditions of this Agreement. The Loan shall be evidenced by and paid in accordance with the terms and conditions of the Note. The Note shall be due and payable in full on the maturity date set forth in the Note.

3.2. Advances Secured by Security Documents . All disbursements, advances or payments made by Lender hereunder, from time to time, and any amounts expended by Lender under this Agreement, or the other Loan Documents, and all other loan expenses, including reasonable attorneys fees, as and when advanced or incurred, will be deemed to be a part of the Obligations and as such will be secured by the Security Documents to the same extent and effect as if the terms and provisions of this Agreement were set forth therein.

### **ARTICLE 4. CONDITIONS TO FUNDING OF LOAN PROCEEDS**

Unless otherwise agreed by Lender in writing, Lender will not be obligated to close the Loan and disburse any Loan Proceeds unless and until the following conditions have been satisfied (all in a manner acceptable to Lender):

4.1. Loan Documents . Borrower shall have furnished or delivered to Lender, in form and substance acceptable to Lender, the Loan Documents executed by Borrower and any other parties thereto, as applicable.

4.2. Closing Costs . Borrower shall have paid all reasonable Costs incurred by Lender in connection with the Loan, including the reasonable fees of counsel for the Lender.

4.3. Financial Statements . Borrower shall have delivered to Lender current financial projections for Project, which the Borrower reasonably believes to be true, correct and complete in light of the facts and circumstances available as of the date here.

4.4. Organizational Documents . Lender shall be provided with a copy of Borrower's and Managing Member's organizational documents and evidence of authority to sign this Agreement and the other Loan Documents.

4.5. Reserved .

4.6. SHTC Tax Credit . Lender shall have received all documentation reasonably required by Lender to evidence that the Kentucky Heritage Council have confirmed that the Loan is eligible for the SHTC Tax Credit.

## **ARTICLE 5. COLLATERAL FOR THE LOAN**

The Obligations shall be secured by the Security Documents.

## **ARTICLE 6. LOAN PROCEEDS AND DISBURSEMENT**

6.1. Funding of Loan Proceeds . Borrower acknowledges that the Loan Proceeds shall be funded on a draw basis from the Construction Account in accordance with this Agreement. Lender will disburse all Loan Proceeds prior to year-end into the Construction Account to be held by Lender, subject to the terms and conditions of this Agreement. Borrower acknowledges that, pursuant to the terms of the Security Documents, Borrower has granted to Lender a security interest in the Construction Account and that Borrower has no right to access the funds in the Construction Account until such time as the funds are released by Lender in accordance with this Agreement. Any amounts borrowed under this Agreement and repaid may not be reborrowed.

6.2. Disbursement of Loan Proceeds . In addition to satisfaction of the conditions set forth in Article 4 of this Agreement, Lender will not be required to make any disbursement of Loan Proceeds to Borrower unless and until the following conditions have been satisfied:

(a) [Reserved]

(b) Development Budget. Borrower shall provide Lender with a final Project budget certified by Borrower and in detail satisfactory to Lender. The Project budget shall include all hard and soft costs associated with the Project and shall be attached hereto as Exhibit B.

(c) Additional Equity. Borrower shall provide evidence, satisfactory to Lender in its sole discretion, that Borrower has obtained additional equity for the Project as required under the approved Project budget to the extent applicable. The Additional Equity may include cash contributions from the Tax Credit Investor.

(d) Title Update. At Lender's option, Borrower shall provide Lender with an updated title search of the Property and an endorsement to the Title Insurance Policy (as defined in the Term Loan Agreement) satisfactory to Lender in its reasonable discretion, which endorsement shall, at Lender's option, increase the coverage limit under the Title Insurance Policy by the amount of the Loan.

(e) Survey. At Lender's option, Borrower shall provide Lender with an updated survey of the Land that complies with Lender's then-current survey requirements.

(f) Insurance. Borrower shall have furnished or caused to be furnished to Lender evidence, either in the form of duplicate policies, binders or certificates, acceptable to

Lender (identifying each insurance policy, name of insurer, amount of coverage, deductible provisions and expiration date) that Borrower or the Contractor has purchased, and has in full force and effect, policies of insurance, as required by Lender's insurance requirements, including, without limitation, evidence of builder's risk insurance, in form, substance and with coverages which are satisfactory to Lender in an amount which adequately covers the replacement costs of all improvements to the Project, all materials used in connection therewith, and soft cost coverage acceptable to Lender.

(g) Plans and Specifications. At Lender's discretion, Borrower shall have furnished to Lender a complete, final and detailed set of the Plans and Specifications for the Project. At Lender's option, the ownership and right to use the Plans and Specifications shall be collaterally assigned to Lender as security for the Loan.

(h) Contracts. Borrower shall have furnished to Lender executed copies of all construction and engineering contracts, any construction management contracts, architectural contracts and other material Project agreements, and any supplements or amendments thereto, and, at Lender's request, copies of any subcontracts (collectively, the "Project Contracts"). Lender shall have the right to require that the general construction contract, the Architect's contract and other material Project Contracts be collaterally assigned to Lender as security for the Loan, and that the parties to such contracts execute a consent agreement in favor of Lender consenting to such assignment and including an obligation to complete such contracts upon request by Lender or its designee. At Lender's discretion, all Project Contracts and the contracting parties shall be subject to the prior approval of Lender, which approval shall not be unreasonably withheld.

(i) Evidence of Compliance. Borrower shall have furnished to Lender evidence satisfactory to Lender that:

(i) the Plans and Specifications and the Improvements, when completed, will be in compliance with all Laws and all rules and regulations promulgated thereunder, including, without limitation, all building, zoning, environmental impact, setbacks, Americans With Disabilities Act, wetlands, health and safety, drainage, storm water, and pollution control, and any restrictions of record affecting the Property;

(ii) there are sufficient utilities (water, sewer, cable, electric, telephone and gas) for the construction and operation of the Improvements; and

(iii) the Contractor is licensed to conduct business in the state in which the Project is located.

(j) Permits. Borrower shall have furnished to Lender a copy of all permits required for development of the Project, including the grading and building permit or permits, or proof of the immediate availability of same, any wetlands or stormwater permits required for the Project, and all other licenses and permits required, complete in all respects, as necessary, to authorize the construction of the Improvements on the Land in accordance with the Plans and Specifications. All permits shall be collaterally assigned to Lender as security for the Loan.

(k) Approval. Lender, and Lender's Construction Consultant, shall have approved the Plans and Specifications and the Project Contracts. Neither Lender's approval of the Plans and Specifications, nor any subsequent inspections or approvals of the Project or Improvements during construction shall constitute a warranty or representation by Lender or any of its consultants, agents, representatives or designees as to the technical sufficiency, adequacy or safety of the structures or any of their component parts or any other physical condition or feature pertaining to the Project or Improvements.

(l) Environmental Due Diligence. Lender shall be provided with the Environmental Due Diligence, with findings acceptable to Lender. All reports shall be addressed to Lender.

(m) Payment and Performance Bonds. Borrower shall obtain and furnish to the Lender or require the Contractor to furnish to the Borrower and the Lender before commencing work, a payment and performance bond and evidence of worker's compensation insurance in a form reasonably satisfactory to the Lender. Lender shall be named as a dual obligee on the payment and performance bond.

(n) Construction Consultant. Lender shall engage a construction consultant to assist Lender in the review of the plans and specifications and budget for the Project and to review draw requests. The costs of the construction consultant shall be paid by Borrower.

(o) Additional Collateral. Borrower shall execute and deliver, or cause to be executed and delivered, such instruments, pledges, and agreements as are required by Lender to grant unto Lender and perfect liens and security interests in the following as additional collateral for the Loan:

(i) Borrower's rights in and to the Project Contracts;

(ii) All of the partnership interests in Borrower and any other Tax Credit Partnership; and

(iii) Borrower's right to receive cash contributions from its Tax Credit Investor.

Such additional collateral must be acceptable to Lender in its sole discretion.

(p) Draw Requests. Loan Proceeds shall be used in accordance with the terms of this Agreement. Any disbursement of Loan Proceeds or from the Construction Account shall require that Borrower submit a draw request in the form attached hereto as Exhibit C.

(q) Draw Procedures; Amended Loan Documents. Borrower shall (i) agree in writing with Lender as to additional conditions and procedures for draws from the Loan Proceeds that are satisfactory to Lender and (ii) execute and deliver to Lender such amendments to (or amendments and restatements of) the Loan Documents as Lender may require in order to incorporate such conditions and procedures for draws and such other covenants and requirements as Lender may require in connection with the construction of the Project and disbursement of Loan Proceeds.

## ARTICLE 7. COVENANTS AND AGREEMENTS

Borrower covenants and agrees with Lender as follows:

7.1. Costs . Borrower will pay all reasonable Costs required to satisfy the conditions of this Agreement, including, but not limited to, all taxes and recording expenses, Lender's attorneys fees, surveys, appraisals, title insurance, title updates, real estate taxes, and insurance policies.

7.2. Inspections . Borrower will permit Lender and its representatives to enter upon the Premises at all reasonable times to inspect the Improvements and to examine all records that relate to the ownership and operation of the Improvements and will cooperate, and cause Borrower's manager, if applicable, to cooperate with Lender in such inspections.

7.3. Brokers . Borrower will indemnify and hold harmless Lender from and against all claims of brokers and agents arising by reason of the execution of this Agreement or the consummation of the transactions contemplated hereby.

7.4. Advances to Cure Default . In the event that Borrower fails to perform any of Borrower's covenants or agreements under this Agreement or any other Agreement, and fails to commence a cure of such failure within thirty (30) days after written notice from Lender specifying the failure and the action required to cure same, Lender may, but shall not be required to, perform any or all of such covenants and agreements, and any amounts expended by Lender in so doing will be deemed to be a part of the Obligations under this Agreement and under the Security Documents.

7.5. Operating Account . The operating accounts for the Premises shall be maintained with the Lender during the term of the Loan. In addition, Borrower shall maintain with the Lender an operating reserve account and replacement reserve account in amounts as provided in the Borrower's partnership agreement.

7.6. Compliance with Laws . The Improvements shall be owned and operated in accordance with all applicable Laws, including, without limitation, all zoning, land use, code, setback and other applicable regulations and restrictions.

7.7. Books and Records; Financial Statements; Tax Returns . Borrower shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of Borrower in accordance with generally accepted accounting principles, consistently applied, and will furnish to the Lender two copies of each of the following:

(a) *Annual Financial Statements*. As soon as available, and in any event within 120 days after the close of each fiscal year of Borrower, the complete audited financial statements of Borrower including the balance sheet as of the end of such fiscal year and the related statements of revenues and expenses and changes in financial position for such fiscal year, setting forth in each case in comparative form the corresponding figures for the preceding fiscal year, all in reasonable detail, certified by an accountant in accordance with generally accepted accounting principles, consistently applied. The first reporting period will be December 31, 2026.

(b) *Quarterly Financial Statements.* As soon as available, and in any event within 30 days after each calendar quarter, unaudited financial statements for the Project in reasonable detail and certified, subject to year-end adjustment, by an authorized officer of Borrower. The first reporting period will be December 31, 2026.

(c) *Annual Budgets.* If requested, as soon as available, and in any event prior to the beginning of each fiscal year of Borrower, an annual budget for such fiscal year in form acceptable to Lender.

(d) *Certificate of Compliance.* If requested, simultaneously with the delivery of the financial statements referred to in (a) and (b) above, a certificate signed by an authorized officer of Managing Member stating that, to the best of his or her knowledge, Borrower has kept, observed, performed and fulfilled each and every covenant, provision and condition of this Agreement on its part to be performed and is not in default in the performance or observance of any of the terms, covenants, provisions or conditions hereof, or if Borrower shall be in default such certificate shall specify all such defaults, the nature and status thereof and any remedial steps taken or proposed to correct such default,

(e) *Grants.* As soon as available, all information regarding any material changes in the status of any federal, state, local, or private grants related to the Project.

(f) *Tax Return.* As soon as available, and in any event within 120 days after the close of each fiscal year of Borrower, the Borrower's tax return, unless an extension is filed, in which case a copy of such extension may be provided to lender in this time period. The first tax return to be due hereunder is for year 2025.

(g) *Other Information.* Such other information respecting the business, properties or the condition or operations, financial or otherwise, of Borrower as Lender may from time to time reasonably request.

7.8. Estoppel Certificates . Within twenty (20) days after any request by Lender, Borrower shall certify in writing to Lender, the then unpaid balance of the Loan and whether Borrower claims any right of defense or setoff to the payment or performance of any of the Obligations, and if Borrower claims any such right of defense or setoff, Borrower shall give a detailed written description of such claimed right,

7.9. Notification by Borrower . Borrower will promptly give written notice to Lender of (i) Borrower's knowledge of the occurrence of any Default, and (ii) any claim by Borrower of a material default under any material Project document.

7.10. Indemnification by Borrower . To the extent permitted by law, Borrower agrees to indemnify Lender and to hold Lender harmless from and against, and to defend Lender by counsel approved by Lender against, any and all claims directly or indirectly arising out of or resulting from any transaction, act, omission, event or circumstance in any way connected with the Property or the Obligations (a "Claim"), including any Claim arising out of or resulting from (a) construction of the Improvements, including any defective workmanship or materials; (b) any failure by Borrower to comply with the requirements of any Laws or to comply with any agreement that applies to the Property; (c) any other Default hereunder or under any of the other Loan

Documents; or (d) any assertion or allegation that Lender is liable for any act or omission of Borrower or any other Person in connection with the ownership, development, financing, leasing, operation or sale of the Property; provided, however, that Borrower shall not be obligated to indemnify Lender with respect to any Claim arising solely from the gross negligence or willful misconduct of Lender. The agreements and indemnifications contained in this Section shall apply to Claims arising both before and after the repayment of the Loan and shall survive the repayment of the Loan, any foreclosure or deed, assignment or conveyance in lieu thereof and any other action by Lender to enforce the rights and remedies of Lender hereunder or under the other Loan Documents.

7.11. Appraisals . Lender may obtain from time to time an appraisal of all or any part of the Property prepared in accordance with written instructions from Lender, from a third-party appraiser satisfactory to, and engaged directly by, Lender. The cost of one such appraisal obtained by Lender in each calendar year and the cost of each such appraisal obtained by Lender following the occurrence of a Default shall be paid by Borrower on demand,

## **ARTICLE 8. DEFAULT**

8.1. Default by Borrower . The occurrence of any one or more of the following shall constitute a “Default” as such term is used herein:

(a) Borrower fails to make any payment of principal or interest due under the Note within five (5) days after the due date thereof, whether at maturity or otherwise;

(b) Borrower breaches or fails to perform any other term, covenant, or agreement contained in this Agreement and such breach continues for thirty days after written notice of such breach is provided by Lender to Borrower, provided that if such failure cannot be cured within such thirty-day period, it shall not constitute a Default hereunder if corrective action is instituted by the Borrower during such period and diligently pursued until such failure is cured by no later than ninety days after such notice;

(c) A Default occurs pursuant to the Term Loan;

(d) The failure or breach of any material representation or warranty of Borrower and the failure of Borrower to initiate any and all actions necessary to cure such failure or breach within ten (10) days after receipt of written notice to Borrower from Lender requesting that Borrower cure such failure or breach;

(e) The occurrence of an Act of Bankruptcy by Borrower;

(f) Borrower suffers any judgment in excess of \$50,000 to be entered against it that is not provided for in full by insurance or any writ of attachment or execution or any similar process to be issued or levied against any part of the Collateral;

(g) If Loan Proceeds or any part thereof are diverted to a purpose other than the purposes permitted by this Agreement;

(h) The occurrence of a default under any other Loan Document and continuance of such default beyond any applicable cure periods;

(i) If Borrower fails to make any payment due or otherwise defaults on any Indebtedness or other security for borrowed money or if any event (other than the mere passage of time) or any condition in respect of any Indebtedness or other security for borrowed money of Borrower or under any agreement securing or relating to such Indebtedness or other security for borrowed money shall occur and shall not cure such failure within any applicable period of grace as would, or would have permitted the holder or holders thereof or of any obligations issued thereunder to accelerate the maturity hereof, the effect of which is to cause (or permit any holder of such Indebtedness or other security or a trustee to cause) such Indebtedness or other security, or a portion thereof, to become due prior to its stated maturity or prior to its regularly scheduled dates of payment;

(j) Without the prior written consent of Lender, Managing Member ceases to be the Managing Member of Borrower;

(k) If Borrower permits or suffers to exist, without the prior written consent of Lender, any lien or encumbrance on all or any part of the Collateral other than a lien in favor of the Lender and the continuance of any such lien for thirty (30) days without discharge, satisfaction or bonding over;

(l) If Borrower defaults under the terms and conditions of any other agreement between it and the Lender, and such default has continued beyond any applicable cure period;

(m) The liquidation, termination or dissolution of Borrower; or

(n) A default occurs under any of the Term Loan Documents and continues beyond any applicable cure period.

The occurrence of a Default under any other Loan Document shall be deemed a Default under all other Loan Documents.

8.2. Lender's Remedies in the Default . Upon the occurrence of any Default, Lender, in addition to all remedies conferred upon Lender by law or equity, and by the terms of the Loan Documents, may, in its sole discretion, pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(a) Exercise any one or more of its rights and remedies under the Security Documents;

(b) Set off the amounts due Lender under the Loan Documents against any and all accounts, credits, money, securities or other property of Borrower now or hereafter on deposit with, held by or in the possession of Lender to the credit or for the account of Borrower, without notice to or the consent of Borrower;

(c) Withhold further disbursement of the Loan Proceeds, if applicable;

(d) Declare the entire balance of the Obligations, without demand or notice of any kind (which are hereby expressly waived) to be due and payable at once and, in such event, such Obligations shall become immediately due and payable; and

(e) Pursue such other remedies as may be available to Lender at Law or equity.

No delay or omission of Lender to exercise any right, power or remedy accruing upon the happening of a Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Default or any acquiescence therein. No remedy available to Lender under the Loan Documents or otherwise, is intended to be exclusive of any other remedies provided for in the Loan Documents, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under the Loan Documents, or now or hereafter existing at Law or in equity. Every right, power and remedy given by the Loan Documents to Lender shall be concurrent and may be pursued separately, successively or together against Borrower or the Property or any part thereof, and every right, power and remedy given by the Loan Documents may be exercised from time to time as often as may be deemed expedient by Lender.

## ARTICLE 9. GENERAL COVENANTS

9.1. No Assignments by Borrower . This Agreement may not be assigned by Borrower without the prior written consent of Lender. Borrower will remain liable for payment of all sums advanced hereunder before and after such assignment.

9.2. Intentionally Deleted .

9.3. Interest Not to Exceed Maximum Allowed by Law . If from any circumstances whatsoever, by reason of acceleration or otherwise, the fulfillment of any provision of this Agreement or any other Loan Document involves transcending the limit of validity prescribed by any applicable usury statute or any other applicable Law, with regard to obligations of like character and amount, then the obligations to be fulfilled will be reduced to the limit of such validity as provided in such statute or Law, so that in no event shall any payment of interest or other like charges be possible under this Agreement or the other Loan Documents in excess of the limit of such validity.

9.4. Time of the Essence . Time is of the essence of this Agreement.

9.5. No Agency . Lender is not the agent or representative of Borrower and Borrower is not the agent or representative of Lender, and nothing in this Agreement will be construed to make Lender liable to anyone for goods delivered or services performed upon the Premises or for debts or claims accruing against Borrower.

9.6. No Partnership or Joint Venture . Neither anything contained herein nor the acts of the parties hereto will be construed to create a partnership or joint venture between Borrower and Lender.

9.7. No Third Party Beneficiaries . All conditions to the obligations of Lender to make advances hereunder are imposed solely and exclusively for the benefit of Lender and its assigns and no other person will have standing to require satisfaction of such conditions or be

entitled to assume that Lender will not make disbursements in the absence of strict compliance with any or all thereof and no other person, under any circumstances, will be deemed to be beneficiary of such conditions, any or all of which may be waived in whole or in part by Lender at any time if Lender in its sole discretion deems it advisable to do so.

9.8. Waiver . No delay or omission by Lender to exercise any right or power arising from any Default will impair any such right or power or be considered to be a waiver of any such Default or any acquiescence therein nor shall the action or nonaction of Lender in case of Default on the part of Borrower impair any right or power arising therefrom. No disbursement of the Loan hereunder shall constitute a waiver of any of the conditions to Lender's obligation to make further disbursements nor, in the event Borrower is unable to satisfy any such condition, shall any such disbursement have the effect of precluding Lender from thereafter declaring such inability to be a Default as hereinabove provided.

9.9. Notices . All notices, requests, demands and other communications required or permitted to be given hereunder will be sufficiently given if in writing and delivered in person or sent by United States certified mail, return receipt requested, postage prepaid, to the party being given such notice at the appropriate address set forth in the first paragraph of this Agreement, or to such other address as either party may give to the other in writing for such purpose. All such notices, requests, demands and other communications, if so mailed, will be deemed to be given when so mailed. A copy of all notices to Borrower shall be sent to SparkHaus, LLC, c/o Northern Kentucky Riverport Authority, 300 Buttermilk Pike, Suite 332, Ft. Mitchell, KY 41017, Attn: Executive Director.

9.10. Partial Invalidity . In the event any one or more of the provisions contained in this Agreement shall be for any reason be held to be invalid, illegal or unenforceable in any respect, such validity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein.

9.11. Entire Agreement . This Agreement, the Loan Documents and the other contracts, agreements and instruments described herein contain all of the terms and conditions related to the disbursement of the Loan by Lender and the use of the Loan by Borrower. This Agreement may not be modified or amended except in writing signed by Borrower and Lender.

9.12. Publicity . Borrower hereby gives Lender permission to release articles concerning financing of the Premises. At the request of Lender, Borrower shall erect a sign or add Lender's name to the construction sign on the Project site identifying Lender's financing of the Project.

9.13. WAIVER OF JURY TRIAL . TO THE EXTENT PERMITTED BY LAW, BORROWER AND LENDER HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT AND TO ANY OF THE LOAN DOCUMENTS, THE OBLIGATIONS HEREUNDER OR THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO.

BORROWER AND LENDER EACH REPRESENT TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

9.14. Further Assurances . Borrower agrees that at any time, and from time to time, after execution and delivery of this Agreement, it shall, upon the request of Lender, execute and deliver such further documents and do such further things as Lender may reasonably request in order to more fully effectuate the purposes of this Agreement.

9.15. Governing Law . This Agreement shall be governed by and construed in accordance with the Laws of the Commonwealth of Kentucky.

9.16. Severability . In the case one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect the validity of the remaining provisions shall be in no way affected, prejudiced or disturbed thereby.

9.17. Intentionally Deleted .

9.18. Electronic Transmission of Data . Lender and Borrower agree that certain data related to the Loan (including confidential information, documents, applications and reports) may be transmitted electronically, including transmission over the Internet to the parties, the parties affiliates, agents and representatives, and other Persons involved with the subject matter of this Agreement. Borrower acknowledges and agrees that (a) there are risks associated with the use of electronic transmission and that Lender does not control the method of transmittal or service providers, (b) Lender has no obligation or responsibility whatsoever and assumes no duty or obligation for the security, receipt or third party interception of any such transmission, and (c) Borrower will release, hold harmless and indemnify Lender from any claim, damage or loss, including that arising in whole or part from Lender's strict liability or sole, comparative or contributory negligence, which is related to the electronic transmission of data.

9.19. Forum . Borrower hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court or any United States federal court sitting in Covington, Kentucky with respect to any matter or dispute (a "Dispute") arising in connection with the Loan, the Project or Premises. Borrower hereby irrevocably waives, to the fullest extent permitted by Law, any objection that Borrower may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Borrower hereby agrees and consents that, in addition to any methods of service of process provided for under applicable Law, all service of process in any such Dispute may be made by certified or registered mail, return receipt requested, directed to Borrower at its address for notice set forth in this Agreement, and service so made shall be complete five (5) days after the same shall have been so mailed. Nothing herein shall affect the right of Lender to serve process in any manner permitted by Law or limit the right of Lender to bring proceedings against Borrower in any other court or jurisdiction.

9.20. USA Patriot Act Notice . Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), Lender is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow Lender to identify Borrower in accordance with the Act.

9.21. Counterparts . This Agreement may be executed in several counterparts, all of which shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatories to the same counterpart.

(Remainder of Page Intentionally Left Blank)

EXECUTED ON THE DAY AND YEAR FIRST ABOVE WRITTEN,

**SPARKHAUS, LLC**, a Kentucky limited liability company

By: SparkHaus GP, LLC, its Managing Member

By: \_\_\_\_\_  
Christine Robertson, Manager

**KENTON COUNTY, KENTUCKY**, a political subdivision of the Commonwealth of Kentucky

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

EXHIBIT A - REAL ESTATE

SparkHaus

EXHIBIT B – PROJECT BUDGET

EXHIBIT C – DRAW REQUISITION CERTIFICATE