
BORROWER LOAN AGREEMENT

by and between

**CITY OF SAN JOSE,
as Governmental Lender**

and

**PAGE STREET, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,
as Borrower**

dated as of October 1, 2020

relating to:

**[\$ _____]
Funding Loan originated by BANK OF THE WEST, as Funding Lender
from the proceeds of the**

**[\$ _____]
City of San José
Multifamily Housing Revenue Construction/Permanent Note
(Page Street Studios), Series 2020B-1**

and

**City of San José
[\$ _____]
City of San José
Multifamily Housing Revenue Construction Note
(Page Street Studios), Series 2020B-2**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain Unassigned Rights, as described herein) has been pledged and assigned to Bank of the West, as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and among the CITY OF SAN JOSE (the "Governmental Lender"), the Fiscal Agent and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

BORROWER LOAN AGREEMENT

THIS BORROWER LOAN AGREEMENT (as amended, modified and/or restated from time to time, this "Borrower Loan Agreement") is entered into as of October 1, 2020, between the CITY OF SAN JOSE, a municipal corporation and charter city of the State of California (together with its successors and assigns, the "Governmental Lender") and Page Street, L.P., a California limited partnership (together with its successors and assigns, the "Borrower").

RECITALS:

WHEREAS, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Chapter 5 of Division 7 of Title 1 of the California Governmental Code (the "Act"); and

WHEREAS, the Governmental Lender is authorized, among other things, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the California Health and Safety Code (the "Housing Act"), in accordance with the Act, (a) to make loans to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing to be occupied in part by persons meeting the income limits set forth in the Act; (b) to incur indebtedness that is a limited obligation of the Governmental Lender for the purpose of obtaining money to make such loans and provide such financing; and (c) to pledge the revenues and receipts to be received by the Governmental Lender from or in connection with such loans to borrowers, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender received in connection with such loans in order to secure the payment of the principal of, Prepayment Premium (defined below), if any, and interest on such indebtedness of the Governmental Lender; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the "Borrower Loan") for the acquisition and construction of an 82-unit (including one manager's unit) multifamily rental housing project located at 333 Page Street, San Jose, California, known or to be known as Page Street Studios (as more particularly defined herein, the "Project"); and

WHEREAS, the Borrower's repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Notes, as defined herein; and

WHEREAS, the Borrower has requested that the Governmental Lender enter into that certain Funding Loan Agreement, dated as of October 1, 2020 (the "Funding Loan Agreement"), among the Governmental Lender, U.S. Bank National Association, as fiscal agent (the "Fiscal Agent"), and Bank of the West, a California banking corporation (the "Funding Lender"), under which the Funding Lender will make a loan (the "Funding Loan") to the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement by the Governmental Lender to the Borrower to finance costs of the acquisition, construction, development and/or equipping of the Project; and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Construction Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time, the "Trust Deed"), dated as of October 1, 2020, for the benefit of the Governmental Lender, and assigned without recourse by the Governmental Lender to the Funding Lender to secure the Funding Loan, which Trust Deed encumbers the Project, and the Borrower Loan will be advanced to the Borrower pursuant to this Borrower Loan Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1 Specific Definitions. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Trust Deed or, if not defined in the Trust Deed, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles as in effect from time to time ("GAAP").

(c) All references in this instrument to designated "Articles," "Sections," "Exhibits" and other subdivisions are to the designated Articles, Sections, Exhibits and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words "hereof," "herein" and "hereunder" and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined, and (iv) the word "including" means "including but not limited to."

Section 1.2 Definitions. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

"Act" has the meaning given such term in the first recital to this Borrower Loan Agreement.

"Additional Borrower Payments" shall mean, collectively, the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments In Default), Section 6.4 (Disbursement Limits; Deficiency of Borrower Loan Funds), and Section 8.40 (Expenses) of this Borrower Loan Agreement, and Section 10 of each of the Borrower Notes (Voluntary and Involuntary Prepayments).

"Affiliate" has the meaning given such term in the Funding Loan Agreement.

"Agency" means, individually and collectively, the California Tax Credit Allocation Committee, and any other Governmental Authority responsible for the allocation of the LIHTC allocated for the Improvements.

"Agreement to Furnish Insurance" shall mean the Agreement to Furnish Insurance, dated as of _____, 2020, by the Borrower to the Funding Lender.

"AHAP" means that certain Agreement to Enter Housing Assistance Payments Contract executed on or about the date of this Borrower Loan Agreement by Borrower and the Housing Authority with respect to the Section 8 Subsidy.

"AHAP Assignment" means an assignment of the AHAP executed by Borrower in favor of Governmental Lender, dated as of even date herewith, in form and substance acceptable to Lender in its sole and absolute discretion, and consented to by the Housing Authority.

"Anti-Corruption Laws" shall mean all laws, rules, and regulations of any jurisdiction applicable to Borrower or any of its Affiliates from time to time concerning or relating to bribery or corruption.

"Approved Affiliate" has the meaning given to such term in Section 8.25 hereof.

"Architect" shall mean David Baker, an Architectural Corporation, a California corporation, being the person or firm employed by Borrower to design and/or supervise the construction of the Project.

"Architect's Agreement" shall mean that certain _____ dated _____ by and between Borrower and Architect, as the same may be amended from time to time in accordance with the terms of this Borrower Loan Agreement.

"Assignment of Agreements" shall mean the Assignment of Agreements, Permits, Licenses and Approvals (Architectural, Engineering & Construction Contracts), dated of even date herewith by Borrower, with consents thereto executed by General Contractor, Architect and Engineer, as amended, modified and/or restated from time to time.

"Assignment of Development Agreement" shall mean the Assignment of Rights Under Development Agreement executed of even date herewith by Borrower, and consented thereto executed by Developer, as amended, modified and/or restated from time to time.

"Assignment of Property Management Agreement" shall mean the Assignment of Property Management Agreement executed by Borrower, and consented thereto and executed by Property Manager, as amended, modified and/or restated from time to time.

"Authorized Borrower Representative" shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Fiscal Agent and the Funding Lender and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

"Beneficial Ownership Certification" shall mean a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" shall mean 31 C.F.R. § 1010.230 and any successor or replacement thereof.

"Beneficiary Parties" shall mean, collectively, the Funding Lender, the Fiscal Agent and the Governmental Lender.

"Borrower" shall have the meaning given such term in the first paragraph of this Borrower Loan Agreement.

"Borrower Construction Note" shall mean that certain Multifamily Construction Note dated as of the Initial Closing Date in the original maximum principal amount of \$_____ made by Borrower and payable to Governmental Lender, as endorsed and assigned without recourse by the Governmental Lender to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Borrower Construction/Permanent Note" shall mean that certain Multifamily Construction/Permanent Note dated as of the Initial Closing Date in the original maximum principal amount of \$_____ made by Borrower and payable to Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Borrower Controlling Entity" shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower (or the sole member of any such general partner or managing partner), or if the Borrower is a limited liability company, the manager or managing member of the Borrower (or the sole manager or managing member of any such manager or managing member), or if the Borrower is a not for profit corporation, the shareholders thereof.

"Borrower Loan" shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Notes.

"Borrower Loan Agreement" shall mean this Borrower Loan Agreement, as amended, modified and/or restated from time to time.

"Borrower Loan Amount" shall mean [\$_____], being the combined original maximum principal amount of the Borrower Notes.

"Borrower Loan Documents" shall mean this Borrower Loan Agreement, the Borrower Notes, the Trust Deed, the Environmental Indemnity, the Guaranty, the Regulatory Agreement and all other documents or agreements evidencing or relating to the Borrower Loan, each as amended, modified and/or restated from time to time .

"Borrower Loan Fee" shall mean the fee to be paid to the Funding Lender in consideration for the Funding Lender's agreeing to make the Funding Loan and entering into the Funding Loan Agreement and this Borrower Loan Agreement, which fee shall not be subject to reduction or be refundable under any and all circumstances, and which

fee is payable upon Recordation of the Trust Deed in an amount as agreed upon by the Funding Lender and the Borrower in the Fee Letter.

"Borrower Loan Payment Date" shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Notes, or (ii) any other date on which one or more of the Borrower Notes are prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

"Borrower Loan Payments" shall mean the monthly loan payments payable pursuant to the Borrower Notes.

"Borrower Loan Proceeds" shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Articles V and VI hereof.

"Borrower Note" or "Borrower Notes" shall mean, individually or collectively, as the context shall require, the Borrower Construction Note and the Borrower Construction/Permanent Note, each as amended, modified and/or restated from time to time.

"Borrower Payment Obligations" shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

"Borrower's Equity" shall mean the minimum sum of \$_____ to be contributed by Borrower to the Project as provided in this Borrower Loan Agreement. Borrower's Equity may include the cash paid by Borrower for the Project of \$_____ as supported by a fully executed settlement statement in connection with the acquisition of the Project by Borrower, and cash in the amount of \$_____, with any such amounts not paid in cash at closing, evidenced to Funding Lender as being contributed to the Improvements by Borrower prior to the Initial Disbursement and in all cases subject to Funding Lender's review and approval of the same.

"Borrower's Funds" shall mean, in addition to any amounts previously expended and included in Borrower's Equity, the initial sum of \$_____ to be made available by Borrower in a form satisfactory to Funding Lender prior to Recordation for disbursement in the manner and for the purposes herein described, and any additional sums required to be deposited by Borrower in accordance with the terms of this Borrower Loan Agreement.

"Borrower's Funds Account" shall mean a special non-interest bearing account held by the Funding Lender into which Borrower's Funds, when requested by Funding Lender, shall be deposited pending disbursement in the manner and for the purpose herein described. Borrower's Funds deposited in this account shall secure the Borrower Loan and be disbursed before further proceeds of the Borrower Loan are disbursed.

"Borrower's Interest" shall mean the per annum rate or rates of interest to be paid to the Funding Lender in respect of the Borrower Loan as set forth in the Borrower Notes.

"Building" shall mean any structure intended for commercial or multifamily use and occupancy.

"Business Day" shall mean any day, other than a Saturday or Sunday, on which Funding Lender is open for business for the funding of commercial real estate loans, and, with respect to LIBOR or One Month LIBOR (as defined in the Borrower Construction Note), a day on which dealings are carried on in the London interbank market and banks are open for business in London.

"CC&R's" shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Property.

"Change in Law" shall mean the occurrence, after the date of this Borrower Loan Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty (including any rules or regulations issued under or implementing any existing law), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (having the force of law) by any Governmental Authority; provided, however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines and directives promulgated by Funding Lender for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, issued or implemented.

"Change Orders" shall mean any amendments or modifications to the Plans and Specifications, General Contract, the Site Improvement Contract or any subcontract.

"City" shall mean the City of San José, a municipal corporation of the State of California.

"City Loan" has the meaning given such term in EXHIBIT D of this Borrower Loan Agreement.

["City Restrictive Agreement" shall mean _____]

["City Subordination Agreement" shall mean that certain Subordination Agreement, dated on or about the date of this Borrower Loan Agreement, by and among the Borrower, the Funding Lender and the City.]

"Code" shall mean the Internal Revenue Code of 1986 as in effect on the Initial Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Initial Closing Date, together with applicable Treasury Regulations.

"Collateral" shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Trust Deed, or (iii) any Security Agreements, which Collateral shall include the Project, all of which collateral is pledged and assigned to Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

"Commodity Exchange Act" shall mean The Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, any successor statute, and any rules, regulations and orders applicable thereto.

"Completion Date" shall mean the date of required completion of construction of all of the Improvements and issuance of all licenses and permits necessary for the occupancy and use thereof, which is, as to all of the Improvements, _____, 20____.

"Completion Guarantor" shall mean the person(s) obligated on a Completion Guaranty, initially Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation.

"Completion Guaranty" shall mean an agreement, executed and delivered by the Completion Guarantor, on the Funding Lender's form, guaranteeing completion of the Improvements, as amended, modified and/or restated from time to time.

"Computation Date" shall have the meaning given such term in Section 1.148-3(e) of the Treasury Regulations.

"Conditions to Conversion" shall have the meaning given such term in Borrower Construction/Permanent Note.

"Construction Consultant" shall mean a third-party architect or engineer selected and retained by Funding Lender, at the cost and expense of Borrower, to monitor the progress of construction and/or rehabilitation of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

"Construction Contract" shall mean any agreement that Borrower and any contractor from time to time may execute pursuant to which Borrower engages the contractor to construct or rehabilitate any portion of the Improvements, as approved by Funding Lender.

"Construction Schedule" has the meaning given such term in Section 5.1.6 of this Borrower Loan Agreement.

"Contingency Draw-Down Agreement" shall mean the Contingency Draw-Down Agreement, dated as of October 1, 2020, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from, in part, a draw down loan to a fully funded loan.

"Continuing Disclosure Agreement" shall mean that certain Continuing Disclosure Agreement dated as of October 1, 2020, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Initial Closing Date, as amended, supplemented or restated from time to time.

"Conversion" shall mean Funding Lender's determination that the Conditions to Conversion have been satisfied in accordance with the provisions of Article III of this Borrower Loan Agreement and the Borrower Construction/Permanent Note.

"Conversion Date" shall mean the date to be designated by Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with Article III hereof and the Borrower Construction/Permanent Note have been made, and which shall occur not later than the Outside Conversion Date.

"Cost Breakdown" shall mean an itemized schedule of hard and soft costs of constructing and completing the Improvements, to be submitted to and approved by the Funding Lender, with such subsequent changes as Borrower deems necessary or desirable and as are approved by the Funding Lender in writing pursuant to Section 8.6 or as otherwise determined by the Funding Lender. The initial Cost Breakdown is attached to this Borrower Loan Agreement as EXHIBIT A.

"Costs of Funding" shall mean the Governmental Lender's Closing Fee and all other fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, Borrower's counsel, Fiscal Agent's counsel and Funding Lender's counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) printing costs (for any preliminary and final offering materials relating to the Funding Loan); (v) any recording fees; and (vi) costs incurred in connection with the required public notices generally and costs of the public hearing held by the City in connection with the Funding Loan.

"Costs of Funding Deposit" shall mean the amount required to be deposited by the Borrower with the Title Company and/or Fiscal Agent to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Initial Closing Date.

"County" shall mean the County of Santa Clara, California.

["County Loan" has the meaning given such term in EXHIBIT D of this Borrower Loan Agreement.]

["County Restrictive Agreement" shall mean _____]

["County Subordination Agreement" shall mean that certain Subordination Agreement, dated on or about the date of this Borrower Loan Agreement, by and among the Borrower, the Funding Lender and the County.]

"Cumulative Change Order Amount" shall mean \$50,000.00.

"Date of Disbursement" shall mean the date of a Disbursement.

"Day" or "Days" shall mean calendar days unless expressly stated to be Business Days.

"Debt" shall mean, as to any Person, any of such Person's liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

"Default Interest" shall mean the rate of interest specified in each Borrower Note which shall be in effect with respect to the indebtedness evidenced by each Borrower Note upon the occurrence of an Event of Default.

"Determination of Taxability" shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Notes issued by the National Office of the Internal Revenue Service in which Funding Lender and Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Notes is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Notes, other than a holder who is a "substantial user" of the Project or a "related person" (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

"Developer" shall mean Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation.

"Developer Fee" shall mean the fees and/or compensation payable to Developer under the Development Agreement, which fees and/or compensation shall not be paid prior to the Conversion Date except as permitted pursuant to an approved developer fee schedule attached as EXHIBIT C hereto and by this reference made a part hereof.

"Development Agreement" shall mean that certain _____ dated October __, 2020, by and between Borrower and Developer, and any and all extensions, renewals, modifications, amendments, supplements and replacements thereto and therefor.

"Disbursement" shall mean any disbursement of the proceeds of the Borrower Loan.

"Draw Request" shall mean a certified draw request for progress payments as customarily used by the Funding Lender, the form of which has been delivered by the Funding Lender and received by the Borrower concurrently with the execution hereof, or its equivalent acceptable to the Funding Lender, made by or on behalf of Borrower,

setting forth the amount of the Disbursement requested in each instance and, if requested by Funding Lender, including:

(i) a statement in form and substance reasonably acceptable to Funding Lender, certified by the General Contractor, with respect to hard costs, and by Borrower with respect to soft costs;

(ii) a "Contractor's Cost Certification" from the General Contractor on the then current version of AIA Document G702 or other form reasonably satisfactory to Funding Lender;

(iii) Payment receipts/lien waivers from contractors in form reasonably approved by Funding Lender, with respect to amounts previously paid to such Persons since the date of the previous Draw Request; and

(iv) proof of payment of all soft costs previously paid by Borrower in respect of the Project since the date of the previous Draw Request, together with written documentation, reasonably satisfactory to Funding Lender, with respect to any such soft costs not previously paid.

"Employee Benefit Plan " shall mean an employee benefit plan as defined in Section 3(3) of ERISA, maintained, sponsored by or contributed to by Borrower or any ERISA Affiliate.

"Engineer" shall mean _____, being the firm that provided or is providing engineering services for the Project.

"Engineer's Agreement" shall mean that certain _____ dated _____ by and between Borrower and Engineer, as the same may be amended from time to time in accordance with the terms of this Borrower Loan Agreement.

"Environmental Indemnity" shall mean the Environmental Indemnity Agreement, of even date herewith, executed by Borrower and Guarantor, as amended, modified and/or restated from time to time.

"Equity Contributions" shall mean the equity to be contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement.

"Equity Investor" shall mean Hudson Page Street LP, a Delaware limited partnership, and its permitted successors and assigns.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute.

"ERISA Affiliate" shall mean Borrower or any corporation, trade or business that along with Borrower is treated as a single employer under Sections 414(b), 414(c), 414(m) or 414(o) of the Code.

"Event of Default" shall mean any Event of Default set forth in Article IX of this Borrower Loan Agreement. An Event of Default shall "exist" if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excluded Taxes" shall mean, with respect to the Beneficiary Parties or any other recipient of any payment to be made by or on account of any obligation of Borrower hereunder, (a) Taxes imposed on or measured by its overall net income (however denominated), and franchise Taxes imposed on it (in lieu of net income Taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of Funding Lender, in which its applicable lending office is located, (b) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction in which Borrower is located, and (c) any U.S. federal withholding Taxes imposed under FATCA.

"Expenses" shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents, or from the proceeds of an insurance policy), a property management fee, costs of insurance, costs of social services, coordination fees, costs of audits and any Funding Lender–required monthly deposit to any replacement reserve for the Project. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

"Extended Outside Conversion Date" shall mean _____, 20____, in the event the extension is granted as provided in the Borrower Construction/Permanent Note.

"FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Borrower Loan Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"FCPA" shall mean The Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"Fair Market Value" shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is

a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

"Fee Letter" shall mean that certain Fee Letter of even date herewith executed between Borrower and Funding Lender, as amended, modified and/or restated from time to time.

"Financial Statements" shall mean, collectively, a statement of funds and balances, profit and loss statement, balance sheet, and statement of retained earnings for the applicable period of time and Person specified herein or by Funding Lender, together with such other financial reports that Funding Lender may require, in form and substance satisfactory to Funding Lender.

"Fiscal Agent" shall mean the Fiscal Agent from time to time under and pursuant to the Funding Loan Agreement. Initially, the Fiscal Agent is U.S. Bank National Association.

"Force Majeure" has the meaning given to such term in Section 8.5 hereof.

"Funding Lender" shall mean Bank of the West, a California banking corporation, in its capacity as lender under the Funding Loan Agreement.

"Funding Loan" shall mean the Funding Loan in the original maximum principal amount of [\$_____] made by Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

"Funding Loan Agreement" shall mean the Funding Loan Agreement, dated as of October 1, 2020, among the Governmental Lender, the Fiscal Agent and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

"Funding Loan Documents" shall have the meaning given to that term in the Funding Loan Agreement.

"GAAP" shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

"General Contract" shall mean the contract between Borrower and General Contractor for construction of the Improvements, as the same may be amended from time to time in accordance with the terms of this Borrower Loan Agreement.

"General Contractor" shall mean L & D Construction Co., Inc., a California corporation.

"General Partner" shall mean, collectively, (i) Page Street Charities LLC, a California limited liability company, and/or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender's approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

"Governmental Authority" shall mean the authority of the United States, the State or any political subdivision thereof, any city and any agency, department, commission, board, bureau or instrumentality of any of them.

"Governmental Lender" shall have the meaning set forth in the first paragraph of this Borrower Loan Agreement.

"Governmental Lender Annual Fee" shall have the meaning given to the term "Annual City Fee" in the Regulatory Agreement.

"Governmental Lender Construction/Permanent Note" shall mean that certain City of San José Multifamily Housing Revenue Construction/Permanent Note (Page Street Studios), Series 2020B-1, dated the Initial Closing Date, in the original maximum principal amount [\$ _____], made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Governmental Lender Construction Note" shall mean that certain City of San José Multifamily Housing Revenue Construction Note (Page Street Studios), Series 2020B-2, dated the Initial Closing Date in the original maximum principal amount \$ _____, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Governmental Lender Notes" or "Governmental Lender Note" shall mean, collectively or individually, as the context shall require, the Governmental Lender Construction/Permanent Note and the Governmental Lender Construction Note, each as amended, modified and/or restated from time to time.

"Governmental Lender's Closing Fee" shall mean the Initial City Fee (as defined in the Regulatory Agreement).

"Governmental Requirement" or "Local Requirement" shall mean any law, ordinance, order, rule or regulation of a Governmental Authority or the Local Authority, respectively, including, but not limited to, the applicable general and specific plans, if any, and the zoning, subdivision, grading and building ordinances, any applicable tentative subdivision map and conditions of approval thereof, and any conditional use permits, planned development permit or plan and the conditions of approval thereof.

"Gross Income" shall mean all receipts, revenues, income and other money received or collected by or on behalf of Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such

rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

"Gross Proceeds" shall mean, without duplication, the aggregate of:

(a) the net amount (after payment of all Costs of Funding) of Funding Loan proceeds received by or on behalf of the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

"Ground Lease" shall mean that certain Ground Lease dated on or about the date of this Borrower Loan Agreement by and between the County, as landlord, and the Borrower, as tenant.

"Guarantor" shall mean, individually and collectively, jointly and severally, the Guarantor of obligations evidenced by the Borrower Notes, being Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation.

"Guaranty" shall mean, individually and collectively, jointly and severally, the guaranty, executed by the Person or Persons named herein as Guarantor which guarantees the performance of Borrower's obligations pursuant to the Borrower Notes and any other obligations referred to in such Guaranty, as amended, modified and/or restated from time to time.

"Housing Act" has the meaning given such term in the second recital to this Borrower Loan Agreement.

"Housing Authority" means _____.

"Improvements" shall mean the Site Improvements for the Property and the Building to be constructed on the Property, structures and other improvements, existing and to be developed, built and constructed by Borrower on the Property.

"Indemnified Party" shall have the meaning set forth in Section 8.41 hereof.

"Indemnified Taxes" shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under any Borrower Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Initial Closing" shall mean the time of the execution and delivery hereof by Borrower and Governmental Lender.

"Initial Closing Date" shall mean October ____, 2020, being the date of the initial advance of the Funding Loan under the Funding Loan Agreement, and of the Borrower Loan under this Borrower Loan Agreement.

"Initial Disbursement" shall mean the payment upon Recordation of the Trust Deed of costs, charges, expenses and items associated with the Borrower Loan, as set forth in Section 6.1 hereof.

"Initial Disbursement Schedule" shall mean the schedule of the disbursement of the Initial Disbursement proceeds of the Borrower Loan as approved by Funding Lender.

"Installment Computation Date" shall mean any Computation Date other than the first Computation Date or the final Computation Date.

"Insurance Agreement" shall mean the Agreement to Furnish Insurance executed by Borrower in favor of Funding Lender.

"Interest Rate Hedge Deposit Account" shall mean an account maintained at Funding Lender (or any replacement account maintained at Funding Lender) that is designated by Funding Lender as the Interest Rate Hedge Deposit Account for purposes of this Borrower Loan Agreement.

"Interest Rate Hedge Obligations" shall mean all obligations of a Person, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) under (i) any and all Interest Rate Hedge Transactions, or any other agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act, and (ii) any and all cancellations, buy-backs, reversals, terminations or assignments of any Interest Rate Hedge Transactions.

"Interest Rate Hedge Transaction" shall mean any transaction (including an agreement with respect thereto) now existing or hereafter entered into between Borrower and Funding Lender or an Affiliate of Funding Lender, or between Borrower and any third party with respect to the Borrower Loan, which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

"Interest Reserve" shall mean a portion of the Borrower Loan, in the amount described in the Cost Breakdown, which is to be set aside and reserved solely for the payment of interest on the Borrower Loan and amounts payable under any Interest Rate Hedge Obligations.

"Item" shall have the meaning set forth in Section 8.6(b) hereof.

"Late Charge" shall mean the amount due and payable as a late charge on overdue payments under the Borrower Notes, as provided in Section 7 of each Borrower Note and Sections 2.5(a)(v) and 2.6 hereof.

"Lease" shall mean a written agreement between Borrower, as landlord, and a Tenant concerning premises in the Project leased by such Tenant, which shall be in form and substance subject to the Funding Lender's approval.

"Leasehold Recognition Agreement" shall mean that certain Leasehold Deed of Trust Recognition Agreement related to the Ground Lease, dated on or about the date of this Borrower Loan Agreement, by and among the Borrower, the Funding Lender and County.

"Legal Action" shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

"Legal Requirements" shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) or the construction, rehabilitation, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

"Liabilities" shall have the meaning set forth in Section 8.41 hereof.

"Lien" shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, judgments, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

"LIHTC" means the low income housing tax credits allocated for the Improvements by the Agency.

"LIHTC Allocation Agreement" means, individually and collectively, (i) that certain tax exempt reservation letter with state credits dated [] from the Agency to Borrower indicating that Borrower is entitled of a reservation of LIHTC under the [2020] low income housing tax credit program for the Improvements and (ii) any successive document or instrument or any continuation, or finalization of each reservation or allocation with respect to the Improvements.

"LIHTC Documents" shall mean all documents that evidence, guaranty, secure or otherwise pertain to the LIHTC, including, without limitation, the LIHTC Allocation Agreement and any regulatory agreement or use restrictions of the Agency.

"Local Authority" shall mean any Governmental Authority which exercises jurisdiction over the Property or construction thereon.

"Material Change" shall have the meaning set forth in Section 8.6(b).

"Material Adverse Change" shall mean any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition or results of operations of the Borrower, the General Partner, Guarantor or the Property; (c) could reasonably be expected to impair materially the ability of the Borrower the General Partner, or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

"Maximum DSC Amount" has the meaning given such term in Section F of Exhibit E hereof.

"Nonpurpose Investment" shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

"Obligor" shall mean Borrower, each Guarantor, each general partner of Borrower or Guarantor (if Borrower or such Guarantor is a partnership, or the sole member of any general partner of Borrower), and any guarantor, co-maker, endorser, or any person or entity other than Borrower providing security for the Borrower Notes.

"OFAC" shall mean the Office of Foreign Assets Control of the United States Department of the Treasury.

"Off-Site Materials" has the meaning given to such term in Section 8.7(e) hereof.

"Operating Statements" has the meaning given to such term in Section 13.1(d).

"Other Connection Taxes" shall mean, with respect to any recipient, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Taxes (other than a connection arising from such recipient having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced any Borrower Loan

Document, or sold or assigned an interest in the Borrower Loan or any Borrower Loan Document).

"Other Taxes" shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Borrower Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Outside Conversion Date" shall mean _____, 20_____.

"Partnership Agreement" shall mean the Amended and Restated Agreement of Limited Partnership of the Borrower.

"Partnership Documents" shall mean the Partnership Agreement and all other documents now or hereafter executed by the Borrower's partners in connection with the admission of Equity Investor and Special LP as partners of Borrower and payment of the Equity Contributions.

"Partnership Interest Assignment" shall mean that certain Security Agreement (Assignment of Partnership Interest and Capital Obligations) dated as of even date herewith, by Borrower and General Partner, in favor of Bank, as amended, modified and/or restated from time to time.

"Patriot Act" shall have the meaning set forth in Section 15.34 hereof.

"Permanent Lender" shall mean [the County], the [City], [Charities Housing Development Corporation of Santa Clara County], Housing Trust of Silicon Valley and, following Conversion, the Governmental Lender.

"Permanent Loan" has the meaning given to such term in the Borrower Construction/Permanent Note.

"Permanent Closing Date" shall mean, on the Conversion Date, the satisfaction in immediately available funds of the Borrower Construction Note and payment of the Pre-Conversion Loan Equalization Payment, if any, in connection with the consummation of a loan or loans from Permanent Lender (other than Governmental Lender) to the Borrower or pursuant to the Permanent Loan Commitment, including the execution and delivery of a note or notes and a mortgage or trust deed satisfactory to Permanent Lender.

"Permanent Loan Commitment" means (i) the commitment from the County to provide permanent loan financing for the Project of up to \$[8,760,000] to Borrower and (ii) the commitment from the City to provide permanent loan financing for the Project of up to \$8,611,968 to Borrower, in each case subject to the terms and conditions set forth in the letter or other agreement that evidences each such commitment, and all other documents executed in connection with such financing commitment, as the same may be amended from time to time in accordance with this Borrower Loan Agreement, which constitutes a material source to Funding Lender for repayment of the Funding Loan evidenced by the Governmental Lender Construction Note.

"Permanent Period Amount" shall mean the amount of the Funding Loan determined in connection with Conversion pursuant to the provisions of the Borrower Construction/Permanent Note.

"Permitted Lease" shall mean a lease and occupancy agreement pursuant to the form approved by Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

"Permitted Liens" shall mean: (i) liens and security interest securing the Borrower Loan; (ii) liens for taxes, assessments or similar charges not yet due; (iii) liens of materialmen, mechanics, warehousemen, or carriers or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent, (iv) purchase money liens or purchase money security interest upon or in any property acquired or held by the Borrower in the ordinary course of business to secure Debt outstanding on the date of this Borrower Loan Agreement or permitted to be incurred herein; (v) liens and security interests which, as of the date of this Borrower Loan Agreement, have been disclosed to and approved by Funding Lender in writing; and (vi) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

"Permitted Purpose" has the meaning given to such term in Section 8.56.

"Permitted Transfer" has the meaning given to such term in Section 8.25 hereof.

"Person" shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

"Personal Property" shall mean that property described in the Trust Deed or Security Agreements which is not Real Property and which is collateral for the Borrower Loan.

"Plan Assets" shall mean the assets of an employee benefit plan within the meaning of 29 C.F.R. 2510.3-101.

"Plans and Specifications" shall mean all of the plans and specifications for the construction of the Improvements (including the General Conditions set forth by the FHA, VA or American Institute of Architects whichever is appropriate or whichever is incorporated in the specifications or other General Conditions and any addenda thereto) prepared by Borrower's Architect, and approved as required herein and all amendments and modifications thereof made by Change Orders (which, to the extent required under Section 8.6(b), have been approved by Funding Lender), including all architectural drawings and renderings, reports, engineering plans and specifications, reports and plans, surveys and any other instrument or document designated by the Funding Lender, all of which are subject to approval by the Funding Lender.

"Potential Default" shall mean the occurrence of an event which, under this Borrower Loan Agreement or any other Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an Event of Default.

"Pre-Conversion Loan Equalization Payment" shall have the meaning set forth in Section 3.3(a) hereof.

"Prepayment Premium" shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Notes (including any Prepayment Premium as set forth in the related Borrower Notes).

"Project" shall mean the acquisition and construction of an 82-unit multifamily rental housing project known as Page Street Studios, located in the City on the real property site described in Exhibit A to the Regulatory Agreement and shall collectively include the Property and the Improvements.

"Project Costs" shall mean all costs of acquisition of the Property, if any, the design, development and construction of the Improvements, and related insurance, carrying costs and financing costs of the Project incurred prior to or during the term of this Borrower Loan Agreement.

"Project Documents" shall mean, collectively, the Development Agreement, the Property Management Agreement, the Permanent Loan Commitment, the Subordinate Loan Documents, the Ground Lease, and any other agreement relating to the ownership, financing, development or operation of the Improvements to which Borrower is a party or beneficiary, whether now existing or hereafter arising; provided, however, that Project Documents shall not include the Partnership Documents (other than the Development Agreement), the Borrower Loan Documents, the Leases, the AHAP, the Section 8 HAP Contract (following its execution), the General Contract, the Engineer's Contract, the Architect's Agreement or any subcontract relating to the construction of the Improvements.

"Property" or "Real Property" shall mean the leasehold interest in that certain real property located in the City, a legal description of which is attached to or is otherwise incorporated in the Trust Deed and the Regulatory Agreement, and on which the Improvements are to be constructed.

"Property Management Agreement" shall mean the Management Agreement between the Borrower and the Property Manager, pursuant to which the Property Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Property Manager" shall mean _____.

"Provided Information" shall have the meaning set forth in Section 14A.1.1 (a) hereof.

"Qualified ECP Guarantor" shall mean, in respect of any Interest Rate Hedge Obligation, each Guarantor that, at the time the relevant guaranty (or grant of the relevant security interest, as applicable) becomes effective with respect to such Interest Rate Hedge Obligation, has total assets exceeding \$10,000,000 or otherwise constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another Person to qualify as an "eligible contract

participant" with respect to such Interest Rate Hedge Obligation at such time by entering into a keepwell pursuant to section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Qualified Project Costs" shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Treasury Regulations, provided, however, that only such portion of the interest accrued during the rehabilitation or construction of the Project (in the case of rehabilitation, with respect to vacated units only) shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction or rehabilitation of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed or rehabilitated by an Affiliate of the Borrower (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing or rehabilitating the Project (or any portion thereof), and (B) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an "affiliated group" (within the meaning of Section 1504 of the Code) participating in the rehabilitation or construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to November 14, 2019, being the date on which the Director of Finance and the Director of Housing of the Governmental Lender adopted Declaration No. 2019-5 declaring the Governmental Lender's "official intent" to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Treasury Regulations), and (iv) if the costs of the acquisition and construction or rehabilitation of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) "preliminary expenditures" (within the meaning of Section 1.150-2(f)(2) of the Treasury Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Funding Loan (as defined in Section 1.148-1 of the Treasury Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditures is paid); provided, however, that (y) Costs of Funding are not Qualified Project Costs, and (z) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 31(a)(3) of the Code) are not Qualified Project Costs.

"Rebate Amount" shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

"Rebate Analyst" shall mean the rebate analyst selected by the Borrower prior to the Initial Closing Date and acceptable to the Governmental Lender and the Funding Lender. The initial Rebate Analyst shall be [_____].

"Rebate Analyst's Fee" shall mean the fee of the Rebate Analyst payable by the Borrower to the Rebate Analyst.

"Rebate Fund" shall mean the Rebate Fund created pursuant to Section 8.53 hereof.

"Recordation" shall mean the act of recording the Trust Deed or other applicable document in the official records of the County.

"Regulatory Agreement" has the meaning given such term in the Funding Loan Agreement.

"Restrictive Covenants" shall mean, collectively, (i) the Regulatory Agreement, (ii) [the City Restrictive Agreement], and (iii) [the County Restrictive Agreement].

"Retainage": [Five percent (5%)] of the total contract amount set forth in the General Contract as in effect on the date of Recordation.

"Sanctioned Country": At any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Borrower Loan Agreement, Cuba, Iran, North Korea, Syria and Crimea).

"Sanctioned Person": At any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country or (c) an Affiliate of any such Person described in the foregoing clauses (a) or (b).

"Sanctions": All economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State, or other relevant sanctions authority.

"Secondary Market Disclosure Document" shall have the meaning set forth in Section 14A.1.2 hereof.

"Secondary Market Transaction" shall have the meaning set forth in Section 14A.1.1 hereof.

"Section 8 HAP Assignment" means an assignment of the Section 8 HAP Contract to be executed concurrently with the execution of the Section 8 HAP Contract by Borrower in favor of Governmental Lender, in form and substance acceptable to Funding Lender in its sole and absolute discretion, and consented to by the Housing Authority.

"Section 8 HAP Contract" means a housing assistance payments contract between Borrower and the Housing Authority with respect to Section 8 Subsidy to be provided to the Project, to be executed by Borrower and the Housing Authority upon the satisfactory completion of construction of the Improvements.

"Section 8 Subsidy" means the project-based rental vouchers to be provided by the Housing Authority with respect to ___ units in the Project pursuant to Section 8 of the U.S. Housing Act of 1937.

"Securities" shall have the meaning set forth in Section 14A.1.1 hereof.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Security Agreements" shall mean any agreements, other than the Trust Deed, securing the Borrower Loan, the Borrower's performance hereunder and interest, costs and charges associated therewith (including but not limited to any assignments of contracts and rights which may be required under this Borrower Loan Agreement), each as amended, modified and/or Restated from time to time.

"Senior Funded Indebtedness" shall mean as of the date of determination thereof, all borrowed money as reflected in the most recent financial statements in the form required by this Borrower Loan Agreement, if any, excluding all such borrowed money that has been subordinated to the satisfaction of the Funding Lender.

"Site Improvement Contract": The contract for construction of the Site Improvements between Borrower and the Site Improvement Contractor [OR: General Contractor].

"Site Improvement Contractor": _____ [delete if the General Contractor is also the Site Improvement Contractor].

"Site Improvements" shall mean the work of grading the Property and installation of utilities, streets, sidewalks, if any, and other improvements for the Property, excluding the Building(s).

"Special LP" means Hudson SLP LLC, a Delaware limited liability company, the special limited partner of the Borrower.

"Special Tax" shall mean, as to any property (a) any special assessment or other Tax which is or may become a lien affecting such property, other than general ad valorem real property Taxes, and (b) any assessment, improvement, community facilities or other special taxing district in or into which such property is or may be located or incorporated or under which any special assessment or other Tax which is or may become a lien affecting such property is or may be imposed.

"Standard & Poor's" or "S&P" shall mean S&P Global Ratings, a Standard & Poor's Financial Services LLC business division, and its successors.

"State" shall mean the State of California.

"Subordinate Debt" shall mean the subordinate loans to Borrower being made by Subordinate Lender pursuant to the Subordinate Loan Documents, as set forth in EXHIBIT D hereto.

"Subordinate Lender" shall mean the lenders identified in EXHIBIT D hereto.

"Subordinate Loan Documents" shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to or executed and delivered by Borrower and/or Subordinate Lender in connection with the Subordinate Debt, including without limitation the City Restrictive Agreement, the County Restrictive Agreement, and any other regulatory agreement, development agreement or use restrictions of Subordinate Lender.

"Taxes" shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Tax Certificate" has the meaning given to such term in the Funding Loan Agreement.

"Tax Counsel" shall have the meaning given such term in the Funding Loan Agreement.

"Tenant" shall mean an occupant or intended occupant of the Improvements of the Project pursuant to a Lease.

"Title Insurer" shall mean Old Republic Title Company, as issuer of the Title Policy in connection with the Initial Closing Date.

"Title Policy" shall mean the Funding Lender's title insurance policy for the Trust Deed, with all endorsements required to be issued by Title Insurer under Section 8.2 hereof.

"Transactions" shall mean the execution, delivery and performance by Borrower of this Borrower Loan Agreement and the other Borrower Loan Documents, the borrowing of Borrower Loan and the use of the proceeds thereof.

"Transfer" shall have the meaning given to that term in the Trust Deed.

"Treasury Regulations" has the meaning given such term in the Funding Loan Agreement.

"Trust Deed" shall mean the Construction Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (California) of even date herewith, encumbering the Project and made by the Borrower in favor of the Governmental Lender, as assigned by the Governmental Lender without recourse to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan and the Governmental Lender Notes. The Trust Deed is referred to in the Funding Loan Agreement as the "Security Instrument."

"Unassigned Rights" has the meaning given to such term in the Funding Loan Agreement.

"Written Consent" and "Written Notice" shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender, Fiscal Agent or the Funding Lender, as appropriate.

ARTICLE II

GENERAL

Section 2.1 Origination of Borrower Loan. In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, in accordance with the Act and the Housing Act, as applicable, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender under and subject to the terms of the Funding Loan Agreement. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Fiscal Agent, and then from the Fiscal Agent to the Borrower in accordance with the terms of the Funding Loan Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to take certain actions and exercise certain remedies with respect to the Borrower Loan and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof, and the Funding Lender agrees that it shall timely and reasonably notify the Governmental Lender of actions taken by the Funding Lender in reliance on such agency, such that the Unassigned Rights are not disturbed or diminished and the actions of the Governmental Lender and the Funding Lender are appropriately coordinated. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may, in its discretion, designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1. Notwithstanding the foregoing, disbursements of the Borrower Loan shall be made from the Project Fund held by the Fiscal Agent pursuant to the Funding Loan Agreement.

Section 2.2 Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Notes and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Trust Deed) and (b) the amounts on deposit from time to time in any and all funds established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Notes, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section, the Governmental Lender may:

(i) Tax Covenants. Seek specific performance of, and enforce, the provisions of Section 8.7 of the Funding Loan Agreement, the Tax Certificate and Section 8.52 of this Borrower Loan Agreement, seek injunctive relief against acts which may be in violation of any of such provisions, and enforce the Borrower's obligations under Section 8.53 of this Borrower Loan Agreement (including the obligation to pay amounts for credit to the Rebate Fund);

(ii) Regulatory Agreement. Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (as defined in Section 2.2(e) below), if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) Reserved Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any Person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute an action to the extent it results in a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Funding Lender or the Fiscal Agent of any of its rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or upon the occurrence of an event of default under the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section, the term "Excess Revenues" means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise) with respect to the Project, the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of reserves for taxes, insurance, water and sewer charges or other similar impositions, capital

expenditures, repairs and replacements and all other amounts in each case which the Borrower is required to set aside pursuant to the Borrower Loan Documents or agreements with parties that are not Affiliates of the Borrower, but excluding depreciation and amortization of intangibles.

Section 2.3 Borrower Loan; Borrower Notes; Conditions to Closing.

(a) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with the delivery of this Borrower Loan Agreement to the Governmental Lender, the Borrower hereby agrees to execute and deliver the Borrower Notes. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Notes.

(b) Closing of the Borrower Loan on the Initial Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, each in its sole discretion, of each of the conditions precedent to closing set forth in this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of Recordation of the Trust Deed, an assignment of the Trust Deed from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender on the Initial Closing Date (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from Funding Lender's counsel or such other counsel as may be acceptable to the Funding Lender and Governmental Lender); and

(ii) delivery to the Fiscal Agent or into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender;

(iii) payment of all fees payable in connection with the closing of the Borrower Loan including the Governmental Lender's Closing Fee and the initial fees and expenses of the Fiscal Agent and the Funding Lender.

In addition, closing of the Borrower Loan shall be subject to the delivery of a Tax Counsel Approving Opinion, dated as of the Initial Closing Date, addressed to the Governmental Lender (with a reliance letter to the Funding Lender), and an opinion of counsel to the Borrower addressed to the Governmental Lender, dated the Initial Closing Date, in form and substance acceptable to the Governmental Lender.

(c) Subject to the conditions set forth in Articles V and VI and elsewhere in this Borrower Loan Agreement, the Funding Loan shall be funded directly to the Borrower by the Funding Lender through this Borrower Loan Agreement, in one or more installments not to exceed the Borrower Loan Amount in accordance with the disbursement procedures set forth in this Borrower Loan Agreement. Upon funding of each installment of the Funding Loan, the Governmental Lender shall be deemed to have made the Borrower Loan to the Borrower in a

like principal amount. Borrower Loan advances and Funding Loan advances shall be allocated first to the Borrower Construction/Permanent Note and the related Governmental Lender Construction/Permanent Note, then, once the foregoing Notes have been fully funded, to the Borrower Construction Note and the related Governmental Lender Construction Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Notes. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition, construction, development and/or equipping of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

Section 2.4 Borrower Loan Payments. The Borrower shall make Borrower Loan Payments in accordance with the Borrower Notes. Each Borrower Loan Payment shall be made in funds immediately available to the Fiscal Agent, by 11:00 a.m., San Francisco time, on the date that is two (2) Business Days prior to the Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent, as applicable, by deposit to such account as the Fiscal Agent or Funding Lender, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Notes in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

Payments of principal and interest on the Borrower Note shall be paid to the Servicer or the Funding Lender, as applicable, and the Servicer or the Funding Lender, as applicable, shall then remit such funds to the Fiscal Agent.

Section 2.5 Additional Borrower Payments.

(a) The Borrower shall pay on demand the following amounts:

(i) to the Fiscal Agent, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and to the Fiscal Agent or Rebate Analyst, as applicable, the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Fiscal Agent for remittance to the Governmental Lender, the Ongoing Governmental Lender Fee and all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred under the Borrower Loan Documents or the Funding Loan Documents, and any taxes and assessments with respect to the Project, as and when the same become due;

(iii) all Costs of Funding and fees, charges and expenses, including agent and reasonable counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(iv) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and reasonable counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment, and all reasonable counsel fees and expenses relating to the enforcement of, the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(v) any Late Charge due and payable under the terms of the Borrower Notes and Section 2.6 hereof; and

(vi) to the Fiscal Agent, all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of Fiscal Agent incurred under the Borrower Loan Documents or the Funding Loan Documents as and when the same become due.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all reasonable expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, Fiscal Agent or the Funding Lender;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all reasonable expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, Fiscal Agent or the Funding Lender, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6 Overdue Payments; Payments In Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Funding Lender, a Late Charge in the amount and to the extent set forth in the Borrower Notes, if any.

Section 2.7 Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Trust Deed and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Fiscal Agent and Funding Lender, and grants to the Fiscal Agent and Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or money held in the funds and accounts created and held by the Fiscal Agent or Funding Lender for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default following expiration of applicable notice and cure periods, the Fiscal Agent and

Funding Lender shall apply or cause to be applied any sums held by the Fiscal Agent and Funding Lender with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.8 Marshalling; Payments Set Aside. The Governmental Lender, Fiscal Agent and Funding Lender shall be under no obligation to marshal any assets in favor of Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that Borrower makes a payment or payments or transfers any assets to the Governmental Lender, Fiscal Agent or Funding Lender, or the Governmental Lender, Fiscal Agent or Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender, Fiscal Agent or Funding Lender and any and all remedies available to the Governmental Lender, Fiscal Agent or Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against Borrower or Guarantor [or the General Partner] and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender, Fiscal Agent and Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender or Fiscal Agent in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender, Fiscal Agent or Funding Lender in connection with the exercise by the Governmental Lender, Fiscal Agent or Funding Lender of its rights under this Section.

Section 2.9 Interest Reserve.

(a) Amount of Interest Reserve: The original principal amount of the Borrower Loan was determined on the basis of the Cost Breakdown. The Cost Breakdown includes an estimate of interest that will accrue on the disbursed principal of the Borrower Loan during a portion of the term of the Borrower Loan, not to exceed the original amount of the Interest Reserve.

(b) Payments from Interest Reserve: Subject to the satisfaction of the conditions set forth in this Section and Article V hereof, the performance of the covenants set forth in this Borrower Loan Agreement, provided no Event of Default has occurred, and so long as there remain sufficient funds in the Interest Reserve, on the first (1st) day of each month a portion of the principal of the Borrower Loan shall be disbursed in an amount that will be sufficient to pay the remaining accrued interest then due and payable on the Borrower Notes, and Borrower hereby expressly requests, authorizes and directs Funding Lender to make such Disbursements to pay Borrower's interest costs in connection with the Borrower Loan.

(c) Interest Rate Hedge Obligation: Subject to the satisfaction of the conditions set forth in Article 5 hereof, the performance of the covenants set forth in this Borrower Loan Agreement, provided no Event of Default has occurred and is continuing, and so long as there

remain sufficient funds in the Interest Reserve, Funding Lender will disburse on the first (1st) day of each month a portion of the principal of the Borrower Loan in an amount that will be sufficient to pay any net payments then due and payable by Borrower under any Interest Rate Hedge Obligation. Borrower hereby expressly requests, authorizes and directs Funding Lender to make such Disbursements to pay Borrower's net Interest Rate Hedge Obligation.

(d) Depletion of Interest Reserve: The amount of any Disbursement from the Interest Reserve to pay accrued interest or Interest Rate Hedge Obligations shall reduce the balance of the Interest Reserve. After the Interest Reserve has been fully disbursed, no further undisbursed amounts of the Borrower Loan will be disbursed to pay interest accrued on outstanding principal amounts of the Borrower Loan or Interest Rate Hedge Obligations. Further, the depletion of the Interest Reserve shall not in any manner affect or impair Borrower's obligation to continue to pay all interest accruing on the Borrower Loan or Interest Rate Hedge Obligations.

(e) Use of Interest Reserve: The Interest Reserve shall not be used or disbursed for any purpose other than payment of interest accrued on the Borrower Loan or Interest Rate Hedge Obligations without Funding Lender's prior Written Consent.

(f) Net Payments from Interest Rate Hedge Transactions: Borrower agrees to deposit all net payments received or receivable by Borrower under any Interest Rate Hedge Transactions into the Interest Rate Hedge Deposit Account. All amounts so deposited shall be applied first to payment of interest and to any Interest Rate Hedge Obligations prior to further Disbursements of Interest Reserve.

Section 2.10 Taxes.

(a) Payments Free of Taxes: Any and all payments by or on account of any obligation of Borrower hereunder or under any other Borrower Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided, however, that if Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), the amount paid shall be equal to the sum Borrower would have paid had no such deductions been made, (ii) Borrower shall make such deductions and (iii) Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by Borrower: Without limiting the provisions of Section 2.10(a) hereof, Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by Borrower: Borrower shall indemnify Beneficiary Parties, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid or payable by the Beneficiary Parties and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by Funding Lender shall be conclusive of the amount so paid or payable absent manifest error.

(d) Evidence of Payments: As soon as practicable after any payment of Indemnified Taxes or Other Taxes by Borrower to a Governmental Authority, Borrower shall deliver to Funding Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Funding Lender.

(e) FATCA: If a payment made to either of the Beneficiary Parties under any Borrower Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such party were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), then such party shall deliver to Borrower at the time or times prescribed by law and at such time or times reasonably requested by Borrower such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower as may be necessary for Borrower to comply with their obligations under FATCA and to determine that such party has complied with such party's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph, "FATCA" shall include any amendments made to FATCA after the date of this Borrower Loan Agreement.

(f) Treatment of Certain Refunds: If either of the Beneficiary Parties determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section, then such party shall pay to Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that Borrower, upon the request of such party, agrees to repay the amount paid over to Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such party in the event such party is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require Funding Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to Borrower or any other Person.

(g) Survival: Each party's obligations under this Section shall survive the repayment, satisfaction or discharge of all obligations under any Borrower Loan Document.

Section 2.11 Increased Costs.

(a) Increased Costs of Making or Maintaining Eurodollar Loans: If any Change in Law shall (i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, Funding Lender, (ii) impose on Funding Lender or the London interbank market any other condition affecting this Borrower Loan Agreement or Disbursements made hereunder or (iii) subject any recipient to any Taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto (other than (A) Indemnified Taxes, (B) Excluded Taxes and (C) Other Connection Taxes on gross or net income, profits or receipts (including value-added or similar Taxes)), and the result of any of the foregoing shall be to increase the cost to Funding Lender or such other recipient of making or maintaining the Funding Loan (or of maintaining its obligation to make the Funding Loan) or

to reduce the amount of any sum received or receivable by Funding Lender or such other recipient under the Funding Loan Documents (whether of principal, interest or otherwise), then Borrower will pay to Funding Lender or such other recipient such additional amount or amounts as will compensate Funding Lender or such other recipient for such additional costs incurred or reduction suffered.

(b) Capital Adequacy: If Funding Lender determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on Funding Lender's capital or on the capital of Funding Lender's holding company, if any, as a consequence of the Funding Loan Documents or the Disbursements made under the Borrower Loan Agreement to a level below that which Funding Lender or Funding Lender's holding company could have achieved but for such Change in Law (taking into consideration Funding Lender's policies and the policies of Funding Lender's holding company with respect to capital adequacy), then from time to time Borrower will pay to Funding Lender such additional amount or amounts as will compensate Funding Lender or Funding Lender's holding company for any such reduction suffered.

(c) Certificate of Amounts Due: A certificate of Funding Lender setting forth the amount or amounts necessary to compensate Funding Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to Borrower and shall be conclusive absent manifest error. Borrower shall pay Funding Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Demand For Compensation: Failure or delay on the part of Funding Lender to demand compensation pursuant to this Section shall not constitute a waiver of Funding Lender's right to demand such compensation; provided that Borrower shall not be required to compensate Funding Lender pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that Funding Lender notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of Funding Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

ARTICLE III

CONVERSION

Section 3.1 Conversion Date and Extension of Outside Conversion Date. The Borrower shall satisfy each of the Conditions to Conversion to occur and cause the Conversion Date to occur on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if any), as further provided in this Borrower Loan Agreement and the Borrower Construction/Permanent Note. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date (or the Extended Outside Conversion Date, if applicable) shall constitute an Event of Default under the Borrower Loan Documents.

Section 3.2 Notice From Funding Lender; Funding Lender's Calculation Final.

(a) Following satisfaction of all of the Conditions to Conversion, the Funding Lender shall deliver Written Notice to the Borrower of: (i) the Conversion Date, (ii) the amount of the Permanent Period Amount, (iii) any required prepayment of the Borrower Notes (as described below in Section 3.3) and (iv) any amendments to the amortization schedule, as applicable.

(b) The Funding Lender's calculation of the Permanent Period Amount and any amendments to the amortization of the Borrower Loan shall be, in the absence of manifest error, conclusive and binding on all parties.

Section 3.3 Mandatory Prepayment of the Borrower Loan.

(a) As further provided in this Borrower Loan Agreement, if and to the extent the Permanent Period Amount is less than the outstanding amount of the Funding Loan as of the Conversion Date, the Funding Lender may in its sole discretion require the Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the outstanding principal amount of the Funding Loan as of the Conversion Date and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment").

(b) Any prepayment in full or in part of the Borrower Loan required pursuant to Section 3.3(a) above shall be subject to a Prepayment Premium under certain circumstances as more particularly set forth in the Borrower Notes.

Section 3.4 Release of Remaining Loan Proceeds. If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to the Borrower, the Funding Lender shall deliver Written Notice thereof to the Borrower on or before the Conversion Date. Within ten (10) business days after delivery of such notice, but in no event later than the Outside Conversion Date (or, if applicable, the Extended Outside Conversion Date), the Funding Lender shall disburse Borrower Loan Proceeds to the Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan Proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by the Borrower to the Funding Lender.

Section 3.5 No Amendment. Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Notes, the Trust Deed, this Borrower Loan Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Notes, the Trust Deed, this Borrower Loan Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Notes, the Trust Deed, this Borrower Loan Agreement and other Borrower Loan Documents shall control, provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6 Determination by Funding Lender. In any instance where the consent or approval of the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Funding Lender under this Article III, including in connection with this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its reasonable discretion.

ARTICLE IV

CONDITIONS PRECEDENT TO RECORDATION

The following are conditions precedent to Recordation:

Section 4.1 Borrower Loan Documents. Funding Lender shall have received and approved all of the following documents, duly executed and in recordable form, as applicable:

4.1.1 The Borrower Loan Agreement;

4.1.2 the Borrower Notes;

4.1.3 the Trust Deed;

4.1.4 the [City Subordination Agreement] and the [County Subordination Agreement];

4.1.5 the letter regarding authorized signatures, from Borrower;

4.1.6 the Environmental Indemnity;

4.1.7 the Guaranty;

4.1.8 the Completion Guaranty;

4.1.9 a UCC-1 Financing Statement naming the Borrower as "debtor" and the Funding Lender as "secured party," a UCC-1 Financing Statement naming the Developer of the Project as "debtor" and the Funding Lender as "secured party", and a UCC-1 Financing Statement naming each General Partner as "debtor" and the Funding Lender as "secured party,"

4.1.10 the Insurance Agreement;

4.1.11 the Assignment of Agreements;

4.1.12 a Consent to Assignment of Agreements, Permits, Licenses and Approvals, duly executed by each of the General Contractor, the Architect and the Engineer;

4.1.13 an authorization to obtain credit (executed by each of the Borrower, the Guarantor and the General Partner);

4.1.14 the Funding Loan Agreement;

4.1.15 the Fee Letter;

4.1.16 the Contingency Draw-Down Agreement;

4.1.17 the Continuing Disclosure Agreement;

4.1.18 Funding Lender's title and closing instructions;

4.1.19 an assignment of leasehold deed of trust and loan documents;

4.1.20 an assignment of development fee;

4.1.21 an Assignment of Development Agreement (and Consent and Subordination of the Developer);

4.1.22 an Assignment of Property Management Agreement (and Consent and Subordination of the Property Manager);

4.1.23 the Partnership Interest Assignment;

4.1.24 the Subordinate Loan Documents for the City Loan;

4.1.25 the Subordinate Loan Documents for the County Loan;

4.1.26 the Leasehold Recognition Agreement;

4.1.25 the Permanent Loan Commitment; and

4.1.26 the AHAP Assignment and the Housing Authority's consent thereto.

Section 4.2 Due Diligence Items. Funding Lender shall also have received and approved all of the following:

4.2.1 Copies of the Articles of Incorporation, Certificate of Limited Partnership, or other organizational documents of each Obligor, certified as of a recent date by the Secretary of State of **their** state of organization and a good standing certificate (or equivalent) from such state;

4.2.2 Copies of resolutions of each Obligor or other appropriate authorizing documents, in form and substance reasonably satisfactory to Funding Lender, approving the Borrower Loan Documents and the making of the Borrower Loan hereunder, certified by the appropriate representatives thereof;

4.2.3 [Reserved.];

4.2.4 for any individual or entity that owns, directly or indirectly, 25% or more of Borrower, or directly or indirectly controls Borrower, the documents which would be required for such an entity as Borrower under Section 4.2.1 through 4.2.3 hereof, as applicable;

4.2.5 if Borrower is organized under the laws of a jurisdiction other than that in which the Property is located, original certificates of qualification to do business issued by the applicable Governmental Authority for the State in which the Property is located;

4.2.6 the Ground Lease;

4.2.7 Borrower shall deliver to the Funding Lender an itemized statement of all disbursements, if any, made with respect to the Subordinate Debt, together with evidence satisfactory to Funding Lender of the application of such disbursements to pay Project Costs;

4.2.8 one or more opinions of legal counsel selected by Borrower and satisfactory to Funding Lender covering the matters as Funding Lender may reasonably require;

4.2.9 original insurance policies or certificates thereof for the insurance required by the Trust Deed or the Agreement to Furnish Insurance;

4.2.10 a preliminary title report issued by Title Insurer showing the condition of title to the Property with the Property's legal description and a copy of all documents listed as exceptions to said title report, and a copy of all documents that evidence the vesting of the ownership of the Property;

4.2.11 Title Insurer's commitment to issue the Title Policy;

4.2.12 all Borrower's Funds and, if Funding Lender so requests, any portion of Borrower's Equity which has not been expended and verified to Funding Lender's satisfaction prior to Recordation, shall have been deposited in the Borrower's Funds Account;

4.2.13 if requested by Funding Lender, a current survey of the Property including dimensions, delineations and locations of all easements thereon, certified to Funding Lender in form and substance acceptable to Funding Lender, and satisfactory to the Title Insurer if required by it;

4.2.14 if requested by Funding Lender, a performance bond naming Funding Lender as co-obligee, and labor and material payment bond, in a penal sum equal to the amount of the General Contract, or if none, then in such amounts as Funding Lender may require, in form and content and with corporate sureties meeting the statutory requirements of the State, and otherwise satisfactory to Funding Lender;

4.2.15 the fully executed AHAP;

4.2.16 if requested by Funding Lender, a copy of the applicable general and specific plans, if any, and the zoning, subdivision, grading and building ordinances, the applicable tentative subdivision map and conditions of approval thereof, and any conditional use permit or planned development permit or plan and the conditions of approval thereof, each certified by an appropriate official to be true, complete and up to date;

4.2.17 true, correct and complete copies of Plans and Specifications for the Site Improvements and the Building in the form approved by Funding Lender, which are attached hereto as EXHIBIT B;

4.2.18 copies of letters from local utility companies or Local Authority stating that electric, gas, sewer, water and telephone facilities will be available to the Property upon completion of the Improvements;

4.2.19 a soils report with respect to the Property prepared by an engineer acceptable to Funding Lender, and copies of all other inspection and test reports with respect to the Property made by or for Borrower;

4.2.20 copies of all applicable easements, covenants, conditions and restrictions, and other agreements pertaining to operation or development of the Property;

4.2.21 evidence that the Project is not located in an area designated by the Secretary of Housing and Urban Development as a special flood hazard area, or flood hazard insurance acceptable to Funding Lender in its sole discretion;

4.2.22 copies of the Project Documents, and all amendments thereto, if any, and estoppel certificates and subordination and attornment agreements requested by Funding Lender;

4.2.23 [reserved];

4.2.24 Uniform Commercial Code, tax, bankruptcy, litigation, Patriot Act and lien searches for those entities and for all locations requested by Funding Lender, together with lien termination documents satisfactory to Funding Lender terminating all liens shown on such searches with respect to Borrower and/or the Project that are not approved by Funding Lender;

4.2.25 An Appraisal;

4.2.26 A Phase I report with respect to the Project prepared by an independent environmental consultant acceptable to Funding Lender, which report shall be addressed to Funding Lender or accompanied by a reliance letter addressed to Funding Lender;

4.2.27 Upon the reasonable request of Funding Lender, Borrower must have provided to Funding Lender the documentation and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including the Patriot Act, in each case at least five (5) days prior to the date of this Borrower Loan Agreement;

4.2.28 At least five days prior to the date of this Agreement, if Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, Borrower must deliver a Beneficial Ownership Certification in relation to Borrower; and

4.2.27 true, correct and complete executed copies of the General Contract, the Architect's Agreement and the Engineer's Agreement, together with assignments thereof to Funding Lender on Funding Lender's form, with written consent thereto by said General Contractor, Architect or Engineer, as applicable.

ARTICLE V

CONDITIONS PRECEDENT TO DISBURSEMENT

Section 5.1 Initial Disbursement Conditions. Prior to the Initial Disbursement the following conditions shall have been satisfied, in addition to those in Article IV:

5.1.1 Recordation of the Trust Deed, the Regulatory Agreement, the [City Subordination Agreement, and the County Subordination Agreement, and memorandum of the Ground Lease] shall have occurred.

5.1.2 There shall exist no Event of Default, as defined in this Borrower Loan Agreement, or Event of Default as defined in any of the other Borrower Loan Documents or event, omission or failure of condition which would constitute an Event of Default after notice or lapse of time, or both, and no breach of the Project Document, the Partnership Agreement, or the LIHTC Documents.

5.1.3 Title Insurer shall have issued or agreed to issue the Title Policy described in Section 8.2 hereof, naming Funding Lender as insured to the extent of the Borrower Loan Amount.

5.1.4 Where required by Funding Lender, UCC-1 Financing Statements shall have been filed with the Secretary of State for the state where the Borrower is organized, describing the Personal Property.

5.1.5 [IF APPLICABLE: Funding Lender (or the appropriate Governmental Authority) shall have received all bonds required under Section 4.2.14; and any conditions of their effectiveness shall have been fully satisfied.]

5.1.6 Funding Lender shall have approved, in its sole and absolute discretion, a construction "time line" schedule or critical path schedule (the "Construction Schedule") for the Project.

5.1.7 The representations and warranties of Borrower made in Article VII hereof shall be materially true and correct on and as of the date of the Disbursement with the same effect as if made on such date.

5.1.8 Any unexpended Borrower's Funds or other Borrower's Equity shall have been expended (and if in the Borrower's Funds Account, disbursed) and verified by Funding Lender.

5.1.9 Funding Lender shall have received and approved a Draw Request together with copies of any receipts, invoices, statements of accounts, lien releases or similar documents as either of them may reasonably require in connection with such Draw Request.

5.1.10 The Improvements, if any, shall not have been materially injured or damaged by fire or other casualty unless (i) Funding Lender shall have received insurance proceeds sufficient in the reasonable judgment of Funding Lender to effect the satisfactory restoration of the Improvements and to permit completion of the Improvements prior to the Completion Date, and (ii) if amounts of insurance proceeds (if any) received by Funding Lender are insufficient to effect satisfactory restoration of the Improvements, then Borrower shall have deposited with Funding Lender an additional amount sufficient, in the reasonable judgment of Funding Lender, to effect the satisfactory restoration of the Improvements and to permit completion of the Improvements prior to the Completion Date.

5.1.11 Any applicable conditions set forth in Exhibit E shall have been satisfied.

Section 5.2 Subsequent Disbursement Conditions. Prior to making Disbursements after the Initial Disbursement, except for the last Disbursement, the following conditions shall have been satisfied:

5.2.1 The Initial Disbursement shall have occurred.

5.2.2 No Event of Default shall exist under any Funding Loan Documents or Borrower Loan Document or event, omission or failure of condition which would constitute an Event of Default after notice or lapse of time or both, and no breach of the Project Documents, the Partnership Agreement (that has not been waived by the partners of the Borrower) or the LIHTC Documents.

5.2.3 Funding Lender shall have received conditional mechanics' lien waivers matching the current Certificate & Application for Payment G-702 in an AIA G702/G703 format or similar payment request from the General Contractor.

5.2.4 If Funding Lender requests, it shall have received a list of the names and addresses of all material dealers, laborers and subcontractors with whom agreements have been made by the General Contractor and/or Borrower to deliver materials to and/or perform work on the Improvements.

5.2.5 The representations and warranties of Borrower made in Article VII hereof shall be materially true and correct on and as of the date of the Disbursement with the same effect as if made on such date.

5.2.6 The Improvements shall not have been materially injured or damaged by fire or other casualty unless Funding Lender shall have received insurance proceeds sufficient in its judgment to effect the satisfactory restoration of the Improvements and to permit the completion of the Improvements prior to the Completion Date, subject to Force Majeure.

5.2.7 If and when Funding Lender requests, Borrower shall have deposited into the Borrower's Funds Account immediately available funds in the amount required under Section 8.1.

5.2.8 Funding Lender shall have received written confirmation from Funding Lender's inspection agent to the effect that, as of the date of such confirmation, the Improvements have been constructed in accordance with the Plans and Specifications and that the present state of construction of the Improvements will, barring any then unforeseen and unknown delays, permit completion of construction of the Improvements on or before the Completion Date.

5.2.9 Funding Lender shall have received: (a) if required by Funding Lender, the building permits, grading permits, or any other authorization, if any, which may be required from the Local Authority or Governmental Authority, or a "permit ready" letter from the Local Authority or the Governmental Authority for any such matters; (b) true, correct and complete copies of the Plans and Specifications; (c) a copy of the General Contract, and, if requested by Funding Lender, copies of major contracts; (d) assignments to Funding Lender on Funding Lender's form of the Plans and Specifications and written consent thereto by the Person or firm that prepared them and a copy of the Architect's and Engineer's agreement, if any, together with assignments thereof to Funding Lender on Funding Lender's form, with written consent thereto by said Architect; (e) assignment to Funding Lender of the General Contract and consent thereto by the General Contractor; (f) the Cost Breakdown; and (g) unless waived by Funding Lender, a signed acknowledgement of and consent to Funding Lender's first position security interest in any Off-Site Materials.

5.2.10 If Funding Lender so requests, Funding Lender shall have received written confirmation that the Title Insurer shall have irrevocably agreed (i) to issue its continuation endorsement to Funding Lender indicating that since the last preceding disbursement to Borrower or General Contractor, there has been no change in the state of title, that there are no intervening liens which may now or hereafter take priority over the disbursement to be made and that there are no survey exceptions not theretofore approved by Funding Lender; and (ii) upon completion of the foundation(s), to issue its foundation endorsement, or equivalent endorsement satisfactory to Funding Lender, insuring Funding Lender that the foundation of each Building is constructed wholly within the boundaries of the Property and does not encroach on any easements nor violate any covenants, conditions or restrictions of record].

5.2.11 The financial condition of the General Contractor and any bonding company shall be satisfactory to Funding Lender in its sole discretion.

5.2.12 Funding Lender shall have received a certificate issued by the filing officer of the Secretary of State for the state where Borrower was formed, showing Funding Lender's UCC-1 Financing Statement as prior to all other UCC-1 Financing Statements in Borrower's name relative to the Personal Property.

5.2.13 Borrower shall have certified and represented to Funding Lender that there are no unpaid invoices that have been delivered to Borrower or that Borrower is aware of and no billed (as of the date of the Draw Request) work in progress (inclusive of work performed, services rendered, or materials delivered) on the Project that have not been fully paid, excluding unpaid invoices or billed work in progress submitted for payment as part of such request for Disbursement.

5.2.14 Funding Lender shall have received unconditional mechanics' lien waivers for the prior month's payment which Funding Lender Disbursed to Borrower for Borrower to pay to the General Contractor.

5.2.15 Funding Lender shall have received conditional mechanics' lien waivers matching the current Certification & Application for Payment in an AIA G702/G703 format or similar from all subcontractors and suppliers paid to date under any prior Certification & Application for Payment, which condition to waive shall only be cashing of the check for payment.

5.2.16 Funding Lender shall have received and approved a Draw Request together with copies of any receipts, invoices, statements of accounts, lien releases or similar documents as either of them may reasonably require in connection with such Draw Request.

5.2.17 Funding Lender shall be satisfied that the Project will be completed on or before the Completion Date.

5.2.18 Funding Lender shall be satisfied that the Borrower Loan is "in balance".

5.2.19 Any applicable conditions set forth in Exhibit E shall have been satisfied.

Section 5.3 Final Construction Disbursement Conditions. Prior to the last Disbursement of construction costs for the Improvements, the following conditions shall have been satisfied, in addition to those conditions set forth in Section 5.2:

5.3.1 Funding Lender shall have received written confirmation from Funding Lender's inspection agent to the effect that the Improvements have been completed in substantial accordance with the Plans and Specifications.

5.3.2 Funding Lender shall have received a conditional lien waiver upon final payment for the Disbursement of retention to the Borrower to pay General Contractor satisfactory to Funding Lender, and either (i) proof of the Borrower paying the same to the General Contractor or (ii) an unconditional lien waiver upon final payment from the General Contractor within ten (10) Business Days from the date the final Disbursement was paid to Borrower.

5.3.3 Funding Lender shall have received evidence satisfactory to Funding Lender that Borrower has filed a notice of completion of the Improvements necessary to establish commencement of the shortest statutory period for the filing of mechanics' and materialmen's liens.

5.3.4 Funding Lender shall have received a CLTA Endorsement 101.6 (or equivalent endorsement satisfactory to Funding Lender) issued by Title Insurer subsequent to expiration of the period during which any lien for labor, services or material may be validly recorded against the Property or the Improvements and such other endorsements to Funding Lender's Title Insurance Policy as Funding Lender may require which shall insure that the Improvements have been completed free of all mechanics' and materialmen's liens or claims thereof.

5.3.5 Funding Lender shall have received evidence satisfactory to Funding Lender of approval of completion of the Improvements by Borrower (if Borrower is not an owner builder).

5.3.6 Funding Lender shall have received evidence satisfactory to Funding Lender of approval of completion of the Improvements by each Permanent Lender and the Guarantor, as such approval is deemed appropriate by Funding Lender.

5.3.7 Funding Lender shall have received evidence satisfactory to Funding Lender of full payment for the Personal Property secured by the Trust Deed and any other Security Agreement.

5.3.8 If requested, Funding Lender shall have received a final survey of the Project, in form and substance satisfactory to Funding Lender.

5.3.9 Funding Lender shall have received a certificate from the General Contractor or Architect in favor of Funding Lender certifying that the Project "as built" complies with Governmental Requirements.

5.3.10 Funding Lender shall have received valid, duly issued certificates of occupancy for all portions of the Project.

5.3.11 Funding Lender shall have received evidence of approval of completion of the Improvements by the City and the County, if required pursuant to the Subordinate Loan Documents or the County Operating Subsidy Commitment, as the case may be.

5.3.12 Borrower shall execute, and shall cause the Housing Authority to execute, the Section 8 HAP Contract and the Section 8 HAP Assignment, and deliver a copy of the Section 8 HAP Contract and the fully executed original of the Section 8 HAP Assignment to Funding Lender.

Section 5.4 Advance Procedures; Additional Requirements. All Disbursements to Borrower are to be made at Funding Lender's principal office or at such other place as Funding Lender may designate and shall be deposited into Borrower's operating account. Draw Requests shall be received by Funding Lender at least ten (10) Business Days prior to the date of the requested Disbursement, and no more frequently than once per month

5.4.1 Disbursements shall require the following requisitions, certifications and waivers:

(a) Each request for a Disbursement shall be in writing on a form reasonably approved by Funding Lender and shall include a summary of the request by Cost Breakdown line item and a detailed schedule of the hard costs and soft costs incurred to date and the estimated remaining costs to complete the Project in accordance with the Plans and Specifications.

(b) Each request shall be accompanied by:

(i) a Draw Request on AIA Form G702 and G703, duly executed and certified by General Contractor and Borrower's Architect as applicable, together with applicable lien waivers, with an indication of all prior payments received, in a form reasonably acceptable to Funding Lender, and copies of any other requisitions, certificates or affidavits required by the applicable contracts to be paid with such requisition;

(ii) a further certification by the applicable contractors or Borrower's Architect in form reasonably acceptable to Funding Lender that the work and materials to be paid for with respect to any particular advance are fully satisfactory and are in accordance with all of the terms and provisions of the applicable construction contract, the Plans and Specifications and all Governmental Requirements;

(iii) with respect to any contractor or subcontractor, lien waivers evidencing the receipt of all prior payments received by such contractor or subcontractor in form acceptable to Funding Lender; and

(iv) a completed requisition in the form attached as Exhibit C to the Funding Loan Agreement.

5.4.2 Funding Lender shall not be required to fund a request for a Disbursement if Funding Lender or its representative determines, in its reasonable judgment, within ten (10) Business Days following the date of the submission of the request, that the work and the matters set forth in the associated requisition and certificates do not comply with the requirements of this Borrower Loan Agreement and the construction documents approved by Funding Lender. In such event, Borrower may re-submit a request complying with such requirements.

5.4.3 Each request for a Disbursement shall include the applicable contractor's or Borrower's Architect's certification of the purpose for which the Disbursement is requested and an itemization and copies of invoices, bills or other documentation in support thereof acceptable to Funding Lender.

5.4.4 All Draw Requests for hard costs shall be subject to the verification by Funding Lender of the monthly progress and the hard costs that have been incurred by Borrower.

Section 5.5 Advances Generally; Retainage. Subject to the compliance with and satisfaction of the terms of this Borrower Loan Agreement, Funding Lender will make Disbursements to Borrower in amounts equal to the aggregate costs for work and materials completed through the period covered by the applicable Draw Request, less: (i) the applicable Retainage, (ii) the aggregate Disbursements previously made with respect to such work and materials, (iii) the amount by which costs for work in the Draw Request exceeds any Cost

Breakdown line item with respect to such work, (iv) any costs covered by the Draw Request not approved, certified or verified as required by this Borrower Loan Agreement, and (v) any amounts to be paid to a contractor who has failed to deliver a satisfactory lien waiver, plus any amounts for Retainage permitted to be advanced in accordance with this Borrower Loan Agreement. Provided no Event of Default (or event that with the passage of time, giving of notice or both would result in an Event of Default) has occurred and is continuing, Retainage shall be disbursed upon satisfaction of the conditions set forth in Section 5.3 above.

Section 5.6 Use of Proceeds. The proceeds of the Borrower Loan and Borrower's Funds shall be used only for the payment of Project Costs in accordance with the Plans and Specifications and other costs related thereto, as more particularly set forth on the Cost Breakdown. Any funds Disbursed hereunder to Borrower shall be received by Borrower in trust and Borrower agrees that the same shall be used only for the payment of those items contemplated by the particular Disbursement. All Disbursements shall be held by Borrower in trust and applied by Borrower solely for the purposes for which the funds have been Disbursed. Funding Lender shall not have any obligation to monitor or determine Borrower's use or application of the Disbursements.

Section 5.7 Mechanics Lien Coverage for Each Advance. In addition to the conditions set forth in Sections 5.1 through 5.3, prior to any Disbursement, Funding Lender shall have received evidence that Borrower has provided the Title Insurer with all necessary information, including without limitation any indemnification or other agreements in form reasonably satisfactory to the Title Insurer, so that Funding Lender receives the Title Policy which shall include a closing mechanic's lien endorsement (or substantially equivalent form of endorsement) showing the amount of insurance provided by said policy to be not less than the full amount of the Borrower Loan Proceeds disbursed as of the date of Recordation, which amount will be stated in the endorsement and expressly providing coverage against unrecorded construction or mechanics' liens arising from labor, services and materials provided prior to the date of Recordation. In addition, and not by way of limitation, prior to any Disbursements hereunder, Borrower shall be required to satisfy, as part of the conditions to Funding Lender's approval of any request for a Disbursement submitted by Borrower, any and all reasonable requirements of the Title Insurer for the issuance by the Title Insurer of any on-going/continuation mechanic's lien endorsement reasonably acceptable to Funding Lender to be attached to the Title Policy. Notwithstanding any other provision herein to the contrary, Borrower at all times shall be responsible to provide the Title Insurer with any and all information reasonably required in order for the Title Insurer to issue the required mechanic's lien coverage under the Title Policy, including without limitation any sworn statements by any contractor(s) and/or subcontractor(s), unconditional lien waivers, owner's affidavit, indemnification, and other information deemed necessary by the Title Insurer to determine that all potential lien claimants have been paid, will be paid from the Borrower Loan funds being advanced, or that the Borrower Loan funds and/or Borrower's funds are otherwise available to pay any potential lien claimants. Funding Lender shall provide such reasonable cooperation as Funding Lender deems reasonably appropriate in order to assist Borrower with satisfying the Title Insurer's requirements in connection with the issuance of any construction lien endorsement(s).

Section 5.8 Special Conditions. All Disbursements shall be subject to satisfaction of any applicable special conditions pursuant to EXHIBIT E.

Section 5.9 Insurance. Within 10 days of the payment of the Disbursement of retention, Borrower must provide Funding Lender with evidence that the Builder's Risk Policy has been

replaced with Property Insurance, as such capitalized terms are used and otherwise in accordance with the provisions and requirements in the Agreement to Furnish Insurance.

ARTICLE VI

BORROWER LOAN DISBURSEMENT

The proceeds of the Borrower Loan and Borrower's Funds shall be disbursed as follows:

Section 6.1 Initial Disbursement. Promptly following Recordation of the Trust Deed and the Regulatory Agreement, and upon satisfaction of the conditions of Section 5.1 and each of the other applicable conditions hereof applicable to the Initial Disbursement, Funding Lender shall disburse all disbursement amounts for the Initial Disbursement in accordance with the Initial Disbursement Schedule to pay all costs, charges and expenses incurred or to be incurred (as estimated by Funding Lender) in connection with the Borrower Loan or payable pursuant to this Borrower Loan Agreement, the Trust Deed or Security Agreements, excluding direct costs of labor and materials related to the Improvements, and including but not limited to Borrower Loan fees (which are deemed earned at Recordation of the Trust Deed and are not refundable in whole or part), service charges, title charges, tax and lien service charges, recording fees, escrow fees, appraisal fees, legal fees, real property Taxes and assessments[, and] insurance premiums[, and any amount required to pay existing encumbrances affecting the Property,].

Section 6.2 Subsequent Disbursement. Upon satisfaction of the conditions of Section 5.2 and each of the other applicable conditions hereof applicable to subsequent Disbursements, Funding Lender shall disburse directly to Borrower or, at Funding Lender's option, directly to the General Contractor or to such Persons as have actually supplied labor, material or services in connection with or incidental to the construction of the Improvements (or for the payment of the cost of any of Borrower's undertakings hereunder, in the Borrower Notes, the Trust Deed or the Security Agreements), such sums as are required for the payment of interest on the Borrower Loan and costs and expenses of construction of the Improvements. Disbursements shall be made in accordance with the applicable provisions of this Borrower Loan Agreement and the Cost Breakdown. Any funds disbursed hereunder to Borrower shall be received by Borrower in trust and Borrower agrees that the same shall be used only for the payment of those items contemplated by the particular Disbursement.

Section 6.3 Final Disbursement. The final Disbursement shall be the payment of any monies retained as set forth in this Borrower Loan Agreement. Subject to the provisions of this Borrower Loan Agreement, the final Disbursement shall be made only after Borrower has satisfied the conditions of Section 5.3 hereof and delivered or caused to be delivered to Funding Lender in addition to those required under Section 8.2 hereof, such additional endorsements or such additional policies of title insurance with endorsements thereto as Funding Lender may require, with a liability limit of not less than the aggregate principal amount of the Borrower Notes, issued by Title Insurer, with coverage and in form satisfactory to Funding Lender, insuring Funding Lender's interest under the Trust Deed as a first lien on the Property, excepting only such items as shall have been approved in writing by Funding Lender. However, Funding Lender may withhold the final Disbursement until Borrower has furnished Funding Lender with the written approval of such final Disbursement by Title Insurer and the surety on any bond required by Funding Lender.

Section 6.4 Disbursement Limits; Deficiency of Borrower Loan Funds. Funding Lender shall not be required to Disburse any Borrower Loan Proceeds at any time that Borrower has

failed to deposit all Borrower's Funds required under Section 8.1. Any unexpended Borrower's Funds allocated to a line item in the Cost Breakdown shall be disbursed prior to any Disbursement for that line item. Borrower's Funds shall be disbursed before further proceeds of the Loan are disbursed.

Section 6.5 [Reserved].

Section 6.6 Borrower's Funds Account. Except as otherwise provided in this Borrower Loan Agreement, all of Borrower's Funds which are deposited with Funding Lender by Borrower shall be placed in the Borrower's Funds Account with, and controlled by, Funding Lender for disbursement under this Borrower Agreement.

Section 6.7 First Lien Priority. Pursuant to California Civil Code sections 8452 and 8458, in addition to any and all rights of Governmental Lender and Funding Lender and obligations of Borrower hereunder, Borrower acknowledges and agrees that:

(a) All Borrower Loan Proceeds to be disbursed for the construction of the Improvements shall be applied solely for the payment of claims of lien claimants, and Borrower shall have no right to be paid any Borrower Loan Proceeds to be applied for any other use or purpose unless and until Borrower has provided Funding Lender with evidence satisfactory to Funding Lender in its reasonable discretion that all such claims have been paid in full or that the time for the recording of such claims has expired with no liens pursuant to such claims having been recorded;

(b) Funding Lender shall be permitted to take any actions, or require Borrower to comply with any requirements reasonably determined by Funding Lender to be necessary to protect the first-lien priority of the Trust Deed pursuant to California Civil Code section(s) 8452 and/or 8458; and

(c) In addition, and not by way of limitation, Borrower shall provide evidence reasonably satisfactory to Funding Lender that Borrower has complied with the requirements of California Civil Code Section 8710 which, if applicable to Borrower, may require that Borrower provide the General Contractor with a bond, letter of credit or other security and a copy of the recorded Trust Deed. Borrower agrees to protect, indemnify, defend and hold harmless Governmental Lender and Funding Lender, and their respective directors, officers, agents and employees, from and against any and all liability, expense or damage of any kind or nature and from any suits, claims or demands, including reasonable legal fees and expenses on account of any matter or thing or action or failure to act by Borrower, whether in suit or not, arising out of the requirements imposed on Borrower under California Civil Code Section 8710, and this indemnity on the part of Borrower shall survive the closing of the Borrower Loan and the repayment thereof.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower represents and warrants (which representations and warranties shall survive any investigations, inspections or inquiries made by Funding Lender or by Governmental Lender or any of their respective representatives or any Disbursements made by Funding Lender hereunder) that:

Section 7.1 Formation and Qualification. Borrower, is duly formed and validly existing under the laws of the jurisdiction of its formation and is in good standing in the State, and Borrower has all requisite power and authority to conduct its business and to own and lease its properties.

Section 7.2 Borrower Loan Documents. Borrower has full power and authority to execute this Borrower Loan Agreement, the Borrower Notes, the Trust Deed, the Security Agreements, the Regulatory Agreement and the other Borrower Loan Documents, and to undertake and consummate the transactions contemplated hereby and thereby, and to pay, perform and observe its conditions, covenants, agreements and obligations herein and therein contained. The Borrower Loan Documents have been duly authorized by all necessary action and do not and will not (a) require any authorization, consent, approval, order, license, permit, exemption or other action by or from, or any filing, registration or qualification with, any Governmental Authority or other Person, which has not been obtained, (b) contravene the organizational documents and governing agreements of Borrower, any applicable laws or other requirements or any agreement or restriction binding on or affecting Borrower or its property, or (c) result in or require the creation or imposition of any lien or right of others upon or with respect to any property now or in the future owned by Borrower (other than liens in favor of the Funding Lender [and Subordinate Lenders]). No authorization, consent, approval, order, license, permit, exemption or other action by or from, or any filing, registration or qualification with, any Governmental Authority or other Person, which has not been obtained is required for the creation of the security interests in the Property or other assets of Borrower pursuant to the Trust Deed and Security Agreements or the enforcement by the Funding Lender of its remedies under the Borrower Loan Documents. Each Borrower Loan Document, when executed and delivered, will constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or other similar laws affecting the rights of creditors generally.

Section 7.3 Project Information; Compliance. The Borrower and, to the best knowledge of the Borrower, any prior developer of the Project and any Governmental Authority having jurisdiction over the Project has obtained and have complied in all material respects with all permits, licenses, exemptions, Governmental Requirements, the Plans and Specifications, and other requirements relating to the division and development of the Property and the occupancy, marketing and operation of the Project, and the Borrower is, and construction of the Improvements in accordance with the terms of this Borrower Loan Agreement will be in compliance in all material respects with all Governmental Requirements and other requirements relating to the Project. The development and use of the Property for its intended purpose do not require the payment of extraordinary fees or assessments or the construction of other improvements not set forth in the Cost Breakdown and the Plans and Specifications, will not contravene any Governmental Requirements or other requirements, and are not subject to any other legal, contractual or practical impediments which are material in the aggregate. The undisbursed Borrower Loan Proceeds, together with Borrower's Funds and all other sums, if any, to be provided by Borrower as shown in the Cost Breakdown, are sufficient to construct the Improvements in accordance with the terms and conditions of this Borrower Loan Agreement. The Cost Breakdown is based on information deemed reliable by the Borrower and represents the Borrower's best estimate of all Project Costs that will be required in connection with the Project, and all Project Costs shown in the Cost Breakdown as "Previously Paid by Borrower" have been paid in full.

Section 7.4 Approval of the Borrower Loan Documents and Funding Loan Documents. By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Fiscal Agent or the Funding Lender for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Fiscal Agent or the Funding Lender in any manner.

Section 7.5 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 7.6 Litigation. There are no actions, suits or proceedings pending, or to the knowledge of Borrower threatened against or affecting it, the Property, Guarantor or Completion Guarantor or involving the validity or enforceability of the Trust Deed or the priority of the lien thereof, at law or in equity, or before or by any Governmental Authority or Local Authority. To the Borrower's knowledge it is not in default with respect to any order, writ, injunction, decree or demand or any court or any Governmental Authority or Local Authority.

Section 7.7 Financial Statements. The Financial Statements heretofore delivered to Funding Lender are true and correct in all respects, have been prepared in accordance with generally accepted accounting practice, fairly present the respective financial conditions of the subjects thereof as of their respective dates, no Material Adverse Change has occurred in the financial conditions reflected therein since their respective dates and no additional borrowings have been made by Borrower since the date thereof other than the borrowing contemplated hereby or approved by Funding Lender.

Section 7.8 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 7.9 Intention to Hold Project. The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it other than any purchase option and right of first refusal provided for in the Partnership Agreement that is subordinate to the Trust Deed; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 7.10 ADA Compliance. The Improvements have been designed and shall be constructed and completed, and thereafter maintained, in strict accordance and full compliance with all of the requirements of the Americans with Disabilities Act, of July 26, 1990, Pub. L. No.

101-336, 104 Stat. 327, 42 U.S.C. § 12101, et seq., as amended from time to time. Borrower shall be responsible for all ADA compliance costs.

Section 7.11 Separate Tax Parcel; Zoning. The Property is a legal parcel lawfully created in full compliance with all subdivision laws and ordinances, and is properly zoned for the stated use of the Property as disclosed to Funding Lender at the time of execution hereof, including, without limitation, those pertaining to any LIHTCs benefitting the Project.

Section 7.12 Borrower Loan Proceeds and Adequacy; Project Information. The undisbursed Borrower Loan proceeds, together with Borrower's Funds, the Equity Contributions to be contributed by the Equity Investor pursuant to the Partnership Agreement prior to the Conversion and all other sums, if any, to be provided by Borrower as shown in the Cost Breakdown, are sufficient to construct the Improvements in accordance with the terms and conditions of this Borrower Loan Agreement. The Cost Breakdown is based on information deemed reliable by Borrower and represents Borrower's best estimate of all Project Costs that will be required in connection with the Project, and all Project Costs shown in the Cost Breakdown as "Previously Paid by Borrower" have been paid in full.

Section 7.13 Plans and Specifications, Defects. The Plans and Specifications are satisfactory to Borrower, have been approved by Guarantor and Completion Guarantor, and to the extent required by Governmental Requirement or Local Requirement or any effective restrictive covenant, by all Local Authorities and the beneficiary of any such covenant respectively; all construction, if any, heretofore performed on the Improvements has been performed within the perimeter of the Property in accordance with the Plans and Specifications and any restrictive covenants applicable thereto. No Improvements encroach on any easement or right of way. There are no structural defects in the Improvements, and no violation of any Governmental Requirement or Local Requirement exists with respect thereto.

Section 7.14 Utilities. All utility services necessary for the construction of the Improvements and the operation thereof for their intended purpose are either available at the boundaries of the Property or all necessary steps have been taken by Borrower and Local Authority to assure the complete construction, installation, connection and use of utility services for the full utilization of the Improvements, including water supply, storm and sanitary sewer facilities, gas, electric and telephone facilities.

Section 7.15 Streets. All streets, sidewalks, if required, and other offsite improvements necessary for the full utilization of the Improvements for their intended purposes have either been completed or the necessary rights-of-way therefor have either been acquired by Local Authority or have been dedicated to public use and accepted by Local Authority and all necessary steps have been taken by Borrower and Local Authority to assure the complete construction and installation thereof so as not to impede the construction, approval for occupancy or sale of the Project.

Section 7.16 Legality of Sales; Special Taxes. The Property is not subject to or affected by any existing or proposed Special Taxes (other than Special Taxes approved in writing by the Funding Lender after the date of this Borrower Loan Agreement), and any common areas to be transferred to a homeowners association are separately transferable in compliance with all applicable Governmental Requirement or Local Requirement and other requirements.

Section 7.17 Regulatory Agreement. The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent

such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Treasury Regulations, and pursuant to leases which comply with all applicable laws.

Section 7.18 No Default. The consummation of the transaction hereby contemplated and performance of this Borrower Loan Agreement, Trust Deed and Security Agreements and any other Borrower Loan Documents and Funding Loan Documents will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, bank loan or security agreement, corporate charter, by-laws or other instrument or agreement to which the Borrower is a party or by which it may be bound or affected. There is no default on the part of Borrower under this Borrower Loan Agreement or any other Borrower Loan Document, and no event has occurred and is continuing which with notice or the passage of time or either would constitute a default under any thereof.

Section 7.19 Business Loan. The Borrower Loan is a business loan transaction in the stated amount solely for the purpose of carrying on the business of Borrower and none of the proceeds of the Borrower Loan will be used for the personal, family or agricultural purposes of Borrower.

Section 7.20 Tax Shelter Regulations. No Obligor (or any subsidiary of any of the foregoing) intends to treat the Borrower Loan or the transactions contemplated by this Borrower Loan Agreement and the other Borrower Loan Documents as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). If any Obligor determines to take any action inconsistent with such intention, Borrower will promptly notify Funding Lender thereof. If Borrower so notifies Funding Lender, Borrower acknowledges that Funding Lender may treat the Borrower Loan as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and Funding Lender will maintain the lists and other records, including the identity of the applicable party to the Borrower Loan as required by such Treasury Regulation.

Section 7.21 Title to Personal Property. Any personal property required by Funding Lender as additional security for the Borrower Notes is vested in Borrower free and clear of all liens, encumbrances and adverse claims and that the security interest of Funding Lender in the personal property shall be a first lien thereon.

Section 7.22 Other Financing. Borrower has not received other financing for either the acquisition of the Property or the construction and installation of the Improvements except for the financing to be provided by the Permanent Lender pursuant to the Permanent Loan Commitment or as has been specifically disclosed in writing to, and approved by, Funding Lender prior to Recordation of the Trust Deed.

Section 7.23 Other Liens. Borrower has made no contract or arrangement of any kind, the performance of which by the other party thereto would give rise to a lien on the Property, except for its arrangements with the Architect, the General Contractor or the major subcontractors if there is no General Contractor, and as may otherwise be approved by the Funding Lender.

Section 7.24 Flood Zone. The Project is not located in an area identified by the Federal Emergency Management Agency as a special flood hazard area, or if the Project is located in a special flood hazard area, Borrower shall have obtained flood hazard insurance acceptable to

Funding Lender in its sole discretion as more particularly set forth in the Agreement to Furnish Insurance.

Section 7.25 Existing Project Documents. As of the date hereof, the only Project Documents in existence are [the Development Agreement, the Permanent Lender Commitment] and [the Property Management Agreement].]

Section 7.26 Validity and Enforceability of Project Documents. The Project Documents are valid, binding and enforceable, are in full force and effect, and there are no breaches or defaults thereunder and no events have occurred which with notice and/or lapse of time will constitute a material breach or default thereunder by Borrower or any affiliate of Borrower, or to the best of Borrower's knowledge, any other party thereto. Borrower represents and warrants that it has full power, right and authority to execute and enter into the Project Documents.

Section 7.27 No Prior Conveyance or Limiting Actions. Borrower has not previously conveyed, transferred or assigned the Project Documents or any right, title or interest therein, Borrower has not executed any other instrument which might prevent or limit Funding Lender from operating under the terms and provisions of the assignment contemplated hereby, and Borrower covenants and agrees not to do any of the foregoing.

Section 7.28 Anti-Corruption Laws; Sanctions. Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by Borrower, its Affiliates and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and Borrower, its Affiliates and their respective officers and directors and, to the knowledge of Borrower, their respective employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions. None of (i) Borrower, any Affiliate or any of their respective directors, officers or employees, or (ii) to the knowledge of Borrower, any agent of Borrower or any Affiliate that will act in any capacity in connection with or benefit from the Transactions or any other transactions contemplated hereby, is a Sanctioned Person. No Transactions will violate Anti-Corruption Laws or applicable Sanctions.

Section 7.29 Legality of Sales; Special Taxes. There exists no assessment district or community facilities district which includes all or any part of the Project pursuant to: (a) the Mello-Roos Community Facilities Act of 1982; (b) the Municipal Improvement Act of 1913; or (c) any other comparable or similar statute or regulation. Neither Borrower nor any affiliate of Borrower currently holds or controls any funds received from the formation of any assessment district or community facilities district which includes all or any part of the Project pursuant to: (a) the Mello-Roos Community Facilities Act of 1982; (b) the Municipal Improvement Act of 1913; or (c) any other comparable or similar statute or regulation.

Section 7.30 Information Furnished to Governmental Lender. No written information, exhibit or report furnished to the Governmental Lender by the Borrower in connection with the negotiation of the Borrower Loan Documents contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 7.31 ERISA. Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA or a "plan" as defined in Section 4975(e)(1) of the Code. Each Employee Benefit Plan is in material compliance with all applicable requirements under ERISA and the Code, and, to the extent that such Employee Benefit Plan is also intended to be "qualified" within the meaning of Section 401(a) of the Code, it is in material compliance with the applicable

requirements under the Code, except to the extent that any defects can be remedied without material liability to Borrower under Revenue Procedure 2003-44 or any similar procedure. None of the Employee Benefit Plans is subject to the requirements of Section 412 of the Code, Part 3 of Title I of ERISA or Title IV of ERISA or is a "multiemployer plan" as defined in Section 3(37) of ERISA. Borrower has no material liability under Title IV of ERISA or Section 412 of the Code with respect to any Employee Benefit Plan.

Section 7.32 Single Purpose Entity. Borrower is, has been at all times since its formation, and will remain a single purpose entity.

Section 7.33 Beneficial Ownership Certification. As of the date of this Agreement, the information included in the Beneficial Ownership Certification is true and correct in all material respects.

Section 7.34 Commissions and Fees. Borrower has not dealt with any person, firm or corporation who is or may be entitled to any finder's fee, brokerage commission, loan commission or other sum in connection with the execution of this Borrower Loan Agreement, the consummation of the transactions contemplated hereby and the making of the Borrower Loan by Funding Lender to Borrower, and Borrower does hereby indemnify and agree to hold Funding Lender and Governmental Lender harmless from and against any and all loss, cost liability or expense, including attorney's fees, Funding Lender or Governmental Lender may suffer or sustain should such warranty or representation prove inaccurate in whole or in part.

Section 7.35 [Reserved.]

Section 7.36 [Reserved.]

Section 7.37 [Reserved].

Section 7.38 CC&R's. Borrower has examined, is familiar with, and the Improvements will in all respects conform to and comply with all covenants, conditions, restrictions, reservations and Governmental Requirement or Local Requirement affecting the Property.

Section 7.39 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 7.40 Requirements of Housing Act, Code and Treasury Regulations. The Project satisfies all applicable requirements of the Housing Act, the Code and the Treasury Regulations applicable to the Project.

Section 7.41 Equity Contributions and LIHTCs. . The aggregate Equity Contribution payable by Equity Investor in accordance with the terms and conditions outlined in the Partnership Agreement is anticipated to be \$19,242,593. Borrower has received the LIHTC Allocation Agreement from the Agency. As set forth in the LIHTC Allocation Agreement, LIHTCs are allocated for the Project as follows: [(i) federal LIHTC in the amount of at least \$2,124,329 annually for each of ten (10) years and (ii) state LIHTC in the total amount of \$5,700,000 to be taken over a four (4) year period.]

Section 7.42 Survival of Representations and Covenants. All of the representations and warranties in this Article VII and elsewhere in the Borrower Loan Documents (i) shall survive any investigations, inspections or inquiries made by Funding Lender or any of its

representatives, all Disbursements made by Funding Lender hereunder, and for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender and Funding Lender notwithstanding any investigation heretofore or hereafter made by the Governmental Lender, the Funding Lender or on their behalf.

ARTICLE VIII

BORROWER'S COVENANTS

Borrower covenants and agrees as follows, until the full and final payment of the Borrower Loan, unless Funding Lender waives compliance in writing:

Section 8.1 Borrower's Funds. At the time and in amounts required by Funding Lender, Borrower shall deposit Borrower's Funds in the Borrower's Funds Account. Borrower's Funds shall be disbursed from such account in the manner provided in this Borrower Loan Agreement. Should it appear at any time that the total undisbursed proceeds of the Borrower Loan together with any Borrower's Funds then held by Funding Lender, plus any Equity Contributions scheduled to be made by the Equity Investor to the Borrower prior to the Conversion Date, are insufficient, in Funding Lender's good faith judgment, to: (i) pay, through completion, all costs of development, construction, marketing and sale or leasing of the Property and Improvements in accordance with the Borrower Loan Documents; (ii) pay all sums which may accrue under the Borrower Loan Documents prior to repayment of the Borrower Loan; and (iii) enable Borrower to perform and satisfy all of the covenants of Borrower contained in the Borrower Loan Documents, to the extent that the undisbursed portion of the Borrower Loan Amount and Borrower's Funds that are then available, Borrower, within ten (10) days following receipt of written demand by Funding Lender for additional funds, shall pay to Funding an amount equal to such deficiency as expressed in said demand for deposit in the Borrower's Funds Account.

Section 8.2 Title Insurance. Borrower shall deliver or cause to be delivered to Funding Lender at Recordation of the Trust Deed or within a reasonable time thereafter an ALTA 2006 Extended Loan Policy of Title Insurance (LP-10 Package, if applicable), or its equivalent, with a liability limit of not less than the face amount of the Borrower Notes, issued by Title Insurer, insuring Funding Lender's interest under the Trust Deed as a valid first lien on the Property, together with such reinsurance or coinsurance agreements and endorsements to said policy as Funding Lender may require. Said policy shall contain only such exceptions from its coverage as shall have been approved in writing by Funding Lender. After Recordation of the Trust Deed, Borrower shall at its own cost and expense, maintain the Trust Deed as a first lien on the Property and deliver or cause to be delivered to Funding Lender from time to time the endorsements and policies referred to herein. In addition to any other requirements of Funding Lender to acceptance of an Interest Rate Hedge Transaction, it is a condition precedent to any Interest Rate Hedge Transaction that Borrower cause the Title Insurer to issue in favor of Funding Lender a swap endorsement to the Title Policy, satisfactory to Funding Lender, insuring that the interest payable with respect to any Interest Rate Hedge Transaction is secured by the Trust Deed and the Security Agreements at the same priority as the principal under the Borrower Loan.

Section 8.3 Construction Start. Borrower shall not commence construction of the Improvements, including grading and site clearance, or undertake any act on the Property prior to Recordation of the Trust Deed, the result of which would cause any mechanics' or materialman's lien thereafter filed to take priority over the lien of the Trust Deed unless Title

Insurer provides Funding Lender with insurance satisfactory to Funding Lender protecting Funding Lender against any such mechanic's or materialman's liens.

Section 8.4 Diligent Construction. Borrower shall cause construction of the Improvements to be commenced not more than thirty (30) days after the Recordation of the Trust Deed and thereafter prosecuted with diligence and continuity and completed in accordance with the Plans and Specifications and meet all the conditions of Permanent Lender using new materials and workmanship free from fault on or before the Completion Date, free and clear of liens or claims for liens.

Section 8.5 Force Majeure. The time within which construction of the Improvements must be completed shall be extended for a period of time equal to the period of any delay directly affecting construction which is caused by plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or similar government-issued "stay at home" orders, fire, earthquake or other acts of God, strike, lockout, acts of public enemy, riot, insurrection, or governmental regulation of the sale or transportation of materials, supplies or labor (but not the financial inability of Borrower), government-declared health pandemic or state of emergency (collectively, "Force Majeure"); provided, however, that Borrower shall furnish Funding Lender with Written Notice satisfactory to Funding Lender evidencing any such delay within five (5) Business Days from the occurrence of any such Force Majeure. Borrower shall have obtained the written approvals of third parties whose approval is required, if any, with respect to such delay, Borrower shall diligently proceed to mitigate, remove or correct the cause of such delay, and Borrower shall otherwise use its diligent efforts in good faith to pursue and complete construction of the Improvements. In no event shall the time for completion of the Improvements be extended beyond the Conversion Date (or, if applicable, the Extended Conversion Date) or more than sixty (60) days beyond the Completion Date without Written Consent from the Funding Lender.

Section 8.6 Plans and Specifications; Contingency Reallocation.

(a) Approval. If the Plans and Specifications for the Site Improvements, the buildings comprising the Improvements, or both, have not been completed, approved by Borrower and Funding Lender, and listed on EXHIBIT B of this Borrower Loan Agreement prior to Recordation of the Trust Deed, then anything herein to the contrary notwithstanding, (a) Borrower shall not permit any contractor to commence work on any of the Site Improvements or building for which Borrower and Funding Lender have not executed a revised EXHIBIT B setting forth the approved Plans and Specifications therefor pursuant to clause (b), below, nor shall any disbursements of Borrower Loan Proceeds or of funds from the Borrower's Funds Account be available for any line item of the Cost Breakdown until the same are so approved by Borrower and Funding Lender, and (b) promptly after Recordation of the Trust Deed, Borrower shall deliver to Funding Lender for approval the Plans and Specifications for the applicable portions of the Improvements, and when approved by Funding Lender, Borrower and Funding Lender each shall execute a revised EXHIBIT B to this Borrower Loan Agreement specifying the approved Plans and Specifications.

(b) Change Order. Once approved by Funding Lender, the prior written consent of Funding Lender shall be required for any change in the Plans and Specifications which is a Material Change (defined below). A change shall be considered a "Material Change" if it: (i) would result in an increase in any one cost item shown in the Cost Breakdown (an "Item") which, together with any other previous changes to such Item, in the aggregate, exceeds the Cumulative Change Order Amount, or (ii) such change constitutes a material change in the

building material or equipment specifications, the architectural or structural design, value, or quality of any of the Improvements, including but not limited to a change to the number of Buildings, or changes to the square footage of any Building by more than one hundred (100) square feet or change the number of Buildings or the number of floors or footprint of any Building. Borrower shall notify Funding Lender as soon as practical regarding all changes whether or not such change is a Material Change which is subject to Funding Lender's approval. All requests for approval of any Material Change shall be submitted on a change order form acceptable to Funding Lender signed by Borrower and, if required by Funding Lender, the Architect, Engineer, [Site Improvement Contractor,] and the General Contractor, if any, accompanied by working drawings and a written narrative of the proposed Material Change. As a condition to any such approval, Funding Lender may require satisfactory evidence of the cost of the proposed Material Change and the time necessary to complete the proposed Material Change; and, to the extent Funding Lender determines that the proposed Material Change shall result in an increase in cost, Funding Lender shall have the right to require Borrower to deposit funds in the Borrower's Funds Account. If, regardless of cost, any change in the Plans and Specifications requires the approval of Equity Investor or Special LP, any Subordinate Lender, or any other party to any of the Borrower Loan Documents, the Funding Lender shall have the right to condition its consent upon receipt of evidence satisfactory to the Funding Lender that such party has approved such change.

(c) Delays. Borrower acknowledges that this approval process may result in delays and Borrower consents to all such reasonable delays. No such delay will result in the extension of the Completion Date. Upon Funding Lender's request, Borrower, the Architect, and the General Contractor, shall initial the copy of the Plans and Specifications delivered to, and approved by, Funding Lender as a true copy of the Plans and Specifications for the Improvements. Borrower shall maintain at all times a full and complete set of working drawings for the Improvements available for inspection by Funding Lender.

(d) Contingency Reallocation. There shall be no reallocation of "Contingency" to other Items in the Cost Breakdown without Funding Lender's prior consent, not to be unreasonably withheld, conditioned or delayed, [except that Borrower may, from time-to-time, without Funding Lender's consent, reallocate a percentage of contingency in an amount up to the percentage of completion of the Improvements, as reasonably determined by Funding Lender].

(e) Reallocation of Line Items. Borrower may not reallocate amounts from any Item to any other Item in the Cost Breakdown without Funding's prior consent, not to be unreasonably withheld, conditioned or delayed [except as follows:

(i) If at any time the undisbursed balance of the amount allocated in the Cost Breakdown for any Item is, in Funding Lender's reasonable judgment greater than the amount necessary to complete such category, then, upon Funding Lender's prior consent, not to be unreasonably withheld, conditioned or delayed, Borrower may reallocate the excess to another Item, including contingency, as Funding Lender and Borrower shall mutually agree in writing; and

(ii) Borrower may reallocate demonstrated costs savings in any Item to any other Item upon satisfaction of the following conditions: (1) evidence that all work covered by a particular Item has been completed in substantial compliance with the Plans and Specifications and all Persons who performed such work have been paid for in full; and (2) Funding Lender shall have received such evidence and verified the amount of such cost savings.]

(f) Final Plans and Specifications. Within ten (10) days after Funding Lender's request, Borrower shall deliver to Funding Lender complete as-built Plans and Specifications, if available, for the Improvements completed.

Section 8.7 Contractor Lists. Within ten (10) days following Funding Lender's request, Borrower shall furnish to Funding Lender a list of all major contractors, subcontractors and material suppliers (and any subcontracts, invoices and/or releases requested by Funding Lender) to be employed in connection with the construction of the Improvements. Each list shall set forth:

(a) the name, address and telephone number of each contractor, subcontractor and material supplier;

(b) the dollar amount of each contract, subcontract and material contract;

(c) the amount paid to each contractor, subcontractor and material supplier through the date of each list;

(d) the dollar amount of the work performed and material supplied under each contract, subcontract and material contract through the date of each list; and

(e) if any of the materials supplied are to be delivered to, or stored at, a location not on the Property ("Off-Site Materials"), the exact location at which the Off-Site Materials will be delivered and stored must be shown. In such event, Borrower must provide Funding Lender with a written consent, in form and content satisfactory to Funding Lender, executed by the seller of such Off-Site Materials and acknowledging Funding Lender's first position security interest in the Off-Site Materials and consenting thereto. Borrower shall also deliver all documentation and cause such marking and segregation as may be request by Funding Lender to perfect its security interest in the Off-Site Materials and evidence of adequate insurance for the Off-Site Materials.

Section 8.8 General Contractor Covenant. Borrower shall require covenants from the General Contractor to the same effect as the covenants made by Borrower in the preceding Sections 8.6 and 8.7, and Borrower shall cause General Contractor, upon request, to deliver to Funding Lender the names of all Persons with whom General Contractor has contracted or intends to contract for the construction of the Improvements or for the furnishing of labor or materials therefor.

Section 8.9 General Contract; Architect's Agreement; Engineer's Agreement . Borrower shall require General Contractor, Architect and Engineer to perform in accordance with the terms of the General Contract, the Architect's Agreement and the Engineer's Agreement, respectively, and shall not amend, modify or terminate the responsibilities of General Contractor, Architect or Engineer under the General Contract, the Architect's Agreement and the Engineer's Agreement, respectively, without Funding Lender's prior written consent.

Section 8.10 Other Contractors. Borrower shall not execute any contract or become party to any arrangement for the performance of work on the Property except the General Contract, the Architect's Agreement and the Engineer's Agreement.

Section 8.11 Improvements Inspection. Borrower shall permit Funding Lender and Governmental Lender, or their respective representatives (and Funding Lender and Governmental Lender shall have the right) to enter upon the Property at any reasonable time, inspect the Improvements and all materials to be used in the construction thereof and to examine the Plans and Specifications and all detailed plans and shop drawings which are or may be kept at the construction site, and Borrower will cooperate, and Funding Lender shall have the right to have Borrower cause the General Contractor or, if none, the major subcontractors, to cooperate with Funding Lender. Any inspection or review of the Improvements by the Governmental Lender or Funding Lender is solely to determine whether Borrower is properly discharging its obligations to the Governmental Lender and Funding Lender and may not be relied upon by Borrower or by any third party as a representation or warranty of compliance this Agreement or any other Agreement. Funding Lender does not owe any duty of care to Borrower or any third party to protect against, or to inform Borrower or any third party of, any negligent, faulty, inadequate or defective design or construction of the Improvements as determined by Funding Lender.

Section 8.12 Foundation Completion. Borrower shall notify the Funding Lender immediately upon completion of the foundation of the Improvements, if applicable.

Section 8.13 Personal Property Installation. Borrower shall not install materials, personal property, equipment, or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person to remove or repossess any such material, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at time of installation, without Funding Lender's Written Consent, provided, however, that this Section shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants..

Section 8.14 Approval. Borrower shall obtain and deliver to Funding Lender evidence of the unconditional approval by Local Authority, local Board of Fire Underwriters or its equivalent and by any other applicable Governmental Authority of the Improvements in their entirety for permanent occupancy to the extent any such approval is a condition of the lawful use and occupancy of the Improvements.

Section 8.15 Paid Vouchers. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements, under which Borrower claims title to any materials, fixtures or articles incorporated in the Improvements.

Section 8.16 Preliminary Notices. Borrower shall deliver to Funding Lender copies of all preliminary notices and other matters served on Borrower pursuant to the mechanics lien and stop notice or notice to withhold laws of the State.

Section 8.17 Defect Corrections. The Improvements will conform to and comply with all Governmental Requirements and the Plans and Specifications. Borrower shall diligently correct any defect in the Improvements or any departure from the Plans and Specifications not approved by Funding Lender; the advance of any Borrower Loan Proceeds shall not constitute a waiver of Funding Lender's right to require compliance with this covenant with respect to any such defects or departures from the Plans and Specifications.

Section 8.18 Special Taxes; Community Facilities Districts. Without Funding Lender's prior Written Consent, Borrower shall not (a) cause or suffer to become effective or otherwise consent to the formation of any assessment district or community facilities district which

includes all or any part of the Property and Improvements pursuant to: (i) the Mello-Roos Community Facilities Act of 1982; (ii) the Municipal Improvement Act of 1913; or (iii) any other comparable or similar statute or regulation, (b) cause or otherwise consent to the levying of Special Taxes against the Project by any such assessment district or community facilities district, or (c) consent to, or vote in favor of, the inclusion of all or any part of the Property in any community facilities district without the prior consent of Funding Lender, which consent shall not be unreasonably delayed, conditioned or withheld. In addition, and not by way of limitation, Borrower shall promptly give notice to Funding Lender of any notification or advice that Borrower may receive from any Governmental Authority or other third party of any intent or proposal to include all or any part of the Project in a community facilities district. Funding Lender shall have the right to file a written objection to the inclusion of all or any part of the Project in a community facilities district, either in its own name or in the name of Borrower, and to appear at, and participate in, any hearing with respect to the formation of any such district.

Section 8.19 Marketing and Leasing. Subject in all respects to the requirements of the Regulatory Agreement, Borrower shall (a) diligently market the Improvements for lease to qualified Tenants in compliance with all Governmental Requirements for rents consistent with the Regulatory Agreement, [the Restrictive Covenants,] the LIHTC Documents and the Partnership Agreement, and with rent prepaid for no more than one (1) month in advance; and (b) subject to the Funding Lender's request, furnish to Funding Lender a monthly written report on the status of all leasing activities for the Project, and, upon Funding Lender's request, a statement certified by Borrower in a form approved by Funding Lender showing all lease transactions pending, including identity of proposed tenants, basic economic terms, and any other information requested by Funding Lender.

Section 8.20 Proceeds of the Equity Contribution. Borrower shall comply and cause its General Partner to comply with all obligations and requirements under the Partnership Documents necessary to cause the Equity Investor to timely fund the Equity Contributions necessary to make the payments required under this Agreement and the Borrower Notes.

Section 8.21 Comply With Government Requirements. Borrower shall promptly comply with any Governmental Requirement or Local Requirement, and shall maintain compliance with all Governmental Requirements applicable to the Property and Improvements and all other applicable statutes, laws, regulations and ordinances necessary for the transaction of its business, and shall require its Tenants or licensees to do the same, including, without limitation, those pertaining to the LIHTCs.

Section 8.22 Maintain Records. Borrower shall keep and maintain full and accurate accounts and records of its operations according to generally accepted accounting principles and practices for its type of business.

Section 8.23 Taxes. Borrower shall pay and discharge all lawful claims, including Taxes, assessments, and governmental charges or levies imposed upon it or its income or profits or upon any properties belonging to it prior to the date upon which penalties attach thereto; provided that Borrower shall not be required to pay any such Tax, assessment, charge, or levy, the payment of which is being contested in good faith and by proper proceedings so long as proceedings for collection thereof have been stayed and the obligation to pay is secured by the posting of a bond or other legally sufficient security.

Section 8.24 Maintain Insurance. Borrower shall obtain and continue to maintain in full force and effect all insurance required by the Borrower Loan Documents.

Section 8.25 No Conveyance or Encumbrance. Except in connection with the Restrictive Covenants, the Subordinate Debt and the subordination agreements related thereto, Borrower covenants and agrees not to sell, convey, transfer, dispose of, grant or allow a lien or security interest in, or, except as permitted in the Trust Deed, otherwise further encumber the Property or the Improvements or any part thereof or any interest therein or enter into a lease covering all or any portion thereof (except residential leases and Subordinate Debt) or an undivided interest therein, either voluntarily, involuntarily or otherwise, or enter into an agreement so to do without the prior Written Consent of Funding Lender being first had and obtained. All easements, declarations of covenants, conditions and restrictions, and private or public dedications affecting the Property shall be submitted to Funding Lender for its approval and such approval shall be obtained prior to the execution or granting of any thereof by Borrower, accompanied by a drawing or survey showing the precise location of each thereof. If Borrower is a legal entity, any of the following direct or indirect transfers of any beneficial interest in Borrower shall be deemed to constitute a transfer of the Property for purposes of this Section: (a) if Borrower is a partnership, the transfer of any general partnership interest or (unless traded in a recognized public exchange) of more than twenty-five percent (25%) of the limited partners' interest; (b) if Borrower is a corporation, the transfer (unless traded in a recognized public exchange) of more than twenty-five percent (25%) of the voting common shares or the creation or issuance of any new class of shares, (c) if Borrower is a limited liability company, the transfer (unless traded in a recognized public exchange) of more than twenty-five percent (25%) in interest therein, and (d) if Borrower is a trust, any change in the effective holding of the beneficial interest of more than twenty-five percent (25%) of the assets thereof.

Notwithstanding the foregoing, the replacement of a partner of Borrower in accordance with the terms of the Partnership Agreement by an entity controlling, controlled by, or under common control with Hudson Housing Capital LLC (each, an "Approved Affiliate") shall be permitted (a "Permitted Transfer") under this Section without the prior Written Consent of Funding Lender; provided, however, that that Funding Lender is given Written Notice within five (5) days of any such transfer and the transferee of any such partnership interest shall not result in a breach of Section 8.27 hereof.

Section 8.26 Certified Draw Requests. Each Certified Draw Request shall be true and accurate and the submission of same or the receipt of the funds so requested shall constitute a reaffirmation of the representations, warrants and covenants contained herein. Concurrently with submission of any draw request to any Subordinate Lender, Borrower shall provide copies to the Funding Lender of all draw requests submitted to any Subordinate Lender setting forth the amount of any proceeds to be funded from Subordinate Debt for review by the Funding Lender.

Section 8.27 OFAC. Borrower shall not (a) be or become subject at any time to any law, regulation, or list of any Governmental Authority (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits banks from making any advance or extension of credit to the transferee or from otherwise conducting business with the transferee, or (b) fail to provide documentary and other evidence of the transferee's identity as may be requested by any Funding Lender at any time to enable such Funding Lender to verify the transferee's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

Section 8.28 Payment of Expenses. Borrower shall pay within five (5) days after Funding Lender's demand, all reasonable and necessary expenses incidental to the making and

administration of the Borrower Loan including, without limit, preclosing and closing expenses, commitment fees, expenses incurred for architectural and engineering review, construction inspection fees, environmental review fees, attorney's fees and appraiser's fees, regardless of whether any such services are provided by Funding Lender's employees or agents or by independent contractors. Funding Lender's good faith determination that an expense is a reasonable and necessary expense incidental to the making of the Borrower Loan shall constitute a conclusive determination of Borrower's obligation to pay such expense.

Section 8.29 Notification of Events of Default. Immediately upon becoming aware of the existence of any condition or event which constitutes an Event of Default or Potential Default, Borrower shall give Funding Lender Written Notice thereof specifying the nature and duration thereof and the action being or proposed to be taken thereto.

Section 8.30 Material Notices. Borrower shall give Funding Lender prompt Written Notice of any and all (a) litigation, arbitration or administrative proceedings to which Borrower is a party or which affect the Property or any other collateral for the Borrower Loan; (b) other matters which have resulted in, or might result in, a material adverse change in the Property or any other collateral for the Borrower Loan or the financial condition or business operations of Borrower; (c) any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in such certification; (d) any enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or any of its properties; and (e) any change or contemplated change in (i) the location of Borrower's or General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower.

Section 8.31 Sale of Assets. Borrower shall not sell, lease or otherwise dispose of any of its assets, except in the ordinary course of business and except for the purpose of replacing machinery, equipment or other personal property, which, as a consequence of wear, duplication, or obsolescence, is no longer used or necessary in Borrower's business, provided that full, fair and reasonable consideration is received therefor; provided, however, that in no event shall Borrower sell, lease or otherwise dispose of any equipment purchased with the proceeds of any loans made by the Governmental Lender or Funding Lender.

Section 8.32 Other Covenants. Borrower hereby represents, warrants and covenants that Borrower:

(a) shall not enter into any transaction of merger or consolidation, or liquidate or dissolve itself (or suffer any liquidation or dissolution), or acquire by purchase or otherwise all or substantially all the business or assets of, or stock or other evidence of beneficial ownership of, any Person;

(b) has not and shall not guarantee or otherwise become liable on or in connection with any obligation of any other Person;

(c) does not own and shall not own any asset other than the Project;

(d) is not engaged and shall not engage, directly or indirectly, in any business other than the ownership, construction, management and operation of the Project, shall remain organized solely for the purpose of the ownership, management and operation of the Project, and shall not cease to operate the Project as a multi-family property or

terminate such business for any reason whatsoever (other than temporary cessation in connection with construction or rehabilitation, as appropriate, of the Project);

(e) shall not enter into any contract or agreement with any affiliate of Borrower or any other Obligor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms' length basis with third parties other than such affiliate;

(f) has not incurred and shall not incur any indebtedness, secured or unsecured, direct or contingent (including any contingent obligation), other than indebtedness expressly permitted hereunder;

(g) has not made and shall not make any loans or advances to any third party;

(h) is and expects to remain solvent and pay its own liabilities, indebtedness and obligations of any kind, including all administrative expenses, as the same shall become due; it shall pay all such liabilities, indebtedness and obligations from its own separate assets;

(i) has done or caused to be done and shall do all things necessary to preserve its existence, and shall not, nor will any member or partner, change its name, structure, location or jurisdiction or organizational number or amend, modify or otherwise change its articles of organization, partnership agreement or operating agreement in a manner which adversely affects the existence of such entity as a single purpose entity;

(j) shall conduct and operate its business generally as presently conducted and operated subject to such operational changes as may be reasonably necessary or appropriate to construct, operate and maintain the Project;

(k) shall maintain bank accounts separate from any other Person;

(l) shall maintain separate books and records and shall prepare separate financial statements which are not consolidated or combined with the financial statements of any other Person and shall not change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP;

(m) shall be, and at all times shall not hold itself out to the public as being other than, a legal entity separate and distinct from any other Person (including any affiliate of Borrower);

(n) shall file its own tax returns, shall not permit its financial results to be consolidated or combined with those of any other Person for financial reporting purposes, and shall not permit any of its funds to be distributed, loaned or otherwise transferred to any other Person;

(o) is and expects to be at all times adequately capitalized for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

- (p) shall not seek its dissolution or winding up, in whole or in part;
- (q) shall not commingle its funds and assets with those of any other Person;
- (r) has and shall maintain its assets in such manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;
- (s) does not and shall not hold itself out to be responsible for the debts or obligations of any other Person;
- (t) shall not do any act which would make it impossible to carry on its ordinary business;
- (u) except as otherwise permitted in the Borrower Loan Documents, shall not possess or assign the Project for other than a business or company purpose;
- (v) shall not hold title to its assets other than in its name;
- (w) shall not institute proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of it or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due;
- (x) has observed and will continue to observe all limited liability company, corporate or partnership formalities;
- (y) has not and will not fail to correct any known misunderstandings regarding its separate identity;
- (z) shall not purchase or repurchase, in whole or in part, any partnership interest nor permit the withdrawal of any partner, except as permitted under the Partnership Agreement following the termination of the LIHTCs regulatory compliance period, or with Funding Lender's express written consent, which consent shall not unreasonably be withheld following the termination of the LIHTCs regulatory compliance period;
- (aa) shall not make investments in, or advances to, any individual, partnership, corporation, limited liability company, trust or other organization or person other than as previously specifically consented to in writing by Funding Lender, and shall not purchase or otherwise invest in or hold securities, non-operating real estate or other non-operating assets or purchase all or substantially all of the assets of any entity other than as previously specifically consented to in writing by Funding Lender;
- (bb) shall not amend any provisions of its organizational documents in any material respect without Funding Lender's express written consent, which consent shall not unreasonably be withheld; and

(cc) Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions, the timing and amount of which are subject to the applicable provisions of the Partnership Agreement.

Section 8.33 Accounts. Borrower shall maintain all operating and reserve accounts for the Project with Funding Lender, and such accounts shall be, and are hereby, pledged to Governmental Lender, for the benefit of Governmental Lender, to secure the Borrower Loan and all other obligations of Borrower under the Borrower Loan Documents.

Section 8.34 Project Documents. Borrower agrees to the following:

(a) Collateral Assignment and Security Agreement. As additional security for the obligations of Borrower under the Borrower Loan Documents, Borrower hereby sells, assigns, transfers and sets over to Governmental Lender and grants to Governmental Lender a security interest in, all of its right, title and interest in and to the Project Documents.

(b) Performance; Enforcement. Borrower shall perform and observe in a timely manner all covenants, conditions, obligations and agreements on the part of Borrower to be performed or observed under the Project Documents, and shall not waive, excuse, condone or in any manner release or discharge any party to a Project Document from any material covenants, conditions, obligations or agreements to be performed or observed by such party under such Project Document, but shall, at its sole cost and expense, enforce and secure the performance of all material covenants, conditions, obligations and agreements to be observed by all parties under the Project Documents.

(c) Remedies Upon Default. Upon the occurrence and during the continuance of an Event of Default, Funding Lender shall have the right but not the obligation, and Borrower hereby authorizes Funding Lender to enforce Borrower's rights under the Project Documents and to receive the performance of any other Person that is a party to the Project Documents.

(d) Notices of Default. Borrower shall send to Funding Lender any written notice of default or breach of or under the Project Documents that Borrower sends to (such notice to Funding Lender to be sent simultaneously therewith) or receives from (such notice to Funding Lender to be sent promptly upon receipt by Borrower thereof) any Person that is a party to any Project Document.

(e) Power of Attorney. Effective upon the occurrence and during the continuance of an Event of Default, Borrower hereby irrevocably constitutes and appoints Funding Lender as its attorney-in-fact, coupled with an interest, to demand, receive and enforce Borrower's rights with respect to the Project Documents, to give appropriate receipts, releases and satisfactions for and on behalf of Borrower and to do any and all acts in the name of Borrower or in the name of Governmental Lender with the same force and effect as if Borrower had performed such acts.

(f) License. Provided no Event of Default has occurred and is continuing, Borrower shall have the right under a license granted hereby to exercise its rights under the Project Documents. The license granted hereby shall be revoked at Funding Lender's option upon written notice from Funding Lender to Borrower after the occurrence and during the continuance of an Event of Default. For the avoidance of doubt, such revoked license shall be automatically reinstated upon Borrower's cure of such Event of Default.

(g) No Assumption of Liability. Neither Governmental Lender nor Funding Lender shall assume any of Borrower's obligations or duties under the Project Documents, including, without limitation, the obligation to pay for services rendered thereunder.

(h) Execution and Amendment of Project Documents. Borrower shall not enter into any other Project Document, or alter, amend or change, or terminate or cancel, any Project Document, in each case without obtaining Funding Lender's prior written consent. Funding may require, as a condition to its approval of a Project Document, the execution by the contracting party of an agreement, in form and substance reasonably acceptable to Funding Lender, whereby said contracting party (i) acknowledges the provisions of this Section, (ii) subordinates its claims against Borrower to payment in full of the obligations under the Borrower Loan Documents and to the rights of the Governmental Lender and Funding Lender under the Borrower Loan Documents and (iii) except for the Ground Lease, agrees that upon the occurrence and during the continuance of an Event of Default, Funding Lender has the right (but not the obligation) to terminate the subject Project Document.

Section 8.35 Tax and Assessments Charged to Governmental Lender. The Borrower shall pay all taxes and assessments of any type or character charged to the Governmental Lender affecting the amount available to the Governmental Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or Governmental Authority of whatsoever character having power to levy taxes or assessments); provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Governmental Lender, at the Borrower's expense and written direction, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Governmental Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of the Borrower Loan Documents.

Section 8.36 Delivery of Financial Information. After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender, deliver copies of all financial information required under Article XIVA.

Section 8.37 ERISA. Borrower hereby covenants and agrees that (i) Borrower shall not use any Plan Assets to repay or secure the Borrower Loan or other obligations under the Borrower Loan Documents, (ii) no assets of Borrower or Guarantor are or will be Plan Assets, (iii) each Employee Benefit Plan will be in material compliance with all applicable requirements of ERISA and the Code, (iv) Borrower will not have any material liability under Title IV of ERISA or Section 412 of the Code with respect to any Employee Benefit Plan, and (v) Borrower shall not assign, sell, pledge, encumber, transfer, hypothecate or otherwise dispose of its interests or rights (direct or indirect) in any Borrower Loan Document or any portion of the Project or attempt to do any of the foregoing or suffer any of the foregoing, or permit any party with a direct or indirect interest or right in any Borrower Loan Document or any portion of the Project to do any of the foregoing, if such action would cause this Borrower Loan Agreement, any of the other Borrower Loan Documents, or the obligations hereunder or thereunder or the exercise of any of rights of Governmental Lender or Funding Lender in connection therewith, to constitute a prohibited transaction under ERISA or the Code or would otherwise result in the Project, or assets of Borrower or Guarantor being Plan Assets. Borrower hereby agrees to indemnify the Beneficiary Parties, their Affiliates, and each of their directors, officers and employees against

all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all expenses of litigation or preparation therefor whether or not any of the Beneficiary Parties or any of their Affiliates is a party thereto) which any of them may actually pay or incur by reason of the investigation, defense and settlement of claims and in obtaining any prohibited transaction exemption under ERISA or the Code necessary in any Beneficiary Party's judgment by reason of the inaccuracy of the representations and warranties set forth in Section 7.33 hereof or a breach of the provisions set forth in this Section. The obligations of the Borrower under this Section shall survive the termination of this Borrower Loan Agreement.

Section 8.38 Anti-Corruption Laws; Sanctions. Borrower shall not request any Transaction and Borrower shall not use, and shall ensure that its Affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of the Transactions (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transactions would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or in a European Union member state, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto. Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by Borrower, its Affiliates and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

Section 8.39 Governmental Lender's and Funding Lender's Fees. Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Governmental Lender Annual Fee) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 8.40 Expenses. Borrower shall pay all reasonable expenses incurred by the Governmental Lender and the Funding Lender in connection with the Borrower Loan and the Funding Loan, including the fees and expenses of the Governmental Lender's and the reasonable fees and expenses of the Funding Lender's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all expenses of the Governmental Lender and all reasonable expenses of the Funding Lender in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender for all amounts, and the Funding Lender for all reasonable amounts, expended, advanced or incurred by the Governmental Lender and the Funding Lender to collect the Borrower Notes, or to enforce the rights of the Governmental

Lender and the Funding Lender under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender and the Funding Lender under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be incurred by the Governmental Lender and reasonably incurred by the Funding Lender in connection with any such matters (whether or not litigation is instituted), together with interest at a rate equal to the Default Interest on each such amount from the date of its advance until the date of reimbursement to the Governmental Lender and the Funding Lender, respectively, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section shall survive the term of this Borrower Loan Agreement and the exercise by the Governmental Lender or the Funding Lender, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party.

Neither the Borrower nor the Governmental Lender shall be responsible for any costs associated with any securitization of the Borrower Loan or the Funding Loan.

Section 8.41 Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender or Funding Lender pursuant hereto, pursuant to the Regulatory Agreement and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Administrator (as defined in the Regulatory Agreement), the Beneficiary Parties, and each of their respective Members, Board members, officers, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under any federal or state securities laws or other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except as to the Funding Lender with respect to any Secondary Market Disclosure Document (other than any of Borrower's obligations under Article XIVA);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, construction, installation or rehabilitation of, the Project or any part thereof;

(c) Any lien or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project (other than franchise taxes or income taxes based upon the capital or income of the Funding lender);

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof, during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) The payment or prepayment, in whole or in part, of the Borrower Loan or the Funding Loan;

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or their affiliates to Governmental Lender, the Funding Lender or any other Person in connection with Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) Any failure or alleged failure by Borrower, Funding Lender, or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) The Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction, or rehabilitation of, the Project or any part thereof; or

(l) The use of the proceeds of the Borrower Loan and the Funding Loan,

except (i) in the case of the foregoing indemnification of the Funding Lender or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party; or (ii) in the case of the foregoing indemnification of the Governmental Lender or any related Indemnified Party, to the extent such damages are caused by the willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 14A.1.4

hereof with respect to any securitization or Secondary Market Transaction described in Article XIVA hereof shall be limited to the indemnity set forth in Section 14A.1.4 hereof.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all reasonable expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to the foregoing provisions if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have explicitly in writing consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder without the need for such indemnity.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan. The foregoing provisions shall survive the termination of this Borrower Loan Agreement.

Section 8.42 No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Nothing contained in this Section shall in any way be construed to limit the indemnification rights of the Governmental Lender contained in the Regulatory Agreement. With respect to the Governmental Lender, the Regulatory Agreement shall control in any conflicts between this Section and the Regulatory Agreement.

Section 8.43 Covenant With Governmental Lender and Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by the Funding Lender of the Governmental Lender Notes and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender and the Funding Lender and any lawful owner, holder or pledgee of the Borrower Notes or the Governmental Lender Notes from time to time.

Section 8.44 Obligation of the Borrower to Construct or Rehabilitate the Project. The Borrower shall proceed with reasonable dispatch to construct or rehabilitate, as appropriate, and

equip the Project. If the proceeds of the Borrower Loan, together with the other Borrower money, available to be disbursed to the Borrower are not sufficient to pay the costs of such construction or rehabilitation, as appropriate, and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender or the Funding Lender in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that money, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 8.45 Additional Notices. Borrower will, promptly after becoming aware thereof, give Written Notice to Funding Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any default, alleged default or potential default on the part of Borrower under any of the CC&R's or the Restrictive Covenants together with a copy of each notice of default, alleged default or potential default received from any other party thereto;

(c) any notice of default, alleged default or potential default on the part of Borrower received from any Tenant under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the Tenants have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(d) any change or contemplated change in (i) the location of Borrower's [or the General Partner's] executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower [or the General Partner] or (iii) the nature of the trade or business of Borrower; and

(e) any default, alleged default or event that could reasonably be expected to result in a default, if not resolved within any and all applicable cure periods, on the part of any general or limited partner of Borrower (including, without limitation, General Partner, Special LP and the Equity Investor) under the Partnership Agreement.

Section 8.46 Compliance With Other Agreements; Legal Requirements.

(a) Borrower shall timely perform and substantially comply with, and shall cause the General Partner, Special LP and Equity Investor to timely perform and substantially comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction and/or rehabilitation of the Improvements, and will furnish Funding Lender with

reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all Restrictive Covenants and all obligations created by private contracts and leases which affect ownership, construction, rehabilitation, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the dwelling units in the Project to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the dwelling units in the Project to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender, as applicable, may request and otherwise cooperate with Funding Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

Section 8.47 Completion and Maintenance of Project. Borrower shall cause the construction or rehabilitation, as the case may be, of the Improvements to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with this Borrower Loan Agreement, free and clear of any liens or claims for liens on or before the Completion Date. Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance, wear and tear excepted.

Section 8.48 Income From Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents, before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, Borrower shall not make or permit any distributions or other payments of net operating income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of Funding Lender.

Section 8.49 Leases and Occupancy Agreements.

(a) Lease Approval.

(i) Borrower has submitted to Equity Investor, and Equity Investor has approved, Borrower's standard form of tenant lease for use in the Project. Borrower shall not materially modify that approved lease form without Equity Investor's and Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without Funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease, and is executed in the form approved by the Funding Lender;

(B) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any

applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease reflects an arm's-length transaction, subject to the requirement that the Borrower comply with the Restrictive Covenants and any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect the Governmental Lender's and Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) Landlord's Obligations. Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) Leasing and Marketing Agreements. Except as may be contemplated in the Property Management Agreement with the Property Manager, Borrower shall not without the approval of Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 8.50 Payment of Debt Payments. In addition to its obligations under the Borrower Notes, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of the Borrower Notes or other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Trust Deed (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 8.51 Funds From Equity Investor. Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement, provided that the parties to this Borrower Loan Agreement acknowledge and agree that such Equity Contributions are subject to adjustment in amounts and time of delivery as set forth in the Partnership Agreement.

Section 8.52 Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) General. The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest

on the Governmental Lender Notes from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Trust Deed and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Notes or affecting the Project. Capitalized terms used in this Section shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Funding Loan Agreement, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Affect Opinion (other than with respect to interest on any portion of the Governmental Lender Notes for a period during which such portion of the Governmental Lender Notes is held by a "substantial user" of any facility financed with the proceeds of the Funding Loan or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section.

(b) Use of Proceeds. The use of the proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) *Limitation on Net Proceeds*. At least 95% of the proceeds of the Funding Loan (within the meaning of the Code) actually expended shall be used to pay Qualified Project Costs that are costs of a "qualified residential rental project" (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is "functionally related and subordinate" thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Treasury Regulations).

(ii) *Limit on Costs of Funding*. The proceeds of the Funding Loan will be expended for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding.

(iii) *Prohibited Facilities*. The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) *Limitation on Existing Facilities*. No portion of the net proceeds of the Funding Loan will be used for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the cost of acquiring such building financed with the proceeds of the Funding Loan (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term

rehabilitation expenditures shall have the meaning set forth in Section 147(d)(3) of the Code.

(v) *Accuracy of Information.* The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower's information statement pursuant to Section 149(e) of the Code is accurate and complete as of the Initial Closing Date.

(vi) *Limitation of Project Expenditures.* The acquisition, construction and equipping of the Project were not commenced (within the meaning of Section 31(a) of the Code) prior to the 60th day preceding the adoption of Resolution No. [] of the Governmental Lender with respect to the Project on [], 20 [], and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing and similar costs incurred prior to the commencement of construction, rehabilitation or acquisition of the Project.

(vii) *Qualified Costs.* The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code and that for the greatest number of buildings the proceeds of the Funding Loan shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Funding Loan for the purpose of complying with Section 42(h)(4)(B) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders or payees of the Funding Loan and the Borrower Notes for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

(c) Limitation on Maturity. The average maturity of the Governmental Lender Notes does not exceed 120 percent of the average reasonably expected economic life of the Project, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the Net Proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Initial Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) No Arbitrage. The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Notes to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Notes relating to the Funding Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the latest Maturity Date (as defined in the Funding Loan Agreement), except as permitted by Section 148 of the Code and Treasury Regulations thereunder. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Treasury Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender at all times from and after the Initial Closing Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts prior to the Computation Date, annually not later than forty-five days after the anniversary of the Initial Closing Date and subsequent to the Computation Date, not later than forty-five days after the fifth anniversary of the Initial Closing Date and each five years thereafter and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

(e) No Federal Guarantee. Except to the extent permitted by Section 149(b) of the Code and the Treasury Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the Treasury Regulations and rulings thereunder.

(f) Representations. The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Notes for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such

information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) Qualified Residential Rental Project. The Borrower hereby covenants and agrees that the Project will be operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Funding Loan remains outstanding, to the end that the interest on the Governmental Lender Notes shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) Information Reporting Requirements. The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Notes to be filed with the Internal Revenue Service within prescribed time limits.

(i) Governmental Lender Notes Not a Hedge Bond. The Borrower covenants and agrees that not more than 50% of the proceeds of the Governmental Lender Notes will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Governmental Lender Notes will be used to carry out the governmental purposes of the Funding Loan and the Governmental Lender Notes within the three-year period beginning on the Initial Closing Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate after the Borrower's right to request Disbursements has terminated and the Borrower Loan has been irrevocably paid in full, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) Public Approval. The Borrower covenants and agrees that the proceeds of the Funding Loan will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan.

(l) 40/60 Test Election. The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower

Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Notes to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Notes in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section; provided, however, that the Funding Lender shall take no action under this Section without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Governmental Lender Notes in an amount related to the amount of the Borrower Loan.

(n) Compliance with Tax Certificate. The Borrower shall execute, deliver and comply with the provisions of the Tax Certificate. In the event of any conflict as between the provisions of this Borrower Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

Section 8.53 Payment of Rebate.

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Notes in accordance with Section 148(f) of the Code including:

(i) *Delivery of Documents and Money on Computation Dates.* The Borrower will deliver to the Funding Lender, within 55 days after each Computation Date:

(A) with a copy to the Governmental Lender, a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Treasury Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Treasury Regulations); and

(C) with a copy to the Governmental Lender, an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) *Correction of Underpayments.* If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Fiscal Agent an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) *Records.* The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section for at least six years after the later of the final maturity of the Funding Loan or the date the Funding Loan is retired in full.

(iv) *Costs.* The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst, a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) *No Diversion of Rebatable Arbitrage.* The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) *Modification of Requirements.* If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion with respect to such action.

(b) Rebate Fund. The Fiscal Agent shall establish and hold a separate fund designated as the "Rebate Fund." The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

Section 8.54 Covenants Under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

Section 8.55 Continuing Disclosure Agreement. The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in such agreement

Section 8.56 LIHTCs. Borrower shall (a) completely and in a timely manner satisfy all conditions to the effectiveness of the LIHTC and the LIHTC Documents, and perform all actions and meet all requirements to maintain and perfect the LIHTC reservations and allocations, including, without limitation the timely furnishing to the Agency and any other Governmental Authority all of the items required to be furnished to them no later than such date as required by such entity in order to obtain the LIHTCs and prevent the expiration of the allocation reservation; (b) not commit any material breach or default under the LIHTC Documents; (c) maintain the LIHTC and the LIHTC Documents in full force and effect until all sums owing to Bank with respect to the Loan have been paid and (d) not consent to any termination, amendment or modification of the LIHTC or LIHTC Documents without Funding Lender's prior written consent. Borrower shall submit to Funding Lender, immediately upon receipt, until the Borrower Loan has been paid in full a copy of all written communication to or from the Agency or any other Governmental Authority relating to the Improvements or the LIHTCs.

Section 8.57 Permanent Loan Commitment. Comply with all conditions of the Permanent Loan Commitment and execute all documents necessary for the Permanent Loan Closing.

Section 8.58 Replacement Reserve. At or prior to the Completion Date (as defined in the Partnership Agreement), the Borrower shall establish and maintain a segregated replacement reserve with the Funding Lender that shall be available for capital expenditures for repairs and replacements necessary to maintain the Project in safe, decent and habitable condition and other purposes (each a "Permitted Purpose") permitted under the Partnership Agreement (such account and all replacements and substitutions thereof are referred to as the "Replacement Reserve"). The Replacement Reserve shall be subject to the control and first priority security interest of the Funding Lender and shall be used solely for the Permitted

Purposes, provided, however, absent the occurrence of an Event of Default, the Borrower may make disbursements from the Replacement Reserve without the prior approval of the Funding Lender. The Borrower shall fund the Replacement Reserve in accordance with the terms of the Partnership Agreement. After the occurrence of an Event of Default, the Funding Lender shall have the right to review and approve disbursements from the Replacement Reserve. Notwithstanding the foregoing, the Funding Lender shall have no duty to inquire into or investigate whether any withdrawal that the Borrower makes from the Replacement Reserve is for a Permitted Purpose and shall have no liability with respect to any withdrawal the Borrower makes from the Replacement Reserve that is not for a Permitted Purpose.

ARTICLE VIIIA

NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

Section 8A.1 Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 8A.2 Liens and Encumbrances. Create, assume or permit to exist any security interest, encumbrance, mortgage, deed of trust, or other lien (including, but not limited to, a lien of attachment, judgment or execution) affecting any of the Borrower's properties, or execute or allow to be filed any financing statement or continuation thereof affecting any of such properties, except for Permitted Liens or as otherwise provided in this Borrower Loan Agreement.

Section 8A.3 Senior Funded Indebtedness. After the date hereof, except pursuant to a subordination agreement in form and substance satisfactory to the Funding Lender, create, incur or assume, directly or indirectly (including any contingent obligation), any additional Senior Funded Indebtedness other than Senior Funded Indebtedness owed or to be owed to the Funding Lender.

Section 8A.4 Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 8A.5 Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender, Fiscal Agent and Governmental Lender.

Section 8A.6 Developer Fee. No Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to the Conversion Date, except as permitted by the developer fee schedule attached hereto as EXHIBIT C or as otherwise approved by the Funding Lender.

Section 8A.7 Amendment of CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein, Borrower shall not enter into or consent to

any amendment, termination, modification, or other alteration of any of the Restrictive Covenants or any of the CC&R's.

ARTICLE IX

EVENTS OF DEFAULT

Each of the following shall constitute an "Event of Default" hereunder (including, if Borrower consists of more than one person, the occurrence of any of such events with respect to any one or more of said persons):

Section 9.1 Payment of Principal, Interest, Fees. The failure of Borrower to make any payment of principal, interest or other charges under any of the Borrower Notes as and when due.

Section 9.2 Other Payments. Except as otherwise set forth in this Section, the failure of Borrower or any Guarantor to comply with any covenant contained in this Borrower Loan Agreement or any other Borrower Loan Document which calls for the payment of money, if such payment is not received by the Funding Lender within ten (10) days after the due date.

Section 9.3 Covenants. Borrower's failure to perform any obligation (other than those specified elsewhere in this Section) under any of the Borrower Loan Documents; provided, however, that (a) if a cure period is provided for the remedy of such failure, Borrower's failure to perform will not constitute an Event of Default until such date as the specified cure period expires and (b) if no cure period is provided for the remedy of such failure, Borrower shall have a cure period of thirty (30) days after written notice thereof by Funding Lender to Borrower; provided, however, that if such failure cannot reasonably be cured within such thirty (30) day period, Borrower shall be given additional time to cure such default (not to exceed an additional sixty (60) days in the aggregate) so long as Borrower has been and is diligently proceeding to cure such failure since the inception of such failure. All cure periods under all Borrower Loan Documents shall run concurrently. There shall be no cure period for Borrower's failure to timely provide insurance as and when required by the Insurance Agreement.

Section 9.4 Liens, Attachment; Condemnation. (a) The recording of any lien or claim of lien against the Property or Improvements or other assets of Borrower or the service on the Governmental Lender or Funding Lender of any bonded stop payment notice relating to the Borrower Loan and the continuance of such lien, claim of lien or bonded stop payment notice for twenty (20) days without discharge, satisfaction or provision for payment being made by Borrower in a manner satisfactory to Funding Lender; or (b) the condemnation, seizure or appropriation of, or occurrence of an uninsured casualty with respect to any material portion of the Property or Improvements; or (c) the sequestration or attachment of, or any levy or execution upon any of the Property or Improvements, any other collateral provided by Borrower under any of the Borrower Loan Documents, any monies in the Borrower's Funds Account, or any substantial portion of the other assets of Borrower, which sequestration, attachment, levy or execution is not released, expunged or dismissed prior to the earlier of thirty (30) days or the sale of the assets affected thereby.

Section 9.5 Construction; Use. (a) There is any material deviation in the work of construction from the Plans and Specifications or governmental requirements or the appearance or use of defective workmanship or materials in constructing the Improvements, and Borrower

fails to remedy the same to Funding Lender's satisfaction within ten (10) days of Funding Lender's written demand to do so; (b) there is a cessation of construction of the Improvements prior to completion for a continuous period of more than ten (10) Business Days (except as caused by an event of Force Majeure pursuant to Section 8.5); (c) the construction, sale or leasing of any of the Improvements in accordance with the Borrower Loan Documents is prohibited, enjoined or delayed for a continuous period of more than thirty (30) days; or (d) utilities or other public services necessary for the full occupancy and utilization of the Property and Improvements are curtailed for a continuous period of more than five (5) consecutive Business Days.

Section 9.6 Permits. Borrower neglects, fails or refuses to keep in full force and effect any permit or approval with respect to the construction of the Improvements.

Section 9.7 Borrower's Funds. The failure of Borrower to make any deposit of Borrower's Funds into the Borrower's Funds Account as and when required by this Borrower Loan Agreement, if such payment is not received by the Funding Lender within ten (10) days after the due date.

Section 9.8 Cessation of Construction. The cessation (other than a cessation caused by the occurrence of an event which expressly permits delayed completion under this Borrower Loan Agreement, including Force Majeure) of the work of construction prior to completion of the Improvements for a continuous period of ten (10) business days or more.

Section 9.9 Misappropriation. The use of any Borrower's Funds or Borrower Loan Proceeds for any purpose other than payment of costs approved by Funding Lender pursuant to this Borrower Loan Agreement.

Section 9.10 Loss of Priority. The failure at any time of the Trust Deed to be a valid first lien upon the Property and Improvements or any portion thereof, other than as a result of any release or reconveyance of the Trust Deed with respect to all or any portion of the Property and Improvements pursuant to the terms and conditions of this Borrower Loan Agreement.

Section 9.11 Representations. Any warranty or representation made in the Borrower Loan Documents or with respect to the Property to the Governmental Lender or Funding Lender by Borrower, any Guarantor or their respective agents on their behalf shall prove to be false or misleading in any material respect, or any warranty or representation is withdrawn by Borrower, any Guarantor or their respective agents on their behalf.

Section 9.12 Insolvency or Bankruptcy. (a) The insolvency of any Obligor or the failure of any Obligor generally to pay such Obligor's debts as such debts become due; (b) the commencement as to any Obligor of any voluntary or involuntary proceeding under any laws relating to bankruptcy, insolvency, reorganization, arrangement, debt adjustment or debtor relief, except in case of involuntary proceedings if such proceedings are dismissed within thirty (30) days after the filing thereof; (c) the assignment by any Obligor for the benefit of such Obligor's creditors; or (d) the appointment, or commencement of any proceedings for the appointment, of a receiver, trustee, custodian or similar official for all or substantially all of any Obligor's property.

Section 9.13 Other Defaults. Any breach of Section 8.25 (No Conveyance or Encumbrance), Section 8.32 (Other Covenants), Section 7.28 (Anti-Corruption Laws;

Sanctions), or Section 8.38 (Anti-Corruption Laws; Sanctions) or Article 13 (Reporting Requirements)).

Section 9.14 Judgment. A judgment or judgments for the payment of money is rendered against any Obligor and any such judgment shall remain unsatisfied and in effect for any period of thirty (30) consecutive days without a stay of execution.

Section 9.15 Dissolution. The dissolution of any Obligor.

Section 9.16 LIHTC. The occurrence of a material default under the LIHTC Documents or the failure to comply with any requirements of the Agency applicable to Borrower or the Property, after the expiration of any applicable cure period.

Section 9.17 Default Under Ground Lease. The occurrence of: (a) any material default or event of default (however defined or described) under the terms and conditions of the Ground Lease if such default is not cured within any grace period applicable thereto and gives rise to remedial action by the landlord, or (b) any termination or attempted termination of the Ground Lease without the prior consent of the Funding Lender.

Section 9.18 Financial Condition. Any material adverse change in the financial condition of any Obligor from the financial condition represented to Funding Lender as of the later of (a) the Recordation Date and (b) the date upon which the financial condition of such party was first represented to Funding Lender, provided that such change materially increases Funding Lender's risk or materially impairs the Collateral, and such condition continues for a period of thirty (30) consecutive days after Written Notice from Funding Lender.

Section 9.19 Code Compliance. Borrower's failure to comply with Section 6.7 with regards to the first lien priority of the Trust Deed under Sections 8452 and 8458 of the California Civil Code, and/or Borrower's failure to comply with Sections 8700-8730 of the California Civil Code within ten (10) days after notice from Funding Lender.

Section 9.20 Default Under Subsidies. The occurrence of a material default under the AHAP, the Section 8 HAP Contract (following its execution), or any other documents entered into in connection with the Section 8 Subsidy if such default is not cured within any grace period applicable thereto.

Section 9.21 Default Under Environmental Indemnity. The occurrence of a default under any Environmental Indemnity.

Section 9.22 Conditions of Conversion. Failure by Borrower to satisfy the Conditions of Conversion on or before the Outside Conversion Date, or, if applicable, the Extended Outside Conversion Date..

Section 9.23 Project Documents. The occurrence of a breach of Section 8.34 of this Borrower Loan Agreement.

Section 9.24 Default Under Guaranty. The occurrence of a default under or a revocation of any guaranty now or hereafter executed in connection with the Borrower Loan or, prior to the Conversion Date, any guaranty executed in connection with the Borrower Loan ceases to be in full force and effect; and in the case of the revocation of any guaranty, the

failure by the Borrower to provide a replacement guaranty that is acceptable to Funding Lender within thirty (30) days of the revocation.

Section 9.25 Completion of Construction. Borrower shall have failed to cause the construction of the Improvements to be completed in accordance with the Plans and Specifications using new materials and workmanship free from fault on or before the Completion Date, free and clear of liens or claims for liens, other than extensions for Force Majeure permitted by this Borrower Loan Agreement.

Section 9.26. Default Under Interest Rate Hedge Agreement. The occurrence of a default beyond any applicable cure period by Borrower or a termination event with respect to Borrower under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between Borrower and Funding Lender in connection with the Borrower Loan.

Section 9.27. California Civil Code Section 8710. Borrower's failure to comply with Section 8710 of the California Civil Code, if and as applicable.

ARTICLE X

REMEDIES

Upon the occurrence of any Event of Default, Funding Lender, in addition to its other rights under this Borrower Loan Agreement or the other Borrower Loan Documents, may at its sole option, without prior demand or notice, do any or all of the following:

Section 10.1 Accelerate. Declare all sums owing to Governmental Lender under the Borrower Notes, this Borrower Loan Agreement and the other Borrower Loan Documents immediately due and payable. Upon such acceleration, Funding Lender may, in addition to all other remedies permitted under this Borrower Loan Agreement and the other Borrower Loan Documents and at law or equity, apply any sums in the Borrower's Funds Account to the sums owing under the Borrower Loan Documents.

Section 10.2 Advances. Terminate or suspend the obligation of Funding Lender to make Disbursements hereunder. However, notwithstanding the exercise of either one or both of the remedies described in Sections 10.1 and 10.2 hereof, Funding Lender may make any Disbursement after the happening of any one or more of said Events of Default without thereby waiving the right of Funding Lender to demand payment of the Borrower Notes and without liability to make any other or further Disbursements.

Section 10.3 Collateral. Proceed as authorized by law to satisfy the indebtedness of Borrower to the Governmental Lender and Funding Lender and, in that regard, Funding Lender shall be entitled to all of the rights, privileges and benefits contained in the Trust Deed and Security Agreements or other Borrower Loan Documents.

Section 10.4 Possession. Take possession of the Property and perform any and all work and labor necessary to complete the Improvements substantially in accordance with the Plans and Specifications in which event expenditures therefor shall be deemed an additional loan to Borrower, payable on demand, bearing interest at the Default Interest rate and secured by the Trust Deed and other Security Agreements.

Section 10.5 Funds. Take possession of all funds and deposits of Borrower on hand or deposited in any account at Funding Lender or any branch at Funding Lender and apply said funds in such order of priority as Funding Lender may elect in connection with the obligations of Borrower, hereunder, under the Borrower Notes, the Trust Deed and the other Borrower Loan Documents.

Section 10.7 Operations. Continue in the ordinary course of business, the leasing of the Project and otherwise to do any or all acts concerning the Property, the Project or the Improvements that Borrower might do in its own behalf in the ordinary course of owning, operating, maintaining and marketing the Project as a going concern.

Section 10.7 [Reserved.]

Section 10.8 Other Remedies. Exercise any and all other remedies that may be available to Lender under the Borrower Loan Documents or applicable law.

Section 10.9 DISCLAIMER. WHETHER OR NOT THE FUNDING LENDER ELECTS TO EMPLOY ANY OR ALL OF THE REMEDIES AVAILABLE TO IT IN THE EVENT OF DEFAULT, THE FUNDING LENDER SHALL NOT BE LIABLE FOR THE CONSTRUCTION OF OR FAILURE TO CONSTRUCT OR COMPLETE OR PROTECT THE IMPROVEMENTS OR FOR PAYMENT OF ANY EXPENSE INCURRED IN CONNECTION WITH THE EXERCISE OF ANY REMEDY AVAILABLE TO THE FUNDING LENDER OR FOR THE CONSTRUCTION OR COMPLETION OF THE IMPROVEMENTS OR FOR THE PERFORMANCE OR NON-PERFORMANCE OF ANY OTHER OBLIGATION OF BORROWER.

Notwithstanding any provision herein to the contrary, the Governmental Lender, Fiscal Agent and the Funding Lender agree that any cure of any default made or tendered by the Special LP and/or Equity Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

ARTICLE XI

POWER OF ATTORNEY

In the event of an Event of Default as defined in Article IX hereof, Borrower hereby constitutes and appoints the Funding Lender its true and lawful attorney in fact with the power and authority, including full power of substitution, as follows:

Section 11.1 To take possession of the Property and complete the Improvements.

Section 11.2 To use any of Borrower's Funds and any funds which may remain undisbursed under the Borrower Loan for the purpose of completing the Improvements and for other costs related thereto.

Section 11.3 To make such additions and changes and corrections in the Plans and Specifications as may be necessary or desirable as Funding Lender in its sole discretion deems proper to complete the Improvements.

Section 11.4 To employ such contractors, subcontractors and agents, architects and inspectors as are required to complete the Improvements.

Section 11.5 To employ guards to protect the Property and Improvements from injury.

Section 11.6 To pay, settle or compromise all existing bills and claims against Borrower's Funds or any funds which may remain undisbursed under the Borrower Loan or as may be necessary or desirable, as the Funding Lender in its sole discretion deems proper, for the completion of the Improvements or for protection or clearance of title to the Property and Personal Property or for the protection of the Funding Lender's interest with respect thereto.

Section 11.7 To prosecute and defend all actions and proceedings in connection with the construction of the Improvements.

Section 11.8 As the Funding Lender in its sole discretion deems proper, to execute, acknowledge, and deliver all instruments and documents in the name of Borrower which may be necessary or desirable to do and to do any and every act with respect to the construction and leasing of the Improvements which Borrower might do on its own behalf.

This Power of Attorney is a power coupled with an interest and cannot be revoked and any costs or expenses incurred by the Funding Lender in connection with any acts by the Funding Lender under or pursuant to this Article XI shall be at the cost and expense of Borrower, repayable on demand by Borrower to the Funding Lender with interest thereon at the Default Interest rate, with any such advances made or costs or expenses incurred by the Funding Lender to be secured by the Trust Deed and the Security Agreements.

ARTICLE XII

SECURITY INTEREST

Section 12.1 Security Interest. Borrower does hereby give and grant to the Funding Lender a security interest in all funds and deposits of Borrower on deposit at Funding Lender or any branch of the Funding Lender, including, without limitation all monies at any time deposited in the Borrower's Funds Account and the Interest Rate Hedge Deposit Account, as additional security for the obligations of Borrower contained in the Borrower Notes, Trust Deed or the Security Agreements.

ARTICLE XIII

FINANCIAL STATEMENTS

Section 13.1 Financial Statements. Borrower shall, and Borrower shall cause each Guarantor to, provide the Funding Lender an income statement, balance sheet, global cash flow statement, contingent liability statement, and statement of retained earnings with supporting schedules ("Financial Statements"), as follows:

(a) Within _____ days after the close of each fiscal year, a copy of the Guarantor's annual audited Financial Statement;

(b) Within _____ days after the close of each fiscal year, commencing after the first full year of stabilized operations of the Project, a copy of the Borrower's annual audited Financial Statement;

(c) Following the Conversion Date, within 60 days of the end of each year of the Borrower, an annual operating statement with all income and expenses of the Project and a current rent roll;

(d) Upon request of the Funding Lender, for each of the three (3) months immediately preceding the Conversion Date, a monthly operating statement with all income and expenses of the Project and a current rent roll ("Operating Statements"), provided that such monthly statements shall not be required after the construction of the Project is completed and Conversion has occurred; and

(e) Promptly, upon request, provide any other information requested by Funding Lender, including information and documentation reasonably requested by Funding Lender for purposes of compliance with applicable "know your customer" requirements under the Patriot Act or other applicable anti-money laundering laws, and permit Funding Lender at any reasonable time to inspect, audit, and examine the books and records of Borrower and each Obligor, inclusive of each Guarantor, and make copies thereof.

ARTICLE XIV

SIGNS AND CONSENT TO USE BORROWER INFORMATION ON OTHER ADVERTISING

Section 14.1 Signs and Consent to Use Borrower Information on Other Advertising. Borrower hereby grants the Funding Lender the right, during the construction period for the Project, to erect or cause to be erected Funding Lender's sign or signs in size and location desired by the Funding Lender on the Property so long as such sign or signs do not interfere with the reasonable construction of the Improvements. Borrower will and will cause General Contractor and other contractors and subcontractors to exercise due care to protect said sign or signs from damage. The Borrower also hereby grants to the Funding Lender permission to use Borrower's name and/or logo and financial details concerning this transaction, including the size of the transaction and the identities of other lenders involved in this transaction, in one or more tombstone advertisements to be placed in various types of advertising, including without limitation the internet, the financial press, and on posters to be created by the Funding Lender for display in the Funding Lender's offices. Borrower may rescind the permission granted herein upon reasonable prior Written Notice to the Funding Lender.

ARTICLE XIVA

SPECIAL PROVISIONS

Section 14A.1 Sale of Notes and Secondary Market Transaction.

Section 14A.1.1 Cooperation. Subject to the restrictions of Section 2.4(b) of the Funding Loan Agreement, at the Funding Lender's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender in connection with one or more sales or assignments of all or a portion of the Funding Loan and/or Borrower Loan or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Funding

Loan and/or Borrower Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that the Borrower shall not incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Property Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 14A.1.2 Use of Information. The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 14A.1.1(c) hereof, with the Funding Lender in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

Section 14A.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Property Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Property Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Property Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 14A.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender, the Fiscal Agent, the Governmental Lender and the underwriter group for any securities (the "Underwriter Group") for any Liabilities to which Funding Lender, the Fiscal Agent, the Governmental Lender or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Underwriter Group, the Fiscal Agent, the Governmental Lender and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Fiscal Agent, the Governmental Lender or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 14A.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 14A.1.3 and 14A.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 14A.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the

defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 14A.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 14A.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 14A.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE XV

GENERAL CONDITIONS

Section 15.1 Rights Cumulative; No Waiver. All rights of the Governmental Lender and Funding Lender and remedies provided in this Borrower Loan Agreement and the other Borrower Loan Documents, together with those granted by law or at equity, are cumulative and may be exercised at any time. No delay or omission of Funding Lender in exercising any right or power arising from any default by Borrower shall be construed as a waiver of such default or as an acquiescence therein, nor shall any single or partial exercise thereof preclude any further exercise thereof. The Funding Lender may, at its option, waive any of the conditions herein and any such waiver shall not be deemed a waiver of Funding Lender's rights hereunder but shall be deemed to have been made in pursuance of this Borrower Loan Agreement and not in modification thereof. No waiver of any Event of Default shall be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent Event of Default. Any waiver or approval under any of the Borrower Loan Documents must be in writing and shall be limited to its specific terms.

Section 15.2 No Third Party Beneficiaries. This Borrower Loan Agreement is made for the sole benefit of Borrower, Governmental Lender and Funding Lender, their successors and assigns and no other Person or Persons shall have any rights or remedies under or by reason of this Borrower Loan Agreement nor shall the Governmental Lender or Funding Lender owe any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of the Improvements, to apply any undisbursed portion of the Borrower Loan to the payment of any such claim or to exercise any right or power of the Governmental Lender or Funding Lender hereunder or arising from any default by Borrower.

Section 15.3 Notices; Effectiveness; Electronic Communications. All notices, demands or other communication required or allowed to be given hereunder to either party shall be given in writing (at the address set forth below their respective signatures, below) by any of the following means: (i) personal service; (ii) expedited prepaid delivery service, either commercial

or United States Postal Service, with proof of attempted delivery; or (iii) registered or certified, first class mail, postage prepaid, return receipt requested. Any such communication, notice or demand shall be deemed to have been given: (A) in the case of personal delivery, at the time of delivery; (B) in the case of expedited prepaid delivery and facsimile, upon the first attempted delivery on a Business Day; and (C) in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day. It is understood and agreed that each of the parties will use reasonable efforts to send copies of any notices marked "With a copy to"; provided, however, that failure to deliver such copy or copies shall have no consequences whatsoever to the effectiveness of any notice made to the other party. Any party hereto may change its address for notices hereunder by notice to the other parties hereto.

Section 15.4 Indemnity. Borrower agrees to indemnify the Funding Lender, defend the Funding Lender against, and hold the Funding Lender harmless from, any and all losses, damages (whether general or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorney's fees) which Funding Lender may suffer or incur as a direct or indirect consequence of: (i) the Funding Lender's performance of this Borrower Loan Agreement or any of the Borrower Loan Documents, including, without limitation, the Funding Lender's exercise or failure to exercise any rights, remedies or powers in connection with this Borrower Loan Agreement or any of the Borrower Loan Documents; (ii) Borrower's failure to perform any of Borrower's obligations as and when required by this Borrower Loan Agreement or any of the Borrower Loan Documents, including, without limitation, any failure, at any time, of any representation or warranty of Borrower to be true and correct and any failure by Borrower to satisfy any condition; (iii) any claim or cause of action of any kind by any Person to the effect that the Funding Lender is in any way responsible or liable for any act or omission by Borrower, whether on account of any theory of derivative liability or otherwise; (iv) any act or omission by Borrower, any contractor, subcontractor or material supplier, engineer, architect or other Person, except the Funding Lender, with respect to any of the Property or Improvements; (v) any claim or cause of action of any kind by any Person which would have the effect of denying the Funding Lender the full benefit or protection of any provision of this Borrower Loan Agreement or the Borrower Loan Documents; or (vi) any act or omission by Borrower or any other party with respect to the Property or the Improvements or otherwise arising out of or relating to the Property or Improvements in any manner. The Funding Lender's rights of indemnity shall not be directly or indirectly limited, prejudiced, impaired or eliminated in any way by any finding or allegation that the Funding Lender's conduct is active, passive or subject to any other classification or that the Funding Lender is directly or indirectly responsible under any theory of any kind, character or nature for any act or omission by Borrower or any other Person, except the Funding Lender. Notwithstanding the foregoing, Borrower shall not be obligated to indemnify the Funding Lender with respect to any fraud, willful misconduct or act of gross negligence which the Funding Lender is determined by the judgment of a court of competent jurisdiction (sustained on appeal, if any) to have committed. Borrower shall pay any indebtedness arising under said indemnity to the Funding Lender immediately upon a demand by the Funding Lender together with interest thereon from the date such indebtedness arises until paid at the greatest effective rate of interest specified in the Borrower Notes and which is applicable on or after the maturity or acceleration of the Borrower Notes. Borrower's duty to indemnify the Funding Lender shall survive the release and cancellation of the Borrower Notes and the release and reconveyance or partial release and reconveyance of the Trust Deed.

Section 15.5 Further Assurances; Authorization. Borrower shall, upon the request of the Funding Lender, at Borrower's expense, execute, acknowledge and deliver such further

instruments (including, without limit, replacement notes and a declaration of no offset) and perform such other acts as may be necessary, desirable or proper (as determined by the Funding Lender) to carry out the purposes of the Borrower Loan Documents or to perfect and preserve the lien or charge of the Borrower Loan Documents or to further participate or syndicate the Borrower Loan.

Section 15.6 Form of Documents. The form and substance of all documents, instruments, papers and forms of evidence to be delivered to the Funding Lender under the terms of any of the Borrower Loan Documents shall be subject to the approval of the Funding Lender. No document or instrument delivered to the Funding Lender or to be delivered to the Funding Lender, or which is subject to the approval of the Funding Lender under the terms of any of the Borrower Loan Documents, shall be amended, modified, superseded or terminated in any respect whatsoever without the Funding Lender's prior written approval.

Section 15.7 Time is of the Essence. Time is hereby declared to be of the essence of this Borrower Loan Agreement and of every part hereof.

Section 15.8 Supplement to Security Agreements. The provisions of this Borrower Loan Agreement are not intended to supersede the provisions of the Trust Deed or the Security Agreements but shall be construed as supplemental thereto.

Section 15.9 Joint and Several Obligations. Subject to the nonrecourse provisions in the Trust Deed and the Borrower Notes, if Borrower consists of more than one Person acting in their individual capacities or as general partners in a partnership (excluding, however, any limited partner or member of a limited liability company except insofar as such Person may execute an express guaranty or other agreement to be liable), the obligations of Borrower shall be the joint and several obligations of all such Persons. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa.

Section 15.10 Authority to File Notices. Borrower hereby appoints and authorizes the Funding Lender, as its agent (but without any obligation on the part of the Funding Lender to do so), to record any notices of completion, cessation of labor and other notices, instruments or documents that the Funding Lender deems necessary to record to protect any interest of the Funding Lender under the provisions of this Borrower Loan Agreement, the Borrower Notes, the Trust Deed or any of the Security Agreements. This agency is a power coupled with an interest and is not revocable.

Section 15.11 Actions. The Funding Lender shall have the right to commence, appear in or defend any action or proceeding purporting to affect the Property, Improvements, Borrower Loan Documents or the rights, duties or liabilities of Borrower or the Funding Lender under any of the Borrower Loan Documents. In exercising such right, the Funding Lender may incur and pay costs and expenses including, without limit, attorneys' fees and court costs. Borrower agrees to pay to the Funding Lender upon demand all such reasonable expenses incurred or paid by the Funding Lender together with interest, at the greatest effective rate of interest specified in the Borrower Notes, from the date such expenses were incurred or paid by the Funding Lender. Until repaid, such amounts shall have the security afforded disbursements under the Borrower Notes and this Borrower Loan Agreement.

Section 15.12 Relationship of Parties; Nonliability of the Funding Lender or Governmental Lender. The relationship of Borrower, and the Funding Lender and the

Governmental Lender, under the Borrower Loan Documents is, and shall at all times remain, solely that of the Funding Lender, Governmental Lender and Borrower, and neither the Governmental Lender nor the Funding Lender undertakes or assumes any responsibility or duty to Borrower or to any third party with respect to the Property, Improvements, or Borrower Loan, except as expressly provided in the Borrower Loan Documents. Neither the Governmental Lender nor the Funding Lender shall be liable in any way for any failure to perform or delay in performing the whole or any part of the Borrower Loan Documents by the Governmental Lender or the Funding Lender and the Funding Lender and the Governmental Lender may suspend or terminate all or any portion of the Funding Lender's or the Governmental Lender's, respectively, obligations under the Borrower Loan Documents if such delay or failure by the Funding Lender results directly or indirectly from, or such suspension or termination by the Funding Lender is based upon, the action or inaction, or purported action, of any governmental or local authority, or any war (whether declared or not), rebellion, insurrection, strike, lock-out, boycott or blockade (whether presently in effect, announced or in the sole judgment of the Funding Lender deemed probable) or any act of God, or any other cause or event beyond the control of the Funding Lender.

Section 15.13 Delay. If either Governmental Lender or Funding Lender fails to perform or delays in performing the whole or any part of its obligations under the Borrower Loan Documents, then neither Governmental Lender nor Funding Lender shall be liable in any way for such failure. Governmental Lender and Funding Lender each may suspend or terminate all or any portion of such party's obligations under the Borrower Loan Documents if such delay or failure by such party results directly or indirectly from, or such suspension or termination by such party is based upon, the action or inaction, or purported action, of any governmental or local authority, or any war (whether declared or not), rebellion, insurrection, strike, lock-out, boycott or blockade (whether presently in effect, announced or in the sole judgment of such party deemed probable) or any act of God, or any other cause or event beyond the control of such party.

Section 15.14 Fees, Costs and Expenses. Upon demand, Borrower shall reimburse The Governmental Lender and Funding Lender for all attorneys' fees, costs and expenses arising from and after the date hereof incurred by such party with or without the filing of any legal action or proceeding in connection with: (i) the enforcement or defense of such party's rights and interests under the Borrower Loan Documents (as a consequence of a default or Event of Default or for any other reason); and/or (ii) any claim, dispute, action or proceeding arising out of or under or in any way related to the Borrower Loan, the Borrower Loan Documents, and any and all relationships between the Governmental Lender or Funding Lender and Borrower created or arising thereunder, including without limitation attorneys' fees, costs and expenses incurred for trial, appellate proceedings, out-of-court negotiations, workouts and settlements, enforcement of rights under any state or federal statute, protection of the Governmental Lender's or Funding Lender's security interests, and bankruptcy and insolvency proceedings (including without limitation seeking relief from stay in and prosecuting or defending any adversary proceeding filed in a bankruptcy case). The term "expenses" includes any and all expenses incurred by the Governmental Lender or Funding Lender, as the case may be, including but not limited to travel, lodging and other costs, fees and expenses of outside counsel, any appraisers, consultants and expert witnesses retained or consulted by such party, and an allocation for such party's internal counsel. Such amounts shall bear interest until paid at either the then-current per annum rate of interest set forth in the Borrower Construction Note or the default rate of interest provided for in this Borrower Loan Agreement, at such party's option.

Section 15.15 Amendments and Waivers. Neither this Borrower Loan Agreement, the Borrower Notes, any other Borrower Loan Document, nor any terms hereof or thereof may be amended, supplemented or materially modified except in a writing signed by Funding Lender and Borrower. Any such waiver and any such amendment, supplement or modification shall be binding upon Borrower, Guarantors, Obligors, other obligors, Funding Lender and all future holders of the Borrower Notes. In the case of any waiver, Borrower, any Guarantors, other Obligors and Funding Lender shall be restored to their former position and rights hereunder and under the outstanding Borrower Notes and any other Borrower Loan Documents, and any default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 15.16 Successors and Assigns. The terms of this Borrower Loan Agreement shall be binding upon and inure to the benefit of Borrower, the Governmental Lender, Funding Lender, all future holders of the Borrower Notes and their respective permitted successors and assigns; provided however, that this Section shall not be deemed a waiver of the provisions contained in Section 15.17, below, or, in any other restriction on transfer or assignment with respect to interests in the Borrower Loan, the Property or the Borrower contained in any of the Borrower Loan Documents.

Section 15.17 Assignment. Borrower shall not assign any of the Borrower Loan Documents or any of Borrower's interest in any monies due or to become due under any of the Borrower Loan Documents or convey or encumber any of the Property, Improvements, or any personal property, goods, or fixtures now or hereafter located at the Property or the Improvements without the prior Written Consent of the Funding Lender. Any such assignment made without such consent shall be void. Borrower recognizes that this is not an ordinary loan and that the Funding Lender would not make the Funding Loan except in reliance on Borrower's expertise, reputation and the Funding Lender's knowledge of Borrower, and that this Borrower Loan Agreement is more in the nature of a personal service contract than a standard loan where the Funding Lender would rely on security which already exists. In this instance the Improvements are not constructed and the Funding Lender is relying heavily on Borrower's expertise and prior experience to develop the Improvements in accordance with the terms of the Borrower Loan Documents.

Section 15.18 Sale of Participations. The Funding Lender shall have the right to sell participation interests in the Borrower Loan or to assign and transfer all or a portion of the Borrower Loan and/or the Funding Loan to any other Persons subject to the provisions of Section 2.4(b) of the Funding Loan Agreement, without the consent of or notice to Borrower. The Funding Lender may disclose to any participants or assignees or prospective participants or assignees any information or other data or material in the Funding Lender's possession relating to Borrower, any Guarantor, the Borrower Loan, the Property, the Project, and/or the Improvements, including the construction thereof, without the consent of or notice to Borrower. In the event the Funding Lender shall participate or assign all or any part of the Borrower Loan or the Funding Loan, the designation "Funding Lender" herein shall include all participants and assigns. Unless Written Notice to Borrower to the contrary is given by the original Funding Lender, Borrower shall deal and communicate solely with, and rely solely upon communications from, the original Funding Lender, and Borrower shall not be entitled to rely upon and shall not accept any notice or other communication concerning the Borrower Loan from any such participant or assignee. Upon an entire assignment by the Funding Lender to one or more assignees, the Funding Lender shall be relieved of any further obligations or liabilities hereunder and Borrower shall look solely to such assignee(s) for performance of the Funding Lender's duties hereunder.

Section 15.19 Rules for Construction. A reference to any of the Borrower Loan Documents shall include all or any of the provisions of the Borrower Loan Documents. A reference to the Property or Improvements shall be a reference to all or any parts of the Property or Improvements. A reference to the Funding Lender shall include the Funding Lender's agents.

Section 15.20 Severability. If any provision or obligation under this Borrower Loan Agreement or the other Loan Documents shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall be deemed severed from the Borrower Loan Documents and the validity, legality and enforceability of the remaining provisions or obligations shall remain in full force as though the invalid, illegal, or unenforceable provision had never been a part of the Borrower Loan Documents, provided, however, that if the rate of interest or any other amount payable under the Borrower Notes or this Borrower Loan Agreement or any other Borrower Loan Document, or the right of collectability therefor, are declared to be or become invalid, illegal or unenforceable, the Governmental Lender's and Funding Lender's obligations to make advances under the Borrower Loan Documents shall not be enforceable by Borrower.

Section 15.21 Headings. All headings appearing in this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 15.22. Governing Law; Jurisdiction. This Borrower Loan Agreement and the Borrower Loan Documents shall be governed by, and construed in accordance with, the laws of the State of California, except to the extent preempted by federal law or as otherwise provided in the Borrower Loan Documents. In any action brought or arising out of this Borrower Loan Agreement or the Borrower Loan Documents, Borrower and the general partners and joint venturers of Borrower hereby consent to the jurisdiction of any Federal or State Court within the State of California and also consent to the service of process by any means authorized by the laws of the State of California or by federal law.

Section 15.23 WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER AND THE FUNDING LENDER EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS BORROWER LOAN AGREEMENT, THE OTHER BORROWER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. BORROWER AND THE FUNDING LENDER AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS BORROWER LOAN AGREEMENT OR THE OTHER BORROWER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS BORROWER LOAN AGREEMENT AND THE OTHER BORROWER LOAN DOCUMENTS.

Section 15.24 Judicial Reference. As permitted by applicable law, each of the parties (other than the Governmental Lender) waives its respective rights to a trial before a jury in connection with any Claim (as "Claim" is hereinafter defined), and Claims shall be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Claim, but not later than thirty (30) days after entry of the order determining this provision is unenforceable, any party shall be entitled to move the court for an order compelling judicial reference and staying or dismissing such litigation pending resolution ("Reference Order"). If a Claim, dispute, or controversy arises between us, and only if a jury trial waiver is not permitted by applicable law or ruling by a court, the parties (other than the Governmental Lender) elect to proceed under this Section. With the exception of the items specified below, any controversy, dispute or claim between the parties relating to this Borrower Loan Agreement or any other document, instrument or transaction between the parties (each, a "Claim"), will be resolved by a reference proceeding in California pursuant to Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to reference. Venue for the reference will be the Superior Court in Santa Clara County. The following matters shall not be subject to reference: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including without limitation set-off), (iii) appointment of a receiver, and (iv) temporary, provisional or ancillary remedies (including without limitation writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). The exercise of, or opposition to, any of the above does not waive the right to a reference hereunder.

The referee shall be selected by agreement of the parties. If the parties do not agree, upon request of any party a referee shall be selected by the Presiding Judge of the Superior Court of the County of Santa Clara (the "Court"). The referee shall determine all issues in accordance with existing case law and statutory law of the State, including without limitation the rules of evidence applicable to proceedings at law. The referee is empowered to enter equitable and legal relief, and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision, and pursuant to California Code of Civil Procedure Section §644 the referee's decision shall be entered by the Court as a judgment or order in the same manner as if tried by the Court. The final judgment or order from any decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial if granted, will be a reference hereunder. AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, EACH PARTY HERETO (OTHER THAN THE GOVERNMENTAL LENDER) AGREES THAT ALL CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT A JURY.

By agreeing to resolve a Claim by judicial reference, each party (other than the Governmental Lender) is giving up any right it may have to a jury trial, as well as other rights it would have in court that are not available or are more limited in arbitration, such as the rights to discovery and to appeal. In addition, and not by way of limitation, each party hereto (other than the Governmental Lender) waives the right to litigate in court or arbitrate any claim or dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general. As a result of the provisions of this Section, each party hereto (other than the Governmental Lender) (i) certifies that no one has represented to such party that the other party would not seek to enforce jury and class action waivers in the event of suit, and (ii)

acknowledges that it and the other party have been induced to enter into this agreement by, among other things, the mutual waivers, agreements, and certifications in this Section.

Section 15.25 Integration. The Borrower Loan Documents contain or expressly incorporate by reference the entire and exclusive agreement of the parties with respect to the matters contemplated herein and supersedes all prior negotiations related thereto, written or oral. The Borrower Loan Documents shall not be amended or modified in any way except by a written instrument which is executed by Borrower and Funding Lender. Any reference to the Borrower Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Funding Lender in writing.

Section 15.26 Funding Lender Consents. With respect to any matter requiring the Funding Lender's consent hereunder, Borrower shall direct written request for such consent to the Funding Lender pursuant to Section 15.3 above, including such information as Borrower may deem pertinent to the Funding Lender's decision. From time-to-time, the Funding Lender may designate a specific individual to whom such requests shall be directed. No failure of the Funding Lender to respond to a request shall be deemed a consent to the request. No response by the Funding Lender shall be effective as a consent unless the same is in writing executed by a duly authorized officer of the Funding Lender.

Section 15.27 Counterparts. This Borrower Loan Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same instrument.

Section 15.28 California Waiver of Civil Code Section 2822. Borrower hereby waives any right under California Civil Code Section 2822 or any successor sections to designate the portion of the obligations under the Borrower Loan Documents that are to be satisfied by any payment or other satisfaction by Borrower. Any such payment or other satisfaction shall not affect in any manner the obligations of Guarantor under the Guaranty.

Section 15.29 Survival. The representations, warranties and covenants herein shall survive the disbursement of the Borrower Loan and shall remain in force and effect until the Borrower Loan is repaid in full.

Section 15.30 Keepwell. Borrower shall at all times designate a Qualified ECP Guarantor (determined by Borrower in its sole discretion) and such Qualified ECP Guarantor shall absolutely, unconditionally, and irrevocably undertake to provide such funds or other support as may be needed from time to time by each other Guarantor to honor all of its obligations under any guaranty in respect of any Interest Rate Hedge Obligation (provided, however, that such Qualified ECP Guarantor shall only be liable under this Section for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section, or otherwise under any guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of such Qualified ECP Guarantor under this Section shall remain in full force and effect until all Borrower's obligations and the obligations of each Guarantor under any Guaranty shall have been satisfied by payment in full. Borrower certifies on behalf of such Qualified ECP Guarantor that it intends that this Section constitute, and this Section shall be deemed to constitute, and "keepwell, support or other agreement" for the benefit of each other Guarantor for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

Section 15.31 Right of Setoff. If an Event of Default shall have occurred and be continuing, Funding Lender is hereby authorized at any time and from time to time, to the fullest

extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by Funding Lender, to or for the credit or the account of Borrower or any other Obligor against any and all of the obligations of Borrower or such Obligor now or hereafter existing under this Borrower Loan Agreement or any other Borrower Loan Document to Funding Lender, irrespective of whether or not Funding Lender shall have made any demand under this Borrower Loan Agreement or any other Borrower Loan Document and although such obligations of Borrower or such Obligor may be contingent or unmatured or are owed to a branch, office or affiliate of Funding Lender different from the branch, office or affiliate holding such deposit or obligated on such indebtedness.

Section 15.32 Waiver of Consequential Damages. To the fullest extent permitted by applicable law, Borrower shall not assert, and hereby waives, any claim against any of the Beneficiary Parties or any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Borrower Loan Agreement, any other Borrower Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, the Borrower Loan, or the use of the proceeds thereof.

Section 15.33 Notice to Guarantors. Funding Lender shall have the right, but not the obligation, to provide to any Guarantor the following: (a) copies of this Borrower Loan Agreement and the Borrower Loan Documents and any other information Funding Lender deems appropriate, and (b) a copy of any notice relating to a default by Borrower or any other Obligor under the Borrower Loan Documents.

Section 15.34 Patriot Act of 2001 (Public Law 107-56). The USA Patriot Act of 2001 (Public Law 107-56), and any successor or replacement thereof, and federal regulations issued with respect thereto (the "Patriot Act") require all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Funding Lender may from time-to-time request, and Borrower shall provide to such requesting party, Borrower's name, address, tax identification number and/or such other identification information as shall be necessary for Funding Lender to comply with federal law. An "account" for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.

Section 15.35 Reserved.

Section 15.36 Tax Shelter Disclaimers and Waivers. None of Borrower, any Guarantor, any other Obligor, or any subsidiary of any of the foregoing intends to treat the Borrower Loan or the transactions contemplated by this Borrower Loan Agreement and the other Borrower Loan Documents as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). If Borrower or any other Obligor determines to take any action inconsistent with such intention, Borrower will promptly notify Funding Lender thereof. If Borrower so notifies the Funding Lender, Borrower acknowledges that the Funding Lender may treat the Borrower Loan as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and in such event the Funding Lender will maintain the lists and other records, including the identity of the applicable party to the Borrower Loan as required by such Treasury Regulation. Notwithstanding anything to the contrary set forth herein or in any other written or oral understanding or agreement to which the parties hereto are parties or by which they are bound, the parties hereto acknowledge and agree that (a) any obligations of confidentiality contained

herein and therein do not apply and have not applied from the commencement of discussions between the parties to the tax treatment and tax structure of the transactions contemplated by the Borrower Loan Documents (and any related transactions or arrangements), and (b) each party (and each of its employees, representatives, or other agents) may disclose to any and all parties as required, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by the Borrower Loan Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment and tax structure, all within the meaning of Treasury Regulations Section 1.6011-4; provided, however, that each party recognizes that the privilege each has to maintain, in its sole discretion, with regard to the confidentiality of a communication relating to the transactions contemplated by the Borrower Loan Documents, including a confidential communication with its attorney or a confidential communication with a federally authorized tax practitioner under Section 7525 of the Internal Revenue Code, is not intended to be affected by the foregoing.

Section 15.37 Acknowledgment Regarding Any Supported QFCs. To the extent that the Borrower Loan Documents provide support, through a guarantee or otherwise, for any swap contract or any other agreement or instrument that is a QFC (such support, "**QFC Credit Support**", and each such QFC, a "**Supported QFC**"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "**U.S. Special Resolution Regimes**") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "**Covered Party**") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States.

As used in this Section, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b);

or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

Section 15.38 Recitals. The Recitals contained herein are true and correct and are incorporated into this Borrower Loan Agreement.

ARTICLE XVI

SPECIAL CONDITIONS

Section 16.1 Special Conditions. The special conditions of the Borrower Loan, if any, are set forth in EXHIBIT E attached hereto and made a part hereof.

ARTICLE XVII

LIMITATIONS ON LIABILITY

Section 17.1 Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower (and its partners) hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Notes and the Trust Deed.

Section 17.2 Limitation on Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from money and assets received by the Fiscal Agent or Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement. No holder or holders of any of the Governmental Lender Notes shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision thereof or of the Governmental Lender for the payment of the Governmental Lender Notes or the Funding Loan, nor to enforce the payment of the Governmental Lender Notes or the Funding Loan against any property of the State or any such political subdivision thereof or of the Governmental Lender except as provided in the Funding Loan Agreement.

It is recognized that notwithstanding any other provision of this Borrower Loan Agreement, and except for the Pledged Revenues, the Trust Deed and certain funds pledged under the Funding Loan Agreement, none of the Borrower, the Funding Lender, the holder of the Governmental Lender Notes or the Servicer shall look to the Governmental Lender for damages suffered by the Borrower, the Funding Lender, the holders of the Governmental

Lender Notes or the Servicer as a result of the Governmental Lender's performance, failure to perform or insufficient performance of any covenant, undertaking or obligation under this Borrower Loan Agreement or any of the other Funding Loan Documents or the Borrower Loan Documents, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, nor for any other reason, unless such damages result solely from the gross negligence, willful misconduct, fraud or intentional misrepresentation of the Governmental Lender. Although this Borrower Loan Agreement recognizes that such documents shall not give rise to any pecuniary liability of the Governmental Lender, nothing contained in this Borrower Loan Agreement shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Governmental Lender) in any court or before any governmental body, agency or instrumentality or otherwise against the Governmental Lender or any of its officers or employees to enforce the provisions of any of such documents which the Governmental Lender is obligated to perform and which the Governmental Lender has not assigned to the Funding Lender or any other person.

The Governmental Lender shall be entitled to the advice of counsel, and the Governmental Lender shall be wholly protected as to action taken or omitted in good faith in reliance on such advice. The Governmental Lender shall not be liable for any action (a) taken by it in good faith and reasonably believed by it to be within its discretion or powers hereunder, or (b) in good faith omitted to be taken by it because such action was reasonably believed to be beyond its discretion or powers hereunder, or (c) taken by it pursuant to any direction or instruction by which it is governed hereunder, or (d) omitted to be taken by it by reason of the lack of any direction or instruction required hereby for such action; nor shall it be responsible for the consequences of any error of judgment reasonably made by it. The Governmental Lender shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person or entity, except for the fraud, gross negligence or willful misconduct of its own agents, officers and employees. When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof. The Governmental Lender shall not be required to take any remedial action (other than the giving of notice) unless indemnity in a form acceptable to the Governmental Lender is furnished for any cost or liability to be incurred in connection with such remedial action, other than liability for failure to meet the standards set forth in this Section. The Governmental Lender shall be entitled to reimbursement for its costs reasonably incurred or advances reasonably made, with interest at the rate of 5% per annum, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act which it may have shall be construed as a requirement to act; and no delay in the exercise of a right or power shall affect its subsequent exercise of the right or power.

The Borrower hereby acknowledges that the Governmental Lender's sole source of money to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment price) of and interest on the Funding Loan as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Funding Lender, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Borrower, the Governmental Lender, the

Fiscal Agent or any third party, subject to any right of reimbursement from the Funding Lender, the Governmental Lender or any such third party, as the case may be, therefor.

Section 17.3 Waiver of Personal Liability. No Board member, director, officer, agent or employee of the Governmental Lender or any of its program participants or any director, officer, agent or employee of the Borrower shall be individually or personally liable for the payment of any principal (or prepayment price) or interest on the Governmental Lender Notes or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such Board member, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 17.4 Limitation on Liability of Governmental Lender's and Funding Lender's Officers, Employees, Etc.

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective Commissioners, Program Participants, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender, or gross negligence of the Governmental Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective members of the Board of Directors, officers, directors, employees and agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), Program Participants, Commissioners, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 17.5 Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

Section 17.6 No Limitations on Actions of Governmental Lender in Exercise of its Governmental Powers. Nothing in this Borrower Loan Agreement or the Funding Loan Agreement is intended, nor shall it be construed, to in any way limit the actions of the Governmental Lender in the exercise of its governmental powers, as contrasted with any contractual rights or powers. It is the express intention of the parties hereto that the Governmental Lender shall retain the full right and ability to exercise its governmental powers with respect to the Borrower, the Project and the transactions contemplated by this Borrower Loan Agreement and the other Borrower Loan Documents to the same extent as if it were not a party to this Borrower Loan Agreement, and in no event shall the Governmental Lender have any liability in contract arising under this Borrower Loan Agreement, the other Borrower Loan Documents or the Funding Loan Documents by virtue of any exercise of its governmental powers.

Section 17.7 Notification of Governmental Lender of Amount of Outstanding Governmental Lender Notes. Upon request of the Governmental Lender, the Borrower will notify the Governmental Lender via mutually acceptable electronic means or by mail of the principal amount of Governmental Lender Notes that remain outstanding or that no Governmental Lender Notes remain outstanding.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Borrower Loan Agreement or caused this Borrower Loan Agreement to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

BORROWER:

PAGE STREET, L.P.,
a California limited partnership

By: Page Street Charities LLC,
a California limited liability company,
its general partner

By: Charities Housing Development Corporation of
Santa Clara County, a California nonprofit
public benefit corporation, its sole
member/manager

By: _____
Daniel Wu,
Executive Director

Address:
Page Street, L.P.
c/o Charities Housing Development Corporation of
Santa Clara County
1400 Parkmoor Avenue, Suite 190
San José, California 95126
Attention: _____

with a copy to (which copy shall not constitute notice to
the Borrower):
Gubb & Barshay LLP
505 14th Street, Suite 450
Oakland, California 94612
Attention: Lauren Fechter, Esq.

Hudson Page Street LP
c/o Hudson Housing Capital
630 Fifth Avenue, Suite 2850
New York, New York 10111
Attention: Joseph Macari

Bocarsly Emden Cowan Esmail & Arndt LLP
7700 Old Georgetown Road, Suite 600
Bethesda, Maryland 20814
Attention: Craig Emden, Esq.

[signature page to Borrower Loan Agreement – Page Street Studios]

GOVERNMENTAL LENDER:

CITY OF SAN JOSE,
as Governmental Lender

By: _____
Julia H. Cooper
Director of Finance

ATTEST:

By: _____
Toni J. Taber CMC, City Clerk

Approved as to Legal Form:

Ed Moran
Assistant City Attorney

Address:
City of San José
Finance Department
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113-1905
Attention: Debt Management
Facsimile: (408) 292-6482

with a copy to (which copy shall not constitute notice to
the Governmental Lender):
City of San José
Department of Housing
200 East Santa Clara Street, 12th Floor Tower
San José, California 95113-1905
Attention: Director of Housing
Facsimile: (408) 998-3183

[signature page to Borrower Loan Agreement – Page Street Studios]

San José City Attorney's Office
200 E. Santa Clara Street, 16th Floor Tower
San José, California 95113
Attention: City Attorney
Facsimile: (408) 998-3131

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh Anzel, Esq.
Facsimile: (415) 276-2088

[signature page to Borrower Loan Agreement – Page Street Studios]

Agreed to and Acknowledged by:

FUNDING LENDER:

BANK OF THE WEST,
a California banking corporation

By: _____
Name: _____
Its: _____

Address:

CBG Loan Administration
NC-B07-3E-I
2527 Camino Ramon
San Ramon, CA 94583

with a copy to:

Tomasi Salyer Martin
121 SW Morrison Street, Suite 1850
Portland, Oregon 97204
Attention: Jeffrey A. Martin, Esq.

With a copy to the Fiscal Agent at:

U.S. Bank National Association
One California Street, Suite 1000
San Francisco, California 94111
Attention: Global Corporate Trust Services
Facsimile: (415) 677-3769

[signature page to Borrower Loan Agreement – Page Street Studios]

EXHIBIT A
COST BREAKDOWN

EXHIBIT B

SCHEDULE OF PLANS AND SPECIFICATIONS

Consisting of ____ Pages Attached Hereto

EXHIBIT C

DEVELOPER FEE PAYMENT SCHEDULE

The Developer Fee Payment Schedule is as follows: [\$100,000] paid from the Initial Capital Contribution (as defined in the Partnership Agreement) at the closing of the Borrower Loan. [UNDER BOW REVIEW]

Closing	100,000
Construction	400,000 - not paid from equity
Completion	750,000 - payable from second capital contribution
Conversion	payable from equity to the extent permitted under the Development Agreement

EXHIBIT D

SUBORDINATE DEBT

- [A loan from the City in the face amount of [\$_____] (the "City Loan"), which shall be secured by a deed of trust in the Property that shall be subordinated to the Trust Deed in accordance with a subordination agreement acceptable to the Funding Lender.]
- [A loan from the County in the face amount of [\$_____] (the "County Loan"), which shall be secured by a deed of trust in the Property that shall be subordinated to the Trust Deed in accordance with a subordination agreement acceptable to the Funding Lender.]
- [A loan from Housing Trust Silicon Valley in the face amount of [\$_____] (the "HTSV Loan"), which shall be secured by a deed of trust in the Property that shall be subordinated to the Trust Deed in accordance with a subordination agreement acceptable to the Funding Lender.][A loan from [Charities Housing Development Corporation of Santa Clara County] in the face amount of [\$_____] (the "Charities Loan"), which shall be secured by a deed of trust in the Property that shall be subordinated to the Trust Deed in accordance with a subordination agreement acceptable to the Funding Lender.]

EXHIBIT E

SPECIAL CONDITIONS

SPECIAL CONDITIONS: The following provisions are incorporated into the Borrower Loan Agreement dated as of October 1, 2020, and supersede any provision of the Borrower Loan Agreement to the extent inconsistent therewith.

A. Conditions of Closing. As a condition precedent to closing the Borrower Loan, prior to or simultaneously with Recordation, Borrower shall (1) provide the Funding Lender with a fully executed copy of the General Contract with a detailed schedule of values, (2) (i) close the City Loan and (ii) provide the Funding Lender with fully executed copies of the City Loan loan documents [and evidence satisfactory to the Funding Lender that, during the term of the Borrower Loan, the Borrower shall have the ability to request and obtain draws of the City Loan to fund Project Costs in accordance with the Cost Breakdown], and (3) (i) close the County Loan and (ii) provide the Funding Lender with fully executed copies of the County Loan loan documents [and evidence satisfactory to the Funding Lender that, during the term of the Borrower Loan, the Borrower shall have the ability to request and obtain draws of the County Loan to fund Project Costs in accordance with the Cost Breakdown].

B. Conditions Precedent to Disbursements for Hard Costs. Prior to making any Disbursements for funding any hard costs under the Disbursement Schedule, Borrower must provide or cause to be provided to the Funding Lender [(1) a set of final approved drawings, (2) a building permit for the Project, (3) an updated construction schedule for the Project acceptable to the Funding Lender, (4) _____, and (5) _____.] Prior to making any site development and any Disbursements for funding hard costs under the Disbursement Schedule, Borrower must provide or cause to be provided the grading permit for the Project to the Funding Lender.

C. Environmental Review Matters. Prior to the Completion Date, all onsite debris shall be removed from the Property and disposed of in accordance with all applicable Legal Requirements.]

D. Borrower Funded Project Costs. In addition to the conditions set forth in Articles 5 and 6 above, concurrently with or prior to the Initial Disbursement, Equity Investor shall fund the [Initial Capital Contribution] (as defined in the Partnership Agreement) in the amount of [\$1,924,259] and Borrower shall provide evidence satisfactory to Funding Lender that Borrower has covered Project Costs of at least [\$_____] with proceeds from [Capital Contributions] (as defined in the Partnership Agreement) and proceeds of Subordinate Debt or sources other than Borrower Loan Proceeds that are satisfactory to the Funding Lender.