



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Text

---

**File #:** F2022-36, **Version:** 1

---

CITY OF CHICAGO

DEPARTMENT OF FINANCE

, 2022

Anna M. Valencia Office  
of the City Clerk 121 North  
LaSalle Street Room 107  
Chicago, Illinois 60602

**RE: Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A (the "Series 2022A Note") and (ii) Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B (the "Series 2022B Note")**

Dear Ms. Valencia:

Attached is the Funding Loan Notification which is required to be filed with your office pursuant to Section 7 of the ordinance authorizing the issuance of a Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A (the "Series 2022A Note") and (ii) Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B (the "Series 2022B Note") which was passed by the City Council on September 14, 2021.

Please direct this filing to the City Council.

Jennie Huang Bennett Chief Financial Officer  
121 NORTH LASALLE STREET, ROOM 700, CHICAGO, ILLINOIS 60602

Very Truly Yours,

**Funding Loan Notification of  
\$16,000,000 City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A  
\$11,900,000 City of Chicago Multi-Family Housing Revenue Note  
(Lake Park Crescent Apartments), Series 2022B**

**May 26, 2022**

To: The City Council of the City of Chicago

Please be advised that responsive to authority contained in the Substitute Ordinance adopted by the City Council (the "City Council") of the City of Chicago (the "City") on September 14, 2021 (the "Substitute Ordinance"), providing for the execution and delivery of the Funding Loan Agreement (as defined below) and the sale of \$16,000,000 aggregate principal amount of Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A (the "Series 2022A Note") and \$11,900,000 aggregate principal amount of Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B (the "Series 2022B Note" and collectively with the Series 2022A Note, the "Notes"), the Funding Loan Agreement dated as of May 1, 2022 (the "Funding Loan Agreement"), providing for the making of a loan (the "Funding Loan") to the City by Citibank, N.A. (the "Funding Lender"), the proceeds of which will be loaned (the "Borrower Loan") by the City to Standard LPC Venture, LP, an Illinois limited partnership (the "Borrower"), was entered into by me, as the Chief Financial Officer, on behalf of the City with and to the Funding Lender. Capitalized terms defined in the Substitute Ordinance are used with the same meanings herein.

The Substitute Ordinance provided that the Notes may be incurred in such aggregate principal amount not to exceed \$32,000,000, the maximum term of the Funding Loan shall not exceed December 1, 2054 (with respect to the Series 2022A Note) and December 1, 2024 (with respect to the Series 2022B Note). The Notes shall bear interest at a rate or rates equal to the rate of interest on the Borrower Loan (as provided in the Borrower Loan Agreement by and between the City and the Borrower dated as of May 1, 2022 (the "Borrower Loan Agreement")) (which shall not exceed the lesser of 10% or the maximum rate of interest allowable under state law), shall be payable at the place and on the payment dates as set forth in the Funding Loan Agreement and Notes, provide for tender rights granted to the holder and containing prepayment provisions, respectively, as set forth in Appendix A. The aggregate costs of origination of the Funding Loan paid from the proceeds of the Funding Loan shall not exceed one and one half percent (1.5%) of the aggregate principal amount of the Notes. The compensation (including all fees) being paid to the Funding Lender in connection with the incurrence of the Notes is \$279,000.

Funding Loan Notification

Attached hereto as Exhibits A, B, C, D and F respectively, are executed copies of the Funding Loan Agreement, the Notes, the Borrower Loan Agreement, the Borrower Notes (as defined in the Borrower Loan Agreement), and the Regulatory Agreement and Declaration of Restrictive Covenants by and between the City and the Borrower dated as of May 1, 2022.

Respectfully submitted as of the date set forth above.

Funding Loan Notification

Acknowledgement of Filing

Andrea M. Valencia City Clerk

The Funding Loan Notification of \$27,900,000 aggregate principal amount of Multi-Family Mousing Revenue Notes (Lake Park Crescent Apartments), Series 2022A and 2022B, consisting of the Series 2022A Note in the principal amount of \$16,000,000 and the Series 2022B Note in the principal amount of \$11,900,000 was filed in the office of the City Clerk of the City of Chicago, this 1<sup>st</sup> day of May, 2022. / 1

[Sf.al]

**Acknowledgement of Filing**

**Appendix A**

**Terms of Notes**

Re: \$27,900,000 aggregate principal amount of City of Chicago Multi-Family Housing Revenue Notes (Lake Park Crescent Apartments), Series 2022A and 2022B (the "Notes"), consisting of the Series 2022A Note in the principal amount of \$ 16,000,000 and the Series 2022B Note in the principal amount of \$11,900,000.

The Series 2022A Note is dated May 26, 2022, matures on December 1, 2054 (though is expected to be mandatorily prepaid on June 1, 2039), are in the principal amount of \$16,000,000, and is payable on and in such places and in such manner, is subject to prepayment, and bears interest as described in the Funding Loan Agreement.

The Series 2022B Note is dated May 26, 2022, matures on December 1, 2024, is in the principal amount of \$11,900,000, and is payable on and in such places and in such manner, is subject to prepayment, and bears interest as described in the Funding Loan Agreement.

**Funding Loan Agreement Between**

**Citibank, N.A., as Funding Lender,**

**and**

**City of Chicago, as Governmental Lender**

**Dated as of May 1, 2022**

**Relating to**

**\$16,000,000 City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A**

**and**

**\$11,900,000 City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B**

**(Funding Loan originated by Citibank, N.A., as Funding Lender)**

**RECITALS 1**

<b>ARTICLE I DEFINITIONS: PRINCIPLES OF CONSTRUCTION</b>	<b>7</b>
Section 1.1.    Definitions	7
Section 1.2.    Effect of Headings and Table of Contents	16
Section 1.3.    Date of Funding Loan Agreement	16
Section 1.4.    Designation of Time for Performance	16
Section 1.5.    Interpretation	16

ARTICLE II TERMS: GOVERNMENTAL LENDER NOTES	16
Section 2.1.    Terms.	16
Section 2.2.    Form of Governmental Lender Notes	18
Section 2.3.    Execution and Delivery of Governmental Lender Notes	18
Section 2.4. <u>Required Transferee Representations; Participations; Sale and</u>	
Assignment.	19
ARTICLE III PREPAYMENT	20
Section 3.1. <u>Prepayment of the Governmental Lender Notes from</u>	
Prepayment under the Borrower Notes	20
Section 3.2.    Notice of Prepayment	20
ARTICLE IV SECURITY	20
Section 4.1.    Security for the Funding Loan	20
Section 4.2.    Delivery of Security	22
ARTICLE V LIMITED LIABILITY....	22
Section 5.1. <u>Source of Payment of Governmental Lender Notes and Other</u>	
Obligations; Disclaimer of General Liability	22
Section 5.2.    Exempt from Individual Liability	23
ARTICLE VI CLOSING CONDITIONS: APPLICATION OF FUNDS	23
Section 6.1.    Conditions Precedent to Closing	23
ARTICLE VII FUNDS AND ACCOUNTS	24
Section 7.1.    Authorization to Create Funds and Accounts	24
Section 7.2.    Investment of Funds	24
ARTICLE VIII REPRESENTATIONS AND COVENANTS	24
Section 8.1.    General Representations	24
Section 8.2.    Further Assurances	25
Section 8.3.    Payment of Funding Loan Obligations	25
{00053413 - 2} 2	
Section 8.4.    Funding Loan Agreement Performance	25
Section 8.5.    Servicer	26
Section 8.6.    Tax Covenants	26
Section 8.7.    Performance by the Borrower	27
Section 8.8.    Repayment of Funding Loan	27

Section 8.9.	Borrower Loan Agreement Performance.	27
Section 8.10.	Maintenance of Records; Inspection of Records.	27
Section 8.11.	Representations and Warranties of the Funding Lender	28
Section 8.12.	Funding Lender Limitations	28
ARTICLE IX DEFAULT: REMEDIES		28
Section 9.1.	Events of Default	28
Section 9.2.	Acceleration of Maturity; Rescission and Annulment.	29
Section 9.3.	Additional Remedies; Funding Lender Enforcement.	30
Section 9.4.	Application of Money Collected	31
Section 9.5.	Remedies Vested in Funding Lender	32
Section 9.6.	Restoration of Positions	32
Section 9.7.	Rights and Remedies Cumulative	32
Section 9.8.	Delay or Omission Not Waiver	32
Section 9.9.	Waiver of Past Defaults	32
<u>Section 9.10.</u>	<u>Remedies Under Borrower Loan Agreement or Borrower</u>	
	Notes	32
Section 9.11.	Waiver of Appraisalment and Other Laws.	33
Section 9.12.	Suits to Protect the Security	33
Section 9.13.	Remedies Subject to Applicable Law	33
Section 9.14.	Assumption of Obligations	33
Section 9.15.	Remedies upon Unremedied Material Funding Lender Event	34
<u>ARTICLE X AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT</u>		
AND OTHER DOCUMENTS		34
Section 10.1.	Amendment of Funding Loan Agreement	34
Section 10.2.	Amendments Requiring Funding Lender Consent	34
Section 10.3.	Consents and Opinions	35
ARTICLE XI MISCELLANEOUS		35
Section 11.1.	Notices.	35
{00053413 - 2}		
Section 11.2.	Term of Funding Loan Agreement	38
Section 11.3.	Successors and Assigns	38
Section 11.4.	Legal Holidays	38
Section 11.5.	Governing Law	39
Section 11.6.	Severability	39

Section 11.7.	Execution in Several Counterparts	39
Section 11.8.	Nonrecourse Obligation of the Borrower	39
Section 11.9.	Reserved.	39
Section 11.10.	Electronic Transactions	39
Section 11.11.	Reference Date	39
Exhibit A-1 - Form of Series 2022A Governmental Lender Note	Exhibit A-2 - Form of Series 2022B Governmental Lender Note	Exhibit B - Form of Required Transferee Representations

{00053413 - 2}

### **Funding Loan Agreement**

**This Funding Loan Agreement, dated as of May 1, 2022 (this "Funding Loan Agreement"), is entered into by Citibank, N.A. (together with any successor under this Funding Loan Agreement, the "Funding Lender") and the City of Chicago, a municipality and home rule unit of local government duly organized and validly existing under the 1970 Constitution and laws of the State of Illinois (together with its successors and assigns, the**



"Governmental Lender").

### Recitals

Whereas, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Article VII, Section 6(a) of the 1970 Constitution of the State Illinois, is a home rule unit of local government and as such may provide a means of financing the costs of residential ownership and development that will provide decent, safe and sanitary housing for persons of low and moderate income at prices or rentals they can afford; and

Whereas, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on and interest on such indebtedness of the Governmental Lender; and

Whereas, Standard LPC Venture LP, an Illinois limited partnership (the "Borrower") (of which Standard LPC Manager LLC, a Delaware limited liability company is the general partner (the "General Partner"), Boston Financial Institutional Tax Credits 56 Limited Partnership, a Massachusetts limited partnership, is the limited partner (the "Limited Partner") and BFIM Special Limited Partner, Inc., a Florida corporation, is the special limited partner (the "Special Limited Partner") (both the Limited Partner and the Special Limited Partner are affiliates of Boston Financial Investment Management, LP), has requested that the Governmental Lender enter into this Funding Loan Agreement under which the Funding Lender will (a) advance funds (the "Funding Loan") to or for the account of the Governmental Lender, and (b) apply the proceeds of the Funding Loan to make a loan to the Borrower (the "Borrower Loan") to finance the Projects described in the following paragraph; and

Whereas, the Borrower will use the proceeds of the Borrower Loan to finance (a) its acquisition of ground leasehold interests in the land and existing buildings located thereon with respect to the following locations in the City of Chicago, Cook County, Illinois: (i) an 8-story elevator building consisting of 76 units located at 1061 E. 41<sup>st</sup> Place, (ii) eight walk-ups consisting of 6 units each located at 4001, 4007, 4029, 4035, 4045, 4051, 4067 and 4071 S. Lake Park Avenue, and (iii) four walk-ups consisting of 6 units each located at 4000, 4006, 4030 and 4036

{00053413 - 2}

S. Oakenwald Avenue (collectively, the foregoing, together with accompanying laundry facilities, outdoor space and parking spaces are referred to as the "Facilities"), (b) the rehabilitation (consisting of, but not limited to, outside facade repair, updated HVAC and utility systems, modernization of elevator/equipment systems and in-unit upgrades) of the Facilities into mixed-income units of affordable multi-family residential rental housing (collectively, the acquisition and rehabilitation constitute the "Projects"); and

Whereas, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement, dated as of May 1, 2022 (as it may be supplemented or amended, the "Borrower Loan Agreement"), under which the Borrower agrees to make loan payments to the Governmental Lender in amounts and at times which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related to it

when due; and

Whereas, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its (i) Multifamily Note (Fixed Rate) (the "Series A Borrower Note") and (ii) Multifamily Note (Variable Rate) (the "Series B Borrower Note" and, together with the Series A Borrower Note, the "Borrower Notes"), each dated the Closing Date, and the obligations of the Borrower under the Borrower Notes will be secured by a lien on and security interest in the Projects pursuant to a Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing of even date with this Funding Loan Agreement (the "Security Instrument"), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

Whereas, the Governmental Lender has executed and delivered to the Funding Lender its (i) not to exceed \$16,000,000 City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A (the "Series 2022A Governmental Lender Note"), dated as of the Closing Date (as defined below) and (ii) not to exceed \$11,900,000 City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B (the "Series 2022B Governmental Lender Note" and collectively with the Series 2022A Governmental Lender Note, the "Governmental Lender Notes"), evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make the Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Notes, subject to the terms of this Funding Loan Agreement, have in all respects been duly authorized;

Now, Therefore, in consideration of the premises and the mutual representations, covenants and agreements contained in this Funding Loan Agreement, the parties agree as follows:

{00053413 - 2}

## **ARTICLE I Definitions; Principles of Construction**

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

a) Unless specifically defined in this Funding Loan Agreement, all capitalized terms shall have the meanings ascribed to them in the Borrower Loan Agreement.

b) The terms "herein", "hereof" and "hereunder" and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms "agree" and "agreements" are intended to include and mean "covenant" and "covenants."

c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

d) All accounting terms not otherwise defined in this Funding Loan Agreement shall have the meanings assigned to them, and all computations provided for in this Funding Loan Agreement shall be made, in accordance with

the Approved Accounting Method. All references to "Approved Accounting Method" refer to such principles as they exist at the date of their application.

e) All references in this Funding Loan Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this Funding Loan Agreement as originally executed.

f) All references in this Funding Loan Agreement 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 of such separate instrument.

g) References to the Governmental Lender Notes as "tax-exempt" or to the "tax-exempt status" of the Governmental Lender Notes are to the exclusion of interest payable on the Governmental Lender Notes (other than any portion of the Governmental Lender Notes held by a "substantial user" of the Projects or a "related person" (within the meaning of Section 147 of the Code) thereto) from gross income for federal income tax purposes pursuant to Section 103 (a) of the Code.

h) The following terms have the meanings set forth below:

"Additional Borrower Payments" shall have the meaning given such term in the Borrower Loan Agreement.

"Administrative Fees" shall mean (i) a tax-exempt bond issuer fee in connection with the delivery and administration of this Funding Loan Agreement and the Governmental Lender Notes, not exceeding 0.15%, which shall be collected under such terms and conditions as determined by

{00053413 - 2}

the Authorized DOH Officer and which shall be in an amount as determined by the Authorized DOH Officer, and (ii) an administrative fee or fees in an amount equal to (A) 1.5 percent of the original principal amount of the Governmental Lender Notes, payable upon issuance of the Governmental Lender Notes but, in either case, not to exceed the maximum amount permitted under Section 148 of the Code. Such administrative fee or fees shall be used by DOH for administrative expenses and other housing activities. In addition, DOH will charge (B) an on-going compliance fee of \$25 per unit, payable annually, and (C) except to the extent waived pursuant to Section 2-44-065 of the Municipal Code, any other applicable fee pursuant thereto.

"Affiliate" shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

"Approved Transferee" means (1) a "qualified institutional buyer" ("QIB") as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the "Securities Act") that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (2) an affiliate of the Funding Lender, (3) a trust or custodial arrangement established by the Funding Lender or one of its affiliates or any state or local government or any agency or entity which is a political subdivision of a federal, state or local government (a "Governmental Entity"), in each case (i) the beneficial interests in which will be owned only by QIBs or (ii) the beneficial interests in which will be rated in the "BBB" category or higher without regard to modifier (or the equivalent investment grade category) by at least one nationally recognized rating agency, or (4) a Governmental Entity.

"Authorized Amount" shall mean an amount not to exceed \$32,000,000, the maximum principal amount of the Funding Loan under this Funding Loan Agreement.

"Authorized City Representative" shall have the meaning as set forth for the term "Authorized Officer" in the

Ordinance.

"Authorized DOH Officer" shall mean an officer of DOH, authorized to take the actions set forth herein and in the Ordinance with respect to the Governmental Lender Notes.

"Borrower" shall mean Standard LPC Venture LP, an Illinois limited partnership.

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

"Borrower Loan Agreement" shall mean the Borrower Loan Agreement, dated as of May 1, 2022, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

"Borrower Loan Agreement Default" shall mean any event of default set forth in Section 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall "exist" if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable notice and cure period.

"Borrower Loan Amount" shall mean an amount not to exceed \$27,900,000.

{00053413 - 2}

"Borrower Loan Documents" shall have the meaning given such term in the Borrower Loan Agreement.

"Borrower Notes" shall mean the "Borrower Notes" as defined in the Borrower Loan Agreement.

"Business Day" shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York or Chicago, Illinois are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

"Closing Date" shall mean May 26, 2022, the date that initial Funding Loan proceeds are disbursed under in the Borrower Loan Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as in effect on the Closing Date or (except as otherwise referenced in this Funding Loan Agreement) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"Conditions to Conversion" shall have the meaning given such term in the Construction Funding Agreement.

"Construction Funding Agreement" shall mean that certain Construction Funding Agreement of even date with this Funding Loan Agreement, between the Funding Lender, as agent for the Governmental Lender, and the Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

"Contingency Draw-Down Agreement" shall mean the Contingency Draw-Down Agreement of even date with this Funding Loan Agreement between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw-down loan to a fully funded loan.

"Control" shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

"DOH" shall mean the Department of Housing of the City.

"Draw-Down Notice" shall mean a notice described in Section 1.01 of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

"Event of Default" shall have the meaning provided in Section 9.1.

"Fitch" shall mean Fitch, Inc.

{00053413 - 2}

"Funding Lender" shall mean Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

"Funding Loan Agreement" shall mean this Funding Loan Agreement, dated as of May 1, 2022, by and between the Funding Lender and the Governmental Lender, as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental to it entered into pursuant to the applicable provisions of it.

"Funding Loan Documents" shall mean (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Regulatory Agreement, (iv) the Tax Agreement, (v) the Borrower Loan Documents, (vi) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (vii) all amendments, modifications, renewals and substitutions of any of the foregoing.

"Governmental Lender" shall mean the City of Chicago, a municipality and home rule unit of local government duly organized and validly existing under the 1970 Constitution and laws of the State of Illinois, together with its successors and assigns.

"Governmental Lender Note" shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

"Highest Rating Category" shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody's in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is "A 1+" for debt with a term of one year or less and "AAA" for a term greater than one year, with corresponding ratings by Moody's of "MIG 1" (for fixed rate) or "VMIG 1" (for variable rate) for three months or less and "Aaa" for greater than three months. If at any time (i) both S&P and Moody's rate a Permitted Investment and (ii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated "AAA" by S&P and "Aa3" by Moody's is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated "AAA" by S&P and "A1" by Moody's is not rated in the Highest Rating Category.

"Material Funding Lender Event" shall mean the occurrence and continuation of one or more of the following:

(a) Prior to the advancement by the Funding Lender of the entire amount of the Funding Loan, the Funding Lender fails to advance funds requisitioned by the Borrower pursuant to the Borrower Loan Agreement and the Construction Funding Agreement other than by reason of non-conformance of such requisition with the requirements of the Borrower Loan Agreement or the Construction Funding Agreement or other failure of any condition to the funding of a requisition set forth in Article 3 of the Construction Funding Agreement, AND (i) a petition has been filed and is pending against the Funding Lender

{00053413 - 2}

under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and has not been dismissed within 60 days after such filing; (ii) the Funding Lender has filed a petition, which is pending, under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or has consented to the filing of any petition against it under such law; or (iii) the Funding Lender shall have a receiver, liquidator or trustee appointed for it or for the whole or substantially all of its property. The occurrence of a Material Funding Lender Event under this subsection (a) and the exercise of remedies upon any such declaration shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding such declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings;

b) Prior to the advancement by the Funding Lender of the entire amount of the Funding Loan (i) the Funding Loan Agreement or the Construction Funding Agreement for any reason ceases to be valid and binding on the Funding Lender or is declared to be null and void, or the validity or enforceability of any provision of the Funding Loan Agreement or the Construction Funding Agreement material to the performance by the Funding Lender of its obligations thereunder is denied by the Funding Lender or any court of applicable jurisdiction, or the Funding Lender is denying further liability or obligation under the Funding Loan Agreement or the Construction Funding Agreement, in all of the above cases contrary to the terms of the Funding Loan Agreement and the Construction Funding Agreement, in any case, in a final non-appealable judgment; (ii) the Funding Lender has rescinded, repudiated or terminated the Funding Loan Agreement or the Construction Funding Agreement; or (iii) the Funding Lender is dissolved or confiscated by action of government due to war or peace time emergency or the United States government declares a moratorium on the Funding Lender's activities; or

c) Failure by the Funding Lender (i) to respond to a complete and compliant funding requisition properly presented by the Borrower to the Funding Lender for advancement of Loan funds pursuant to the Borrower Loan Agreement and the Construction Funding Agreement within 7 days of the receipt of such funding requisition, or (ii) to fully fund within 10 days after the Funding Lender approves a funding requisition from the Borrower to the Funding Lender and has confirmed such requisition for payment pursuant to the terms of the Borrower Loan Agreement and the Construction Funding Agreement.

"Maturity Date" shall mean (i) with respect to the Series 2022A Governmental Lender Note, December 1, 2054 (with a mandatory prepayment expected to occur on June 1, 2039) and (ii) with respect to the Series 2022B Governmental Lender Note, December 1, 2024.

"Maximum Rate" shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

"Minimum Beneficial Ownership Amount" shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

{00053413 - 2} 11

"Moody's" shall mean Moody's Investors Service, Inc., or its successor.

"Negative Arbitrage Deposit" has the meaning set forth in the Contingency Draw Down Agreement.

"Noteowner" or "owner of the Governmental Lender Note" mean the owner, or as applicable, collectively the owners, of the Governmental Lender Note as shown on the registration books maintained by the Funding Lender pursuant to Section 2.4(d).

"Opinion of Counsel" shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

"Ordinance" shall mean a substitute ordinance adopted by the City Council on September 14, 2021, and published at pages 34262 through 34432, inclusive, of the City Council's Journal of Proceedings for such date, authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which Governmental Lender is a party.

"Permitted Investments" shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement:

a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America ("Government Obligations").

b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America, or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

c) Demand deposits or time deposits with, or certificates of deposit issued by, any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000 and maturing in less than 365 days; provided that such institution has been rated at least "VMIG-1'7"A-1+" by Moody's/S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency.

d) Bonds (including tax-exempt bonds), bills, notes or other obligations of or secured by Fannie Mae, Freddie Mac, the Federal Home Loan Bank or the Federal Farm Credit Bank.

e) Money market funds rated AAA by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended.

{00053413 - 2}

f) Collateralized Investment Agreements or Repurchase Agreements with financial institutions rated in the "A" category or higher without regard to qualifiers, by at least one Rating Agency. The agreement must be continually collateralized with obligations specified in paragraphs (a), (b) and/or (d) above, eligible for wire through the Federal

Reserve Bank System or the DTC/PTC as applicable, and at a level of at least 103% of the amount on deposit and valued no less than daily. The collateral must be held by a third-party custodian and be free and clear of all liens and claims of third parties. Securities must be valued daily, marked-to-market at current market price plus accrued interest. If the market value of the securities is found to be below the required level, the provider must restore the market value of the securities to the required level within one (1) business day. Permitted collateral must be delivered to and held in a segregated account by a custodian (the "Collateral Agent"), and the Collateral Agent cannot be the provider. The collateral must be delivered to the Collateral Agent before/simultaneous with payment (perfection by possession of certificated securities). Acceptable collateral must be free and clear of all liens and claims of third parties and shall be registered in the name of the Collateral Agent for the benefit of the Governmental Lender. The agreement shall state that the Collateral Agent has a valid and perfected first priority security interest in the securities, any substituted securities and all proceeds thereof.

g) Any other investment authorized by the laws of the State, if such investment is approved in advance in writing by the Funding Lender in its sole discretion.

Permitted Investments shall not include any of the following:

1) Except for any investment described in the next sentence, any investment or any agreement with a maturity profile greater than the date(s) on which funds representing the corpus of the investment may be needed under the Funding Loan Documents. This exception (1) shall not apply to Permitted Investments listed in paragraph (g).

2) Any obligation bearing interest at an inverse floating rate.

3) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

4) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

"Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Pledged Revenues" shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Notes, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Projects and the Funding Loan Documents, including all Borrower Loan

{00053413 - 2}

Payments due under the Borrower Loan Agreement and the Borrower Notes, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

"Potential Default" shall have the meaning ascribed to that term in the Borrower Loan Agreement.

"Prepayment Premium" shall mean (i) 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 Borrower Notes) and (ii) any premium payable on the Governmental Lender Notes pursuant to this Funding Loan Agreement.

"Projects" shall have the meaning set forth in the Whereas clauses and in the Ordinance.

"Rating Agency" shall mean any one and each of S&P, Moody's and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments, which has been approved by the Funding Lender.

"Regulations" shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations under the Code or any relevant successor provisions to such regulations and proposed regulations.

"Regulatory Agreement" shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the Closing Date, by and between the Governmental Lender and the Borrower, as subsequently amended or modified.

"Remaining Funding Loan Proceeds Account" has the meaning set forth in the Contingency Draw-Down Agreement.

*"Required Transferee Representations" shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.*

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

"Security" shall mean the security for the performance by the Governmental Lender of its obligations under the Governmental Lender Notes and this Funding Loan Agreement as more fully set forth in Article IV.

"Security Instrument" shall mean the Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

{00053413 - 2}

"Servicer" shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

"Servicing Agreement" shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

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

"State" shall mean the State of Illinois.

"Tax Agreement" shall mean the Arbitrage and Tax Certificate, dated the Closing Date, executed and delivered by the Governmental Lender and the Borrower, as supplemented by the Borrower's Project Certificate, dated the Closing Date and executed and delivered by the Borrower.

"Tax Counsel" shall mean BurgherGray LLP, Chicago, Illinois and Cotillas and Associates, Chicago, Illinois, or any other attorneys or firms of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

"Tax Counsel Approving Opinion" shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Notes constitute valid and binding obligations of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Notes is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient of the opinion).

"Tax Counsel No Adverse Effect Opinion" shall mean an opinion of Tax Counsel to the effect that taking the action specified in the opinion will not impair the exclusion of interest on the Governmental Lender Notes from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient of the opinion).

"UCC" shall mean the Uniform Commercial Code as in effect in the State.

"Unassigned Rights" shall mean the Governmental Lender's rights to reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement, its right to payment of the Governmental Lender's Closing Fee, the Ongoing Fee and any other fees payable to the Governmental Lender under Section 2.5 of the Borrower Loan Agreement, its rights to attorneys' fees under Section 5.14 of the Borrower Loan Agreement, its rights to indemnification under Section 5.15 of the Borrower Loan Agreement, its rights of access under Section 5.17 of the Borrower Loan Agreement, its rights to enforce the terms of the Regulatory Agreement, including Borrower's covenants to comply with applicable laws, its rights to give and receive notices, reports and other statements and to enforce notice and reporting

{00053413 - 2}

requirements and restrictions on transfers of ownership of the Projects, its rights under Section 5.20(b) of the Borrower Loan Agreement, and its rights to consent to certain matters, as provided in this Funding Loan Agreement and the Borrower Loan Agreement.

"Written Certificate," "Written Certification," "Written Consent," "Written Direction," "Written Notice," "Written Order," "Written Registration," "Written Request," and "Written Requisition" shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized City Representative or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer or such other Person as required under the Funding Loan Documents.

"Yield" shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings in this Funding Loan Agreement and in the Table of Contents are for convenience only and shall not affect the construction of this Funding Loan Agreement.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on that date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided in this Funding Loan

Agreement, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

## **ARTICLE II Terms; Governmental Lender Notes**

### **Section 2.1. Terms**

a) Principal Amount. The total principal amount of the Funding Loan is expressly limited to the Authorized Amount.

b) Draw-Down Funding. The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender directly to the Borrower for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal under the Borrower Loan

{00053413 - 2}

Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the advance on the Closing Date of (i) the full amount of the Series 2022A Governmental Lender Note and (ii) the full amount of the Series 2022B Governmental Lender Note. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded after the third yearly anniversary of the Closing Date; provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion. The Governmental Lender has reviewed and approved the form of Contingency Draw-Down Agreement and consents to its terms and agrees to take all actions reasonably required of the Governmental Lender in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement in the event a Draw-Down Notice is filed by the Funding Lender or the Borrower.

c) Origination Date; Maturity. The Funding Loan shall be originated on the Closing Date. The portion of the Funding Loan evidenced by the Series 2022A Governmental Lender Note shall mature on its Maturity Date (or sooner, upon mandatory prepayment) at which time the entire principal amount of the Series 2022A Governmental Lender Note, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable. The portion of the Funding Loan evidenced by the Series 2022B Governmental Lender Note shall mature on its Maturity Date at which time the entire principal amount of the Series 2022B Governmental Lender Note, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

d) Principal. The outstanding principal amount of the Governmental Lender Notes and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Notes previously received upon payment of corresponding principal amounts under the Borrower Notes, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of each Governmental Lender Note and

interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Funding Lender shall keep a record of all principal advances and principal repayments made under the Governmental Lender Notes and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of each Governmental Lender Note and the Funding Loan.

e) Interest. Interest shall be paid on the outstanding principal amount of each Governmental Lender Note at the rate or rates set forth in the related Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

f) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, due on each Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the related Borrower Note. Each Governmental Lender Note shall be

{00053413 - 2}

payable from payments on the related Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due on the Borrower Note shall be deemed to be like payments or prepayments of principal, interest and premium, if any, due on the related Governmental Lender Note.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Notes and all agreements made in the Governmental Lender Notes, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Notes, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Notes, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of Governmental Lender Notes. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender agrees to execute and deliver the Governmental Lender Notes. The Governmental Lender Notes shall be substantially in the respective forms set forth in Exhibit A-1 and Exhibit A-2 attached to this Funding Loan Agreement, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement and the Ordinance. In connection with Conversion, the Funding Lender shall have the right to exchange the applicable then-existing Series 2022A Governmental Lender Note on or after the Conversion Date for a new Series

2022A Governmental Lender Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Series 2022A Governmental Lender Note, which amount will equal the Permanent Period Amount of the Borrower Loan.

Section 2.3. Execution and Delivery of Governmental Lender Notes. The Governmental Lender Notes shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of its Chief Financial Officer, and its corporate seal (or a facsimile

{00053413 - 2}

thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk. In case any officer of the Governmental Lender whose signature or facsimile signature shall appear on the Governmental Lender Notes shall cease to be such officer before the Governmental Lender Notes so signed and sealed shall have been actually delivered, such Governmental Lender Notes may, nevertheless, be delivered as herein provided, and may be executed and delivered as if the persons who signed or sealed such Governmental Lender Notes had not ceased to hold such offices or be so employed. The Governmental Lender Notes may be signed and sealed on behalf of the Governmental Lender by such persons as, at the actual time of the execution of the Governmental Lender Notes, shall be duly authorized or hold the proper office in or employment by the Governmental Lender, although at the date of the Governmental Lender Notes such persons may not have been so authorized nor have held such office or employment.

#### **Section 2.4. Required Transferee Representations; Participations; Sale and Assignment**

a) *The Funding Lender shall deliver to the Governmental Lender on the Closing Date the Required Transferee Representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.*

b) The Funding Lender shall have the right to sell (i) the Governmental Lender Notes and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Notes and the Funding Loan, to the extent permitted by Section 2.4(c) below, provided that (A) such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender, the Required Transferee Representations and (B) if any amendment is to be made to this Funding Loan Agreement or any other Funding Loan Document in conjunction with such transfer, a Tax Counsel No Adverse Effect Opinion; provided, however, that no Required Transferee Representations shall be required to be delivered by transferees or beneficial interest holders described in clauses (3) or (4) of the definition of "Approved Transferee."

c) Notwithstanding the other provisions of this Section 2.4, no beneficial ownership interest in the Governmental Lender Notes and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount, provided, however, that beneficial ownership interests in the Governmental Lender Notes and Funding Loan described in clause (3) of the definition of "Approved Transferee" may be sold in any amount without regard to the Minimum Beneficial Ownership Amount.

d) The Governmental Lender Notes or any interest therein, shall be in fully-registered form transferable to subsequent holders only on the registration books which shall be maintained by the Funding Lender for such purpose and which shall be open to inspection by the Governmental Lender. The Governmental Lender Notes shall not be transferred through the services of the Depository Trust Company or any other third-party registrar.

e) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Notes.

{00053413 - 2}

(f) No service charge shall be made for any sale or assignment of the Governmental Lender Notes or a participation therein, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other charge that may be imposed in connection with any such sale or assignment and payment of any fees and expenses incurred by the Governmental Lender in connection therewith. Such sums shall be paid in every instance by the purchaser or assignee of the Governmental Lender Notes or a participation therein.

### **ARTICLE III Prepayment**

Section 3.1. Prepayment of the Governmental Lender Notes from Prepayment under the Borrower Notes. Each Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

a) Each Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender to the extent and in the manner and on any date that the related Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under such Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment. In addition, the parties hereto acknowledge and agree that the Borrower Note is not subject to voluntary prepayment prior to the time the Projects are placed in service or satisfy the 50% test pursuant to Section 42(h)(4)(B) of the Code.

The Borrower shall not have the right to voluntarily prepay all or any portion of a Borrower Note, thereby causing the related Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

b) Each Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the related Borrower Note at the direction of the Funding Lender in accordance with the terms of such Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2. Notice of Prepayment. Notice of prepayment of a Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the related Borrower Note is timely and properly given to Funding Lender in accordance with the terms of such Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

### **ARTICLE IV Security**

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Notes, to declare the terms and conditions on which the

{00053413 - 2}

Funding Loan and the Governmental Lender Notes are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the

Unassigned Rights) (said property, rights and privileges being herein collectively called, the "Security"):

a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the related Borrower Notes, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Projects and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds Account, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender is authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on each Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Notes by the Governmental Lender. The Security so pledged and then or thereafter received by the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to

{00053413 - 2}

the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and each Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Notes its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Funding Lender the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- a) Each Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;

b) The originally executed Borrower Loan Agreement and Regulatory Agreement;

c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Notes and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;

d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Projects, in form suitable for filing; and

e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall deliver and deposit with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement, at the expense of the Borrower.

## ARTICLE 5 Limited Liability

Section 5.1 Source of Payment of Governmental Lender Notes and Other Obligations; Disclaimer of General Liability. Each Governmental Lender Note, together with premium, if any, and interest thereon, is a special, limited obligation of the Governmental Lender, payable solely from the security pledged hereunder. Each Governmental Lender Note is not a general obligation of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and premium, if any, and interest on the Governmental Lender Notes,

{00053413 - 2}

and each Governmental Lender Note is payable from no other source, but is a special, limited obligation of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement. No holder of the Governmental Lender Notes or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Notes or the interest or premium, if any, thereon.

Section 5.2. Exempt from Individual Liability. No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Governmental Lender Notes or for any claim based thereon or any obligation, covenant or agreement in this Funding Loan Agreement against any official, officer, agent, employee or independent contractor of the Governmental Lender or any person executing the Governmental Lender Notes in his or her personal capacity. No covenant, stipulation, promise, agreement or obligation contained in the Governmental Lender Notes, this Funding Loan Agreement or any other document executed in connection herewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future official, officer, agent or employee of the Governmental Lender in his or her individual capacity and neither any official of the Governmental Lender nor any officers executing the Governmental Lender Notes shall be liable personally on the Governmental Lender Notes or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery of the Governmental Lender Notes or the execution of this Funding



Loan Agreement.

## **ARTICLE VI Closing Conditions; Application of Funds**

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- a) Receipt by the Funding Lender of the original Governmental Lender Notes;
  - b) Receipt by the Funding Lender of the original executed Borrower Notes, each endorsed to the Funding Lender by the Governmental Lender;
  - c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Agreement and the Security Instrument;
  - d) A certified copy of the Ordinance;
  - e) Executed Required Transferee Representations from the Funding Lender;
  - f) Delivery into escrow 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, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- {00053413 - 2}
- g) Receipt by the Funding Lender of a Tax Counsel Approving Opinion;
  - h) Receipt by the Funding Lender of an Opinion of Counsel from Tax Counsel to the effect that the Governmental Lender Notes are exempt from registration under the Securities Act, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;
  - (i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender and the Funding Lender; and
  - (j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Tax Counsel may require.

## **ARTICLE VII Funds and Accounts**

Section 7.1. Authorization to Create Funds and Accounts. No funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding

Lender or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2. Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested by the Funding Lender, the Servicer or the designee of the Funding Lender or Servicer, as applicable, in Permitted Investments at the direction of the Borrower, subject in all cases to the restrictions of Section 8.6 and of the Tax Agreement.

## **ARTICLE VIII Representations and Covenants**

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a municipality and home rule unit of local government duly organized and validly existing under the 1970 Constitution and laws of the State. The Governmental Lender has power and lawful authority to adopt the Ordinance, to execute and deliver the Funding Loan Documents to which it is a party (the "Governmental Lender Documents"), to execute and deliver the Governmental Lender Notes and receive the proceeds of the Funding Loan, to apply the proceeds of the Funding Loan to make the Borrower Loan, to assign

{00053413 - 2}

the revenues derived and to be derived by the Governmental Lender from the Borrower Loan to the Funding Lender, and to perform and observe the provisions of the Governmental Lender Documents and the Governmental Lender Notes on its part to be performed and observed.

b) The City Council of the Governmental Lender has approved the Ordinance and the Ordinance has not been amended, modified or rescinded and is in full force and effect as of the date hereof.

c) The Governmental Lender has duly authorized the execution and delivery of each of the Funding Loan Agreement and the Governmental Lender Notes and the performance of the obligations of the Governmental Lender thereunder.

d) The Governmental Lender makes no representation or warranty, express or implied, that the proceeds of the Funding Loan will be sufficient to finance the acquisition, construction and equipping of the Projects or that the Projects will be adequate or sufficient for the Borrower's intended purposes.

e) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Notes and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Governmental Lender Notes.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECTS AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR THE BORROWER LOAN OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

Section 8.2. Further Assurances. The Governmental Lender will do, execute, acknowledge, when appropriate, and deliver from time to time at the request of the Funding Lender, to the extent permitted by the Ordinance, such further acts, instruments, financing statements and other documents as are necessary or desirable to better assure, transfer, pledge or assign to the Funding Lender or holders of interest in the Funding Loan, and grant a security interest unto the Funding

Lender or holders of interests in the Funding Loan in and to the Security and the other properties and revenues herein described and otherwise to carry out the intent and purpose of the Funding Loan Documents and the Funding Loan.

Section 8.3. Payment of Funding Loan Obligations. The Governmental Lender will pay or cause to be paid the principal of, prepayment premium, if any, and the interest on the Funding Loan as the same become due, but solely from the Security, as described in Section 5.1 of this Funding Loan Agreement.

Section 8.4. Funding Loan Agreement Performance. The Funding Lender, on behalf of the Governmental Lender and with the Written Consent of the Governmental Lender, may (but shall not be required or obligated) perform and observe any such agreement or covenant of the

{00053413 - 2}

Governmental Lender under the Funding Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

Section 8.5. Servicer. The Funding Lender may appoint a Servicer to service and administer the Governmental Loan and the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement; provided, however, that no appointment of a Servicer shall release the Funding Lender from ultimate responsibility for any obligation hereunder.

Section 8.6. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender and any other holders of an interest in the Governmental Lender Notes that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

a) At all times do and perform all acts and things permitted by law and this Funding Loan Agreement which are necessary or desirable in order to assure, and will not knowingly take any action which will adversely affect, the tax-exempt status of the Governmental Lender Notes; and

b) Not use or knowingly permit the use of any proceeds of the Funding Loan or other funds of the Governmental Lender, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions, which would result in any of the Governmental Lender Notes being treated as obligations not described in Section 142(a)(7) of the Code by reason of the Governmental Lender Notes or interest thereon not meeting the requirements of Section 142(d) of the Code.

In furtherance of the covenants in this Section 8.6, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Agreement, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full, and by its acceptance of this Funding Loan Agreement the Funding Lender acknowledges receipt of the Tax Agreement and acknowledges its incorporation in this Funding Loan Agreement by this reference. The Funding Lender agrees it will invest funds held under this Funding Loan Agreement in Permitted Investments in accordance with the direction of the Borrower and the terms of this Funding Loan Agreement and the Tax Agreement (this covenant shall extend throughout the term of the Funding Loan, to all funds and accounts created under or in connection with this Funding Loan Agreement and all moneys on deposit to the credit of any Fund or Account); provided that the Funding Lender shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows directions of the Borrower not inconsistent with the terms of this Funding Loan Agreement and the Tax Agreement or otherwise complies with the provisions of the Funding Loan Agreement relating to funds and accounts.

For purposes of this Section 8.6 the Governmental Lenders compliance shall be based solely on matters within

the Governmental Lender's control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

{00053413 - 2}

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.7. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower or a partner thereof, on behalf of the Governmental Lender and with the Written Consent of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under the Borrower Loan Agreement exists.

Section 8.8. Repayment of Funding Loan. Subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, but solely from the Security set forth in Article IV hereof, the Funding Loan, as evidenced by the Governmental Lender Notes, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Notes and this Funding Loan Agreement.

#### **Section 8.9. Borrower Loan Agreement Performance**

a) The Servicer and the Funding Lender, on behalf of the Governmental Lender and with the Written Consent of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any such agreement or covenant of the Governmental Lender under the Borrower Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

b) The Governmental Lender will promptly notify the Borrower, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has actual knowledge of such event; and further provided that the Governmental Lender shall have no liability to any person for its failure to provide any such notice so long as it has made a good faith effort to comply with such provisions.

c) The Funding Lender will promptly notify the Borrower, the Servicer, if any, and the Governmental Lender in writing of the occurrence of any Event of Default or any Borrower Loan Agreement Default known to the Funding Lender.

#### **Section 8.10. Maintenance of Records; Inspection of Records**

a) The Funding Lender shall keep and maintain adequate records pertaining to the funds and accounts, if any, established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Funding Loan and interests therein. The Funding Lender shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and prepayment premium, if any, paid on the Funding Loan, subject to the inspection of the Borrower, the Governmental Lender, the Servicer and their representatives at all reasonable times and upon reasonable prior notice.

b) The Governmental Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower or the Funding Lender, afford and procure a reasonable opportunity by

{00053413 - 2}

their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender relating to the Projects and the Funding Loan, if any, and to make copies thereof.

Section 8.11. Representations and Warranties of the Funding Lender. The Funding Lender represents to the Governmental Lender and the Borrower that it is duly authorized to enter into and perform this Funding Loan Agreement, and has full authority to take such action as it may deem advisable with respect to all matters pertaining to this Funding Loan Agreement.

Section 8.12. Funding Lender Limitations. Notwithstanding anything herein or in the Borrower Loan Agreement to the contrary, prior to the advancement by the Funding Lender of all advances of loan funds hereunder (and, by virtue hereof, under the Borrower Loan Agreement and the Construction Funding Agreement), and only prior to such final advancement of all loan funds hereunder, no notice to or consent of the Funding Lender shall be required under any provision of this Funding Loan Agreement or the Borrower Loan Agreement nor shall the Funding Lender have any right to receive notice of, consent to, direct or control any actions, restrictions, rights, remedies, waivers or acceleration pursuant to any provision of this Funding Loan Agreement or the Borrower Loan Agreement during any time that (a) any Material Funding Lender Event shall have occurred and be continuing; or (b) the Funding Loan Agreement and the Construction Funding Agreement are not in effect and all obligations of the Governmental Lender and the Borrower, including payment obligations, pursuant to the Funding Loan Agreement, Governmental Lender Notes, Borrower Loan Agreement and Borrower Notes have been fully satisfied.

## **ARTICLE IX Default; Remedies**

Section 9.1. Events of Default. Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or Governmental Authority):

a) A default in the payment of any interest upon the Governmental Lender Notes when such interest becomes due and payable; or

b) A default in the payment of principal of, or premium on, the Governmental Lender Notes when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise; or

c) Subject to Section 8.7, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 11.1, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender, Borrower, Equity Investor

{00053413 - 2}

or Special Limited Partner has commenced to cure such failure to observe or perform within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender, Borrower, Equity Investor or Special Limited Partner is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or Written Consent, then the Governmental Lender shall have

an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default; or

d) A default in the payment of any Additional Borrower Payments; or

e) Any other "Default" or "Event of Default" under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

## **Section 9.2. Acceleration of Maturity; Rescission and Annulment**

a) Subject to the provisions of Section 9.9, below, upon the occurrence of an Event of Default under Section 9.1, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Notes and the interest accrued to be immediately due and payable, by notice to the Governmental Lender and the Borrower and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Notes shall become immediately due and payable.

b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender, rescind and annul such declaration and its consequences if:

i) There has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Governmental Lender Notes, (2) the principal of and Prepayment Premium on the Governmental Lender Notes that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Governmental Lender Notes, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Governmental Lender Notes, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

ii) All Events of Default, other than the non-payment of the principal of the Government Lender Note which have become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower or the Projects

{00053413 - 2}

if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

## **Section 9.3. Additional Remedies; Funding Lender Enforcement**

a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any

other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Projects are located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Notes, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

Whether or not an Event of Default has occurred, and except as provided in Section 9.15, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term,

{00053413 - 2}

condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Notes or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax-exempt status of the interest on the Governmental Lender Notes, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder.

Subject to applicable notice and cure periods, if the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement to make rebate payments, to comply with any applicable continuing disclosure

requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14).

Section 9.4. Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

a) First: To the payment of any and all fees due the Governmental Lender, the Servicer or the Rebate Analyst under the Borrower Loan Documents;

b) Second: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan;

c) Third: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Notes, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Governmental Lender Notes) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Governmental Lender Notes; provided, however, that partial interests in any portion of the Governmental Lender Notes shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

d) Fourth: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

e) If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this

{00053413 - 2}

Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.5. Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Notes may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Notes or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8. Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or



remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Notes. As set forth in this Section 9.10 but subject to Section 9.9, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Notes, whether or not the

{00053413 - 2}

Governmental Lender Notes have been accelerated or declared due and payable by reason of an Event of Default.

#### **Section 9.11. Waiver of Appraisal and Other Laws**

a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

b) If any law now in effect prohibiting the waiver referred to in Section 9.11 (a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12. Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any Governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable

law.

Section 9.14. Assumption of Obligations. In the event that the Funding Lender or its permitted assignee or designee in accordance with Section 2.4 shall become the legal or beneficial owner of any one of the Projects by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Notes, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

{00053413 - 2}

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents, subject to the last paragraph of Section 9.2.

Section 9.15. Remedies upon Unremedied Material Funding Lender Event. Upon the occurrence of a Material Funding Lender Event which shall continue unremedied for a period of 60 days (a "Funding Lender Event of Default"), (i) the Governmental Lender may direct that the Governmental Lender Notes be transferred to and obligations and liabilities thereunder be assumed by another lender approved to act as Funding Lender by the Governmental Lender pursuant to Section 2.4(b) and acceptable to the Borrower; provided, however, that no such transfer shall become effective until the Funding Lender has been fully reimbursed for all advances made and all expenses incurred and all other amounts owed to Funding Lender with respect to the Governmental Lender Notes through the date of transfer, and shall be fully released in writing by the Governmental Lender, the Borrower and the successor Funding Lender from any and all continuing obligations and liabilities with respect to the Funding Loan and, unless the loss has not in any material respect been caused by the action or inaction of the Borrower, be indemnified by the Borrower for any losses incurred by Funding Lender with respect thereto (except for losses resulting from remedies awarded at law or equity pursuant to clause (ii) below, as to which no indemnity shall be provided), and (ii) the Governmental Lender (or the Borrower pursuant to the Borrower Loan Agreement or the Construction Funding Agreement) may pursue any other remedy available at law or in equity.

## **ARTICLE X**

### **Amendment; Amendment of Borrower Loan Agreement and Other Documents**

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Notes may be amended or waived only by an instrument signed by the Funding Lender and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower, and, provided further, that if the Borrower is in default under any Funding Loan Document beyond the expiration of any applicable cure period, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

Section 10.2. Amendments Requiring Funding Lender Consent. The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or

Funding Loan Document without the prior Written Consent of the Funding Lender; provided, however, that such prior Written Consent shall not be required with respect to any such amendment, change or modification undertaken by the Governmental Lender in order to preserve one or more of its Unassigned Rights. Governmental Lender agrees to provide the Funding Lender with prompt notification of any such amendments, modifications or changes not requiring the prior Written Consent of the Funding Lender.

{00053413 - 2}

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender and the Governmental Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations. No modification or amendment of the terms of the Borrower Loan Agreement or the Borrower Notes may be undertaken without the prior Written Consent of the Governmental Lender and the Funding Lender and the provision to the Funding Lender and the Governmental Lender, at the expense of the Borrower, of a Tax Counsel No Adverse Effect Opinion with regard to such proposed modification.

Any consents required pursuant to this Article X from, or on behalf of, the Governmental Lender may be executed by an Authorized City Representative.

## **ARTICLE XI Miscellaneous**

### **Section 11.1. Notices**

(a) All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by First class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows.

If to the Governmental Lender:     City of Chicago  
   Department of Housing  
   121 North LaSalle Street, 10th Floor  
   Chicago, Illinois 60602  
   Attention: Commissioner, Department of  
   Housing Telephone: (312) 744-4190 Facsimile:  
   (312) 742-2271

{00053413 - 2}

City of Chicago

Office of the Corporation Counsel 121 North LaSalle Street, Room 600 Chicago, Illinois 60602

Attention: Finance and Economic Development Division

Telephone: (312)744-0200 Facsimile: (312) 742-0277 (refer to "Finance & Econ. Development Division" on cover sheet)

City of Chicago Office of the City Comptroller 121 North LaSalle Street Chicago, Illinois 60602

Attention: City Comptroller Telephone: (312)744-7106 Facsimile: (312)742-6544

Standard LPC Venture LP

401 North Michigan Avenue, Suite 1200

Chicago, Illinois 60611

Attention: Robert Koerner

Standard LPC Venture LP 1901 Avenue of the Stars, Suite 395 Los Angeles, California 90067 Attention: Bradley C. Martinson

Boston Financial Institutional Tax Credits 56

Limited Partnership c/o Boston Financial Investment Management, LP 101 Arch Street, 13<sup>th</sup> Floor Boston, MA 02110

Attention: Asset Management (Lake Park Crescent)

Holland & Knight LLP

10 St. James Avenue, 11<sup>th</sup> Floor

Boston, MA 02116

Attention: Kristen M. Cassetta, Esq.

Boston Financial Institutional Tax Credits 56

Limited Partnership c/o Boston Financial Investment Management, LP 101 Arch Street, 13<sup>th</sup> Floor Boston, MA 02110

Attention: Asset Management (Lake Park Crescent)

{00053413 - 2}

Holland & Knight, LLP

10 St. James Avenue, 11<sup>th</sup> Floor

Boston, MA 02116

Attention: Kristen M. Cassetta, Esq.

Citibank, N.A.

388 Greenwich Street, Trading 4th Floor

New York, New York 10013

Attention: Transaction and Asset Management

Group

Re: Lake Park Crescent Deal ID No.: 60000542 Facsimile: (212)723-8209

and

Citibank, N.A.

325 East Hillcrest Drive, Suite 160  
Thousand Oaks, California 91360  
Attention: Operations Manager/Asset Manager  
Re: Lake Park Crescent  
Deal ID No.: 60000542  
Facsimile: (805) 557-0924

Prior to the Conversion Date, With a copy to:

Following the Conversion Date,

Citibank, N.A.  
388 Greenwich Street  
Trading 4th Floor  
New York, New York 10013  
Attention: Account Specialist  
Re: Lake Park Crescent  
Deal ID No.: 60000542  
Facsimile: (212)723-8209

Citibank, N.A.  
c/o Berkadia Commercial Servicing Department  
323 Norristown Road, Suite 300  
Ambler, Pennsylvania 19002  
Attention: Client Relations Manager  
Re: Lake Park Crescent  
Deal ID No.: 60000542  
Facsimile: (215) 328-0305

{00053413 - 2}

And a copy of any notices of  
Default sent to:

Citibank, N.A.  
388 Greenwich Street, 17<sup>th</sup> Floor  
New York, New York 10013  
Attention: General Counsel's Office  
Re: Lake Park Crescent  
Deal ID No.: 60000542  
Facsimile: (646)291-5754

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day; and provided further that notice to the Governmental Lender shall not be deemed to have been given until actually received by the Governmental Lender. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 11.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for (such payment or provision to be solely from the Security set forth in Article IV hereof as further provided in Section 8.8); except that on and after payment in full of the Governmental Lender Notes, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 11.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 11.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan

{00053413 - 2}

Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period after such date and prior to the date of payment.

Section 11.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State.

Section 11.6. Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Notes or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 11.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously

executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 11.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated in this Funding Loan Agreement.

**Section 11.9. Reserved**

Section 11.10. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted, and related documents and may be stored, by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 11.11. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of the first day of May, 2022.

(Remainder of this page intentionally left blank)

{00053413 - 2}

In Witness Whereof the Funding Lender and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

**CITIBANK, N.A.**

Name: Michael Hemmens Title: Vice President

{00053413 - 2}

**CITY OF CHICAGO**



{00053413 - 2}

Specimen Notes |see attached]

**EXHIBIT A-1**

**Form of Series 2022A Governmental Lender Note**

**THIS GOVERNMENTAL LENDER NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THE GOVERNMENTAL LENDER NOTE (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT**

**City of Chicago \$16,000,000 Multi-Family Housing  
Revenue Note (Lake Park Crescent Apartments), Series 2022A**

**Dated May 26, 2022 \$16,000,000**

For Value Received, the undersigned City of Chicago ("Obligor") promises to pay to the order of Citibank, N.A. ("Holder") the maximum principal sum of SIXTEEN MILLION Dollars (\$16,000,000), on December 1, 2054, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of May 1, 2022 (the "Funding Loan Agreement"), between the Obligor and the Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

The Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable

interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to Standard LPC Venture LP., an Illinois limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of May 1, 2022 (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Series 2022A Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Series 2022A Borrower Note for complete payment and prepayment terms

{00053413 - 2}

of the Series 2022A Borrower Note, payments on which are passed through under the Series 2022A Governmental Lender Note.

**This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. This Governmental Lender Note is not a general obligation of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on this Governmental Lender Note, and the Governmental Lender Note is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement. No holder of this Governmental Lender Note or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Note or the interest or premium, if any, thereon.**

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are by this reference made part of this Governmental Lender Note.

{00053413 - 2}

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

(Remainder of this page intentionally left blank)

{00053413 - 2}

In Witness Whereof, the undersigned has duly executed and delivered this Governmental Lender Note or caused this Governmental Lender Note 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.

Obligor:

City of Chicago

By:

Name: Jennie Huang Bennett Title: Chief  
Financial Officer

[SEAL] Attest:

By:  
Name: Andrea M. Valencia Title: City  
Clerk

{00053413 - 2}

## EXHIBIT A-2

### Form of Series 2022B Governmental Lender Note

**THIS GOVERNMENTAL LENDER NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THE GOVERNMENTAL LENDER NOTE (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT**

**City of Chicago \$11,900,000 Multi-Family  
Housing Revenue Note (Lake Park Crescent Apartments), Series  
2022B**

### **Dated May 26, 2022 \$11,900,000**

For Value Received, the undersigned City of Chicago ("Obligor") promises to pay to the order of Citibank, N.A. ("Holder") the maximum principal sum of ELEVEN MILLION NINE HUNDRED THOUSAND Dollars (\$11,900,000), on December 1, 2024, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of May 1, 2022 (the "Funding Loan Agreement"), between the Obligor and the Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

The Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a

construction and permanent loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to Standard LPC Venture LP, an Illinois limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of May 1, 2022 (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Series 2022B Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan

{00053413 - 2}

Agreement and to the Series 2022B Borrower Note for complete payment and prepayment terms of the Series 2022B Borrower Note, payments on which are passed through under the Series 2022B Governmental Lender Note.

**This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. This Governmental Lender Note is not a general obligation of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on this Governmental Lender Note, and the Governmental Lender Note is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement. No holder of this Governmental Lender Note or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Note or the interest or premium, if any, thereon.**

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are by this reference

made part of this Governmental Lender Note.

{00053413 - 2}

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

(Remainder of this page intentionally left blank)

{00053413 - 2}

In Witness Whereof, the undersigned has duly executed and delivered this Governmental Lender Note or caused this Governmental Lender Note 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.

Obligor:

City of Chicago

By:

Name: Jennie Huang Bennett Title: Chief  
Financial Officer

[SEAL] Attest:

By:  
Name: Andrea M. Valencia Title: City  
Clerk



{00053413 - 2}

## EXHIBIT B

### Form of Required Transferee Representations

#### I , 20\_]

The undersigned, as holder (the "Holder" or the "Funding Lender") of (i) the \$16,000,000 Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A (the "Series 2022A Governmental Lender Note"), and (ii) the \$11,900,000 Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B (the "Series 2022B Governmental Lender Note" and, together with the Series 2022A Governmental Lender Note, the "Governmental Lender Notes"), each dated as of the Closing Date and issued pursuant to an Ordinance adopted on September 14, 2021 (the "Ordinance") by the City of Chicago (the "Governmental Lender") and under a Funding Loan Agreement dated as of May 1, 2022 (the "Funding Loan Agreement") between the Governmental Lender and the Holder, as Funding Lender, represents that:

1. The Funding Lender acknowledges the execution and delivery of the Governmental Lender Notes in the original aggregate principal amount of \$27,900,000.

2. The Funding Lender has authority to make the Funding Loan and to execute and deliver these representations and any other instrument and documents required to be executed by the Funding Lender in connection with the execution and delivery of the Governmental Lender Notes.

3. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Projects to be able to evaluate the risk and merits of the investment represented by the Governmental Lender Notes. We are able to bear the economic risks of such investment.

4. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable lender would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Projects, the use of proceeds of the Governmental Lender Notes, the Funding Loan Agreement and the Funding Loan and the security therefor so that, as a reasonable lender, the Holder has been able to make its decision to extend the Funding Loan and purchase the Governmental Lender Notes. The Funding Lender understands that the Governmental Lender Notes and the Borrower Loan Agreement are not registered under the Securities Act of 1933, as amended, and that such registration is not legally required as of the date hereof; and further understands that the Governmental Lender Notes and the Borrower Loan Agreement (i) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) will not be listed in any stock or other securities exchange, (iii) will not carry a rating from any rating service and (iv) will be delivered in a form which is not readily marketable. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Governmental Lender Notes.

5. The Holder is an Approved Transferee (as defined in the Funding Loan Agreement).

{00053413 - 2}

6. The Holder acknowledges that it is purchasing the Governmental Lender Notes for investment for its own account and not with a present view toward resale or the distribution thereof, in that we do not now intend to resell or otherwise dispose of all or any part of our interests in the Governmental Lender Notes. Subject to paragraph 7 below and

except as otherwise provided in Section 2.4 of the Funding Loan Agreement, the Funding Lender acknowledges and agrees that the Governmental Lender Notes can be sold and subsequently transferred only to purchasers that execute and deliver to the Governmental Lender a representations letter from the transferee to substantially the same effect as these Required Representations or in such other form authorized under the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender.

7. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of the Governmental Lender Notes will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

8. The Funding Lender understands that the Governmental Lender Notes are limited obligations of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Governmental Lender Notes are expressly limited as set forth in the Funding Loan Agreement and related documents. The Funding Lender acknowledges that the Governmental Lender Notes are not an indebtedness of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on the Governmental Lender Notes, and the Governmental Lender Notes are payable from no other source, but are the special, limited obligations of the Governmental Lender, payable solely out of the Security and receipts of the Governmental Lender derived pursuant to the Funding Loan Agreement and the Borrower Loan Agreement. The Funding Lender acknowledges that no holder of the Governmental Lender Notes has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Notes or the interest or premium, if any, thereon.

[Remainder of Page Intentionally Left Blank]

{00053413 - 2}

9. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

Citibank, N.A., as Holder

By: \_ Name: Its:

[Signature Page to Required Transferee Representations]

{00053413 - 2}

## Borrower Loan Agreement

Between

City of Chicago, as Governmental Lender,

and

Standard LPC Venture LP an Illinois limited partnership, as Borrower

Dated as of May 1, 2022

Relating to

\$16,000,000 City of Chicago Multifamily Note (Fixed Rate) (Lake Park Crescent Apartments), Series 2022A

and

\$11,900,000 City of Chicago Multifamily Note (Variable Rate) (Lake Park Crescent Apartments), Series 2022B

(Funding Loan originated by Citibank, N.A., as Funding Lender)

Chicioo Citv Clerk -Council Iliu.  
2022 MhVSIamII'.OO

The interest of the City of Chicago (the "Governmental Lender") in this Borrower Loan Agreement (except for certain rights described in this Borrower Loan Agreement) has been pledged and assigned to Citibank, N.A., as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, dated as of May 1, 2022, by and between the Governmental Lender 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.

## TABLE OF CONTENTS

	Page
ARTICLE I     DEFINITIONS; PRINCIPLES OF CONSTRUCTION	2
Section 1.1    Specific Definitions	2
Section 1.2    Definitions	3
ARTICLE II     GENERAL	19
Section 2.1    Origination of Borrower Loan	19
Section 2.2    Security for the Funding Loan	20
Section 2.3    Loan; Borrower Notes; Conditions to Closing	20
Section 2.4    Borrower Loan Payments	21
Section 2.5    Additional Borrower Payments	22
Section 2.6    Overdue Payments; Payments in Default	23
Section 2.7    Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds	  23

Section 2.8	Grant of Security Interest; Application of Funds	23
Section 2.9	Marshalling; Payments Set Aside	24
Section 2.10	Borrower Loan Disbursements	24
ARTICLE III	CONVERSION	24
Section 3.1	Conversion Date and Extension of Outside Conversion Date	24
Section 3.2	Notice from Funding Lender; Funding Lender's Calculation Final	24
Section 3.3	Mandatory Prepayment of the Borrower Loan	25
Section 3.4	Release of Remaining Loan Proceeds	25
Section 3.5	No Amendment	25
Section 3.6	Determinations by Funding Lender	26
ARTICLE IV	REPRESENTATIONS AND WARRANTIES	26
Section 4.1	Borrower Representations	26
1	Organization; Special Purpose	26
2	Proceedings; Enforceability	26
3	No Conflicts	26
4	Litigation; Adverse Facts	27
5	Agreements; Consents; Approvals	28
6	Title	28
7	Survey	28
8	No Bankruptcy Filing	28
9	Full and Accurate Disclosure	29
10	No Plan Assets	29
11	Compliance	29
12	Contracts	29
13	Financial Information	29
14	Condemnation	30

**TABLE OF CONTENTS (continued)**

	<b>Page</b>
15	Federal Reserve Regulations 30
16	Utilities and Public Access 30
17	Not a Foreign Person 30
18	Separate Lots 30
19	Assessments 30
20	Enforceability 31
21	Insurance 31
22	Use of Property; Licenses 31
23	Flood Zone 31
24	Physical Condition 31
25	Encroachments 32
26	State Law Requirements 32
27	Filing and Recording Taxes 32

28	Investment Company Act	32
29	Fraudulent Transfer	32
30	Ownership of the Borrower	33
31	Environmental Matters	33
32	Name; Principal Place of Business	33
33	Subordinated Debt	33
34	Filing of Taxes	33
35	General Tax	33
36	Approval of the Borrower Loan Documents and Funding Loan	
36	Documents	33
37	Funding Loan Agreement	34
38	Americans with Disabilities Act	34
39	Requirements of Code and Regulations	34
40	Regulatory Agreement	34
41	Intention to Hold Project	34
42	Concerning the General Partner	34
43	Government and Private Approvals	35
44	Concerning the Guarantor	35
45	No Material Defaults	36
46	Payment of Taxes	36
47	Rights to Project Agreements and Licenses	36
48	Patriot Act Compliance	37
49	Rent Schedule	37
50	Other Documents	37
51	Subordinate Loan Documents	37
52	Ground Lease	38
Section 4.2	Survival of Representations and Covenants	38

**ii**

**TABLE OF CONTENTS (continued)**

	<b>Page</b>
<b>ARTICLE V      AFFIRMATIVE COVENANTS</b>	<b>38</b>
Section 5.1    Existence	38
Section 5.2    Taxes and Other Charges	38
Section 5.3    Repairs; Maintenance and Compliance; Physical Condition	39
Section 5.4    Litigation	39
Section 5.5    Performance of Other Agreements	39
Section 5.6    Notices	39
Section 5.7    Cooperate in Legal Proceedings	39
Section 5.8    Further Assurances	39
Section 5.9    Delivery of Financial Information	40
Section 5.10   Environmental Matters	40
Section 5.11   Governmental Lender's and Funding Lender's Fees	40

Section 5.12	Estoppel Statement	41
Section 5.13	Defense of Actions	41
Section 5.14	Expenses	42
Section 5.15	Indemnity	42
Section 5.16	No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender	45
Section 5.17	Right of Access to the Projects	45
Section 5.18	Notice of Default	45
Section 5.19	Covenant with Governmental Lender and Funding Lender	45
Section 5.20	Obligation of the Borrower to Construct or Rehabilitate the Projects; Building Permit	45
Section 5.21	Maintenance of Insurance	46
Section 5.22	Information; Statements and Reports	46
Section 5.23	Additional Notices	47
Section 5.24	Compliance with Other Agreements; Legal Requirements	48
Section 5.25	Completion and Maintenance of Projects	49
Section 5.26	Fixtures	49
Section 5.27	Income from Projects	49
Section 5.28	Leases and Occupancy Agreements	49
Section 5.29	Projects Agreement and Licenses	50
Section 5.30	Payment of Debt Payments	50
Section 5.31	ERISA	51
Section 5.32	Patriot Act Compliance	51
Section 5.33	Funds from Equity Investor	51
Section 5.34	Tax Covenants	52
Section 5.35	Payment of Rebate	57
Section 5.36	Covenants under Funding Loan Agreement	59
Section 5.37	Continuing Disclosure Agreement	60

iii

## TABLE OF CONTENTS (continued)

	Page
ARTICLE VI    NEGATIVE COVENANTS	60
Section 6.1    Management Agreement	60
Section 6.2    Dissolution	60
Section 6.3    Change in Business or Operation of Property	60
Section 6.4    Debt Cancellation	60
Section 6.5    Assets	60
Section 6.6    Transfers	60
Section 6.7    Debt	61
Section 6.8    Assignment of Rights	61
Section 6.9    Principal Place of Business	61
Section 6.10   Partnership Agreement	61
Section 6.11   ERISA	61

Section 6.12	No Hedging Arrangements	61
Section 6.13	Loans and Investments; Distributions; Related Party Payments	62
Section 6.14	Amendment of Related Documents or CC&R's	62
Section 6.15	Personal Property	62
Section 6.16	F <sup>fiscal</sup> Year	62
Section 6.17	Publicity	62
Section 6.18	Subordinate Loan Documents	63
Section 6.19	Ground Lease	63
ARTICLE VII	RESERVED	63
ARTICLE VIII	DEFAULTS	63
Section 8.1	Events of Default	63
Section 8.2	Remedies	68
1	Acceleration	68
2	Remedies Cumulative	68
3	Delay	69
4	Set Off; Waiver of Set Off	69
5	Assumption of Obligations	69
6	Accounts Receivable	70
7	Defaults under Other Documents	70
8	Abatement of Disbursements	70
9	Completion of Improvements	70
10	Right to Directly Enforce	70
11	Power of Attorney	70
ARTICLE IX	SPECIAL PROVISIONS	72
Section 9.1	Sale of Notes and Secondary Market Transaction	72
9.1.1	Cooperation	72

iv

#### **TABLE OF CONTENTS (continued)**

	<b>Page</b>
2	Use of Information
3	Borrower Obligations Regarding Secondary Market Disclosure
3	Documents
4	Borrower Indemnity Regarding Filings
5	Indemnification Procedure
6	Contribution
ARTICLE X	MISCELLANEOUS
Section 10.1	Notices
Section 10.2	Brokers and Financial Advisors
Section 10.3	Survival
Section 10.4	Preferences



Section 10.5	Waiver of Notice	79	
Section 10.6	Offsets, Counterclaims and Defenses	79	
Section 10.7	Publicity	79	
Section 10.8	Construction of Documents	80	
Section 10.9	No Third Party Beneficiaries	80	
Section 10.10	Assignment	80	
Section 10.11	[Intentionally Omitted]	80	
Section 10.12	Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership		80
Section 10.13	Release	81	
Section 10.14	Term of Borrower Loan Agreement	81	
Section 10.15	Reimbursement of Expenses	81	
Section 10.16	Permitted Contests	82	
Section 10.17	Funding Lender Approval of Instruments and Parties	82	
Section 10.18	Funding Lender Determination of Facts	82	
Section 10.19	Calendar Months	82	
Section 10.20	Determinations by Lender	83	
Section 10.21	Governing Law	83	
Section 10.22	Consent to Jurisdiction and Venue	83	
Section 10.23	Successors and Assigns	83	
Section 10.24	Severability	83	
Section 10.25	Entire Agreement; Amendment and Waiver	83	
Section 10.26	Counterparts	84	
Section 10.27	Captions	84	
Section 10.28	Servicer	84	
Section 10.29	Beneficiary Parties as Third Party Beneficiary	84	
Section 10.30	Waiver of Trial by Jury	84	
Section 10.31	Time of the Essence	84	
Section 10.32	[Reserved]	84	
Section 10.33	Reference Date	84	

v

## TABLE OF CONTENTS (continued)

	Page	
ARTICLE XI	LIMITATIONS ON LIABILITY	85
Section 11.1	Limitation on Liability	85
Section 11.2	Limitation on Liability of Governmental Lender	85
Section 11.3	Waiver of Personal Liability	85
Section 11.4	Limitation on Liability of Funding Lender's Officers, Employees, Etc	86
Section 11.5	Delivery of Reports, Etc	87

## **Borrower Loan Agreement**

**This Borrower Loan Agreement (this "Borrower Loan Agreement") is entered into as of May 1 2022, between the City of Chicago, a municipality and home rule unit of local government duly organized and validly existing under the constitution and laws of the State of Illinois (together with its successors and assigns, the "Governmental Lender"), and Standard LPC Venture, LP, an Illinois 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 Article VII, Section 6 of the 1970 Constitution of the State of Illinois, is a home rule unit of local government and as such may provide a means of financing the costs of residential ownership and development that will provide decent, safe and sanitary housing for persons of low and moderate income at prices or rentals they can afford; and

WHEREAS, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on 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") to the Borrower pursuant to this Borrower Loan Agreement to finance (a) its acquisition of ground leasehold interests in the land and existing buildings located thereon with respect to the following locations in the City of Chicago, Cook County, Illinois: (i) an 8-story elevator building consisting of 76 units at 1061 E. 41<sup>st</sup> Place, (ii) six-flat walk-ups consisting of 8 units in each of 4001, 4007, 4029, 4035, 4045, 4067 and 4071 S. Lake Park Avenue, and (iii) six-flat walk-ups consisting of 4 units in each of 4000, 4006, 4030 and 4036 S. Oakenwald Avenue (collectively, the foregoing, together with accompanying laundry facilities, outdoor space and parking spaces are referred to as the "Facilities"), (b) the rehabilitation (consisting of, but not limited to, outside facade repair, updated HVAC and utility systems, modernization of elevator/equipment systems and in-unit upgrades) of the Facilities into mixed-income units of affordable multi-family residential rental housing (the "Rehabilitation"); and

WHEREAS, for purposes of this Borrower Loan Agreement and the requirements of Section 142 of the Code, the ground lease and acquisition of the following Facilities and the Rehabilitation thereof will constitute separate residential projects for purposes of Section 142 of the Code: (i) 1061 E. 41<sup>st</sup> Place ("Project Number 1"); (ii) 4067 S. Lake Park Avenue and 4071

S. Lake Park Avenue ("Project Number 2"); (iii) 4029 S. Lake Park Avenue, 4035 S. Lake Park Avenue, 4045 S. Lake Park Avenue, 4051 S. Lake Park Avenue, 4030 S. Oakenwald Avenue and 4036 S. Oakenwald Avenue ("Project Number 3"); and (iv) 4001 S. Lake Park Avenue, 4007 S. Lake Park Avenue, 4000 S. Oakenwald Avenue and 4006 S. Oakenwald Avenue ("Project Number 4"); and

WHEREAS, each of Project Number 1, Project Number 2, Project Number 3 and Project Number 4, (each individually, a "Project") is required to satisfy and comply with the requirements set forth in the Regulatory Agreement without regard to any other Project;

WHEREAS, the Borrower's repayment obligations under this Borrower Loan Agreement are evidenced by its (i) Multifamily Note (Fixed Rate) (the "Series A Borrower Note") and (ii) Multifamily Note (Variable Rate) (the "Series B Borrower Note" and, together with the Series A Borrower Note, the "Borrower Notes"), each dated the Closing Date (as defined below); and

WHEREAS, the Borrower has requested that the Governmental Lender enter into that certain Funding Loan Agreement, dated as of May 1, 2022 (the "Funding Loan Agreement"), between the Governmental Lender and Citibank, N.A. (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 to the Borrower to finance the Projects; and

Whereas, the Borrower Loan is secured by, among other things, that certain Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time, the "Security Instrument"), dated as of May 1, 2022 made by the Borrower in favor of Governmental Lender and assigned to the Funding Lender to secure the Funding Loan, encumbering the Projects, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement and the Construction Funding Agreement. ,

Now, Therefore, in consideration of the premises and the mutual representations, covenants and agreements contained in this Borrower Loan Agreement, the parties 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:

Unless specifically defined in this Borrower Loan Agreement, all capitalized terms shall have the meanings ascribed to them in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

All accounting terms not otherwise defined in this Borrower Loan Agreement shall have the meanings assigned to them, and all computations provided for in this Borrower Loan Agreement shall be made, in accordance with GAAP.

## **2**

All references in this Borrower Loan Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this Borrower Loan Agreement as originally executed.

All references in this Borrower Loan Agreement 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.

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 of Bankruptcy" shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement of such proceeding.

"ADA" shall have the meaning set forth in Section 4.1.38.

"Additional Borrower Payments" shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default), and Section 5.14 (Expenses); Section 3.3.3 (Borrower Loan in Balance) of the Construction Funding Agreement; and Section 10 (Prepayments) of the Borrower Notes.

"Agreement of Environmental Indemnification" shall mean the Agreement of Environmental Indemnification, of even date with this Borrower Loan Agreement, executed by the Borrower and the Guarantor for the benefit of the

Beneficiary Parties (as defined therein) and any lawful holder, owner or pledgee of the Borrower Notes from time to time.

"Appraisal" shall mean an appraisal of the Projects and Improvements, which appraisal shall be (i) performed by a qualified appraiser licensed in the State selected by Funding Lender, and (ii) satisfactory to Funding Lender (including, without limitation, as adjusted pursuant to any internal review thereof by Funding Lender) in all respects.

"Approved Developer Fee Schedule" shall have the meaning set forth in the Construction Funding Agreement.

"Architect" shall mean any licensed architect, space planner or design professional that Borrower may engage from time to time, with the approval of Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

### 3

"Architect's Agreement" means any agreement that the Borrower and any Architect from time to time may execute pursuant to which the Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by Funding Lender.

"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 Funding Lender and the Servicer 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.

"Bankruptcy Event" shall have the meaning given to that term in the Security Instrument.

"Bankruptcy Proceeding" shall have the meaning set forth in Section 4.1.8.

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

"Borrower" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"Borrower Affiliate" means, as to the Borrower, its General Partner or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of Borrower, its General Partner or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its General Partner or the Guarantor, (iii) any partner, shareholder or, if a limited liability company, member of Borrower, its General Partner or the Guarantor, or (iv) any other person that is related by blood or marriage to the Borrower, its General Partner or the Guarantor (to the extent any of the Borrower, its General Partner or the Guarantor is a natural person).

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

"Borrower Deferred Equity" shall have the meaning set forth in the Construction Funding Agreement.

"Borrower Initial Equity" shall have the meaning set forth in the Construction Funding Agreement.

"Borrower Loan" shall mean the mortgage secured 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.

#### **4**

"Borrower Loan Amount" shall mean not to exceed \$27,900,000, the original maximum principal amount of the Borrower Notes.

"Borrower Loan Documents" shall mean this Borrower Loan Agreement, the Construction Funding Agreement, the Borrower Notes, the Security Instrument, the Agreement of Environmental Indemnification, the Guaranty, the Replacement Reserve Agreement, the Contingency Draw-Down Agreement and all other documents or agreements evidencing or relating to the Borrower Loan.

"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 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 Section 2.10 of this Borrower Loan Agreement and the Construction Funding Agreement.

"Borrower Note" shall mean one of the Borrower Notes.

"Borrower Notes" shall mean, collectively, the Series A Borrower Note and the Series B Borrower Note.

"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.

"Business Day" shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in New York, New York or Chicago, Illinois are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

"Calculation Period" shall mean three (3) consecutive full Calendar Months occurring prior to the Conversion Date, as the same may be extended in accordance with Section 3.1.

"Calendar Month" shall mean each of the twelve (12) calendar months of the year.

"CHA" shall mean the Chicago Housing Authority.

"CC&R's" shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Projects or the Mortgaged Property, including the RAD Use Agreement and any CHA right of first refusal agreement.

"City" shall mean the City of Chicago, Illinois.

"City Indemnified Parties" shall have the meaning set forth in Section 5.15.

"Closing Date" shall mean May 25, 2022, the date on which initial Funding Loan proceeds are disbursed under this Borrower Loan Agreement.

"Code" shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

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

"Completion" shall have the meaning set forth in Section 5.25.

"Completion Date" shall have the meaning set forth in the Construction Funding Agreement.

"Computation Date" shall have the meaning ascribed to that term in Section 1.148-3(e) of the Regulations.

"Condemnation" shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Projects, whether direct or indirect.

"Conditions to Conversion" shall have the meaning set forth in the Construction Funding 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 rehabilitate the Facilities and carry out the Improvements, as approved by Funding Lender.

"Construction Funding Agreement" means that certain Construction Funding Agreement of even date with this Borrower Loan Agreement, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

"Construction Schedule" shall mean a schedule of rehabilitation progress with the anticipated commencement and completion dates of each phase of or rehabilitation, as the case may be, and the anticipated date and amounts of each Disbursement for the same, as approved by Funding Lender, as assignee of the Governmental Lender.

"Contingency Draw-Down Agreement" means the Contingency Draw-Down Agreement of even date herewith, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

"Continuing Disclosure Agreement" shall mean that certain Continuing Disclosure Agreement of even date herewith, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Projects, the Borrower and the Funding Loan subsequent to the Closing Date, as amended, supplemented or restated from time to time.

"Contractor" shall mean any licensed general contractor or subcontractor that the Borrower may directly engage from time to time, with the approval of Funding Lender, to rehabilitate the Facilities and carry out any portion of the Improvements.

"Contractual Obligation" shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

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

"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 Section 3.3 and the Construction Funding Agreement have been made. The Conversion Date must occur no later than the Outside Conversion Date.

"Cost Breakdown" shall mean the schedule of costs for the Improvements, as set forth in the Construction Funding Agreement, as the same may be amended from time to time with Funding Lender's consent.

"Costs of Funding" shall mean the Governmental Lender's Closing Fee and the 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, 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) any recording fees; (v) any additional fees charged by the Governmental Lender; and (vi) costs incurred in connection with the required public notices generally and costs of the public hearing related to the Funding Loan and the financing of the Projects with the proceeds thereof.

"Costs of Funding Deposit" shall mean the amount required to be deposited by the Borrower with the Title Company (or a separate escrow company, if applicable) to pay Costs of

## 7

Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

"Cost of Improvements" shall mean the costs for the Improvements, as set forth on the Cost Breakdown.

"County" shall mean Cook County, Illinois.

"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 or nonrecourse, short term or long term, direct or 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 Rate" shall have the meaning given to that term in the Borrower Note.

"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 Governmental 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 a Project or a "related person" (as such terms are defined in Section 147(a) of the Code) to a "substantial user"; 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) unless otherwise agreed to by the Funding Lender in its sole and reasonable discretion one year from the date of initial determination.

"Developer Fee" shall have the meaning set forth in the Construction Funding Agreement.

"Disbursement" means a disbursement of Borrower Loan Proceeds and Other Borrower Moneys pursuant to this Borrower Loan Agreement.

"Engineer" shall mean any licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that Borrower may engage from time to time, with the approval

8

of Funding Lender, to perform any engineering services with respect to any portion of the Improvements.

"Engineer's Contract" shall mean any agreement that Borrower and any Engineer from time to time may execute pursuant to which Borrower engages such Engineer to perform any engineering services with respect to any portion of the Improvements, as approved by Funding Lender.

"Equipment" shall have the meaning given to the term "Personalty" in the Security Instrument.

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

"Equity Investor" shall mean Boston Financial Institutional Tax Credits 56 Limited Partnership, a Massachusetts limited partnership, and its successors and assigns.

"ERISA" shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

"ERISA Affiliate" shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

"Event of Default" shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall "exist" if a Potential Default shall have occurred and be continuing after any required notice is given and beyond any applicable cure period.

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

"Expenses of the Projects" shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Projects, 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), a management fee (however characterized) not to exceed the Underwritten Management Fee, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Projects shall not include any payments, however characterized, on account of any subordinate financing in respect of the Projects or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

"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

9

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.

"Force Majeure" shall have the meaning ascribed to it in the Construction Funding Agreement.

"Funding Lender" shall mean Citibank, N.A., a national banking association, in its capacity as lender under the Funding Loan.

"Funding Loan" means the Funding Loan in the original maximum principal amount of \$27,900,000 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" means the Funding Loan Agreement, dated as of May 1, 2022, between the Governmental Lender and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other supplemental instruments entered into pursuant to the applicable provisions of the

Funding Loan Agreement.

"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 Partner" shall mean, collectively, (i) Standard LPC Manager LLC, a Delaware limited liability company and (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), select to be the general partner of the Borrower.

"Governmental Authority" shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for

10

any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

"Governmental Lender" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"Governmental Lender Notes" shall mean, collectively, the Series 2022A Governmental Lender Note and the Series 2022B Governmental Lender Note, and "Governmental Lender Note" means one of such Governmental Lender Notes.

"Governmental Lender's Closing Fee" shall mean an amount equal to 1.5% of the original aggregate principal amount of the Governmental Lender Notes not to exceed the maximum amount permitted under Section 148 of the Code. The Governmental Lender's Closing Fee is payable to the Governmental Lender on the Closing Date, pursuant to Section 2.3(c)(iii).

"Ground Lease" shall mean that certain Amendment and Restatement of Ground Lease, dated as of May, 25, 2022, between CHA, as lessor, and the Borrower, as lessee.

"Gross Income" shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of Borrower and derived from the ownership or operation of the Projects, 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 Projects. 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 expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;
- b) all amounts received by the Governmental Lender 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 repay 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.

"Guarantor" shall mean Standard Guarantor LLC, a Delaware limited liability company, or any other person or entity which may hereafter become a guarantor of any of the Borrower's obligations under the Borrower Loan.

11

"Guaranty" shall mean, collectively, (i) the Completion and Repayment Guaranty, of even date herewith, by the Guarantor for the benefit of the Beneficiary Parties (as defined therein), and (ii) the Exceptions to Non-Recourse Guaranty, of even date herewith, by the Guarantor for the benefit of the Beneficiary Parties (as defined therein).

"Improvements" shall mean the Rehabilitation of the Facilities and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be rehabilitated and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

"Indemnified Party" shall have the meaning set forth in Section 5.15.

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

"Interest Rate" shall mean, with respect to a Borrower Note, the rate of interest accruing on such Borrower Note.

"Interim Phase Amount" shall mean the amount of the Borrower Notes.

"Land" means the real property described on Exhibit A to the Security Instrument.

"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 Section 2.5 of this Borrower Loan Agreement.

"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 Projects or any property (including the Projects) or the acquisition, 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 Projects, including any that may (i) require repairs, modifications or alterations in or to all or part of the Projects, or (ii) in any way limit the use and enjoyment thereof.

"Liabilities" shall have the meaning set forth in Section 5.15.

"Licenses" shall have the meaning set forth in Section 4.1.22.

"Lien" shall mean any interest, or claim thereof, in the Projects securing an obligation owed to, or a claim by, any

Person other than the owner of the Projects, 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

12

agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Projects.

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

"Material Adverse Change" means 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, results of operations of the Borrower, the General Partner, the Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, the General Partner, or the 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.

"Moody's" shall mean Moody's Investors Service, Tnc, or its successor.

"Mortgaged Property" shall have the meaning given to that term in the Security Instrument.

"Net Operating Income" shall mean: (i) the Gross Income, less (ii) the Expenses of the Projects.

"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.

"Ordinance" shall mean an ordinance adopted by the City Council on September 14, 2021, and published at pages 34261 through 34432, inclusive, of the City Council's Journal of Proceedings for such date, authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which Governmental Lender is a party.

"Other Borrower Moneys" shall mean monies of Borrower other than Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, Net Operating Income, the Borrower's Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Projects.

13

"Other Charges" shall mean all maintenance charges, impositions other than Taxes, and any other charges,

including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Projects, now or hereafter levied or assessed or imposed against the Projects or any part of them.

"Other Governmental Lender Fees" shall mean (i) a tax exempt bond issuer fee not exceeding the lesser of 0.15% of the Governmental Lender Notes or the maximum amount permitted under Section 148 of the Code due at closing, (ii) an amount equal to 0.10% of the original principal amount of the Governmental Lender Notes due at closing for a bond legal reserve fee, (iii) an on-going compliance fee of \$25 per unit, payable annually, and, (iv) except to the extent waived pursuant to Section 2-44-065 of the Municipal Code, any other applicable fee pursuant thereto.]

"Outside Conversion Date" shall have the meaning set forth in the Construction Funding Agreement.

"Partnership Agreement" shall mean that certain Amended and Restated Agreement of Limited Partnership of the Borrower dated as of May 1, 2022, as the same may be amended, restated or modified in accordance with its terms.

"Patriot Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

"Patriot Act Offense" shall have the meaning set forth in Section 4.1.48.

"Permanent Period" shall mean the period of time from the Conversion Date to the Maturity Date (as defined in the Funding Loan Agreement) for the Series 2022A Governmental Lender Note.

"Permanent Period Amount" shall mean the principal amount of the Borrower Loan following the calculation provided for in the Construction Funding Agreement.

"Permitted Encumbrances" shall have the meaning given to that term in the Security Instrument.

"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.

"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.

"Plan" shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is

obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

"Plans and Specifications" shall mean the plans and specifications for the rehabilitation of the Facilities and the performance of the Improvements and the Projects approved by Funding Lender.

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

"Prepayment Premium" shall mean premium, if any, 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 Borrower Notes).

"Projects" shall mean the Mortgaged Property (as defined in the Security Instrument) and Improvements on the Mortgaged Property owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to in the Security Instrument as the "Mortgaged Property."

"Projects Agreements and Licenses" shall mean any and all Construction Contracts, Engineer's Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Projects or the Mortgaged Property.

"Property Manager" shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

"Provided Information" shall have the meaning set forth in Section 9.1.1(a).

"Qualified Project Costs" shall mean costs paid with respect to a 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 LI03-8(a)(l) of the Regulations, provided, however, that only such portion of the interest accrued during rehabilitation or construction of such 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 such 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 a Borrower Affiliate (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 such Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such affiliate, and (C) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on such Project, and shall not

15

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 such Project or payments received by such affiliate due to early completion of such Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or such Project within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the date of issue of the Funding Loan, and (iv) if the costs of the acquisition and construction or rehabilitation of such 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 Regulations) with respect to such Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction or rehabilitation of such Project that do not exceed twenty percent (20%) of the issue price of the Governmental Lender Notes (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to such 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 (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not

represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a "related person" to the Borrower) shall not constitute Qualified Project Costs.

"RAD Use Agreement" shall mean the Rental Assistance Demonstration Use Agreement] by and between the United States of America, Secretary of Housing and Urban Development, the Chicago Housing Authority and the Borrower relating to the Projects.

"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 Closing Date and acceptable to the Governmental Lender and the Funding Lender.

"Rebate Analyst's Fee" shall mean the annual fee of the Rebate Analyst as established from time to time. The Rebate Analyst's Fee is payable by the Borrower to the Rebate Analyst as invoiced.

"Rebate Fund" shall mean the Rebate Fund created pursuant to Section 5.35.

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

16

"Related Documents" shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), the Partnership Agreement, and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement.

"Replacement Reserve Agreement" shall mean any Replacement Reserve Agreement between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

"Replacement Reserve Fund Requirement" means Borrower's funding obligations from time to time under the Replacement Reserve Agreement.

"Retainage" shall have the meaning set forth in the Construction Funding Agreement.

"Review Fee" shall mean the three thousand dollar (\$3,000) fee payable to Funding Lender in connection with the review of requests from the Borrower in connection with events requiring the consent and/or approval of the Funding Lender, including, but not limited to, subordinate Financings and easements.

"Secondary Market Disclosure Document" shall have the meaning set forth in Section 9.1.2.

"Secondary Market Transaction" shall have the meaning set forth in Section 9.1.1.

"Securities" shall have the meaning set forth in Section 9.1.1.

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

"Security" shall have the meaning set forth in Article IV of the Funding Loan Agreement.



"Security Documents" shall mean the Security Instrument, the Replacement Reserve Agreement, the Collateral Agreements, the Collateral Assignments, this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments that Funding Lender may reasonably request.

"Security Instrument" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"Series A Borrower Note" shall mean that certain Multifamily Note (Fixed Rate) dated as of the Closing Date in the original maximum principal amount of \$16,000,000 made by the Borrower and payable to the Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Series 2022A Governmental Lender Note" shall mean that certain City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022A, dated the

17

Closing Date in the original maximum principal amount of \$16,000,000 made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Series B Borrower Note" shall mean that certain Multifamily Note (Variable Rate) dated as of the Closing Date in the original maximum principal amount of \$11,900,000 made by the Borrower and payable to the Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Series 2022B Governmental Lender Note" shall mean that certain City of Chicago Multi-Family Housing Revenue Note (Lake Park Crescent Apartments), Series 2022B, dated the Closing Date in the original maximum principal amount of \$11,900,000 made by the Governmental Lender and payable to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

"Servicer" shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be the Funding Lender.

"Servicing Agreement" shall mean any servicing agreement or master servicing agreement, between the Servicer (other than the Funding Lender) and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

"Special Limited Partner" shall mean BFIM Special Limited Partner, Inc., a Florida corporation, and its successors and assigns.

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

"State" shall mean the State of Illinois in which the Projects are located.

"Subordinate Debt" means the outstanding subordinate mortgage loans assumed by Borrower by the following described lenders and in the following approximate amounts: (i) \$12,787,774 loan by the Chicago Housing Authority, an Illinois municipal corporation, (ii) \$6,282,226 of a new loan by the Governmental Lender resulting from the Restructuring of the Prior HOME Loan (both as defined in and contemplated by the Ordinance, (iii) \$750,000 loan by the Illinois Housing Development Authority.

"Subordinate Lender" shall mean any entity providing Subordinate Debt.

"Subordinate Loan Documents" shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or Subordinate Lender in connection with the Subordinate Debt.

"Substantial Completion Date" shall have the meaning set forth in the Construction Funding Agreement.

18

"Substantially Complete" or "Substantially Completed" shall have the meaning set forth in the Construction Funding Agreement.

"Tax Counsel" shall have the meaning set forth in the Funding Loan Agreement.

"Taxes" shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Projects.

"Term" shall mean the term of this Borrower Loan Agreement pursuant to Section 10.14.

"Title Company" means First American Title Insurance Company.

"Title Insurance Policy" shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

"Transfer" shall have the meaning given to that term in the Security Instrument.

"UCC" shall mean the Uniform Commercial Code as in effect in the State.

"Unassigned Rights" shall have the meaning ascribed to it in the Funding Loan Agreement.

"Underwritten Management Fee" shall have the meaning set forth in the Construction Funding Agreement.

"Unit" shall mean a residential apartment unit within the Improvements.

"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 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 Ordinance, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Borrower in accordance with the terms of the Construction Funding Agreement and this Borrower Loan Agreement.

The Governmental Lender appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, 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. 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 designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1; provided, however, that such designation shall not release or absolve Funding Lender from ultimate responsibility for fulfillment of such rights or responsibilities.

## **Section 2.2 Security for the Funding Loan.**

a) As security for the Funding Loan, the Governmental Lender has pledged and assigned the Security to the Funding Lender under and pursuant to 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 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 2.2, the Governmental Lender may:

i) Tax Covenants. Seek specific performance of, and enforce, the tax covenants of the Funding Loan Agreement and the other Funding Loan Documents, seek injunctive relief against acts which may be in violation of any of the tax covenants, and enforce the Borrower's obligation to pay amounts for credit to the Rebate Fund;

ii) Reserved Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights.

c) The Governmental Lender shall provide written notice to the Funding Lender and the Servicer within a reasonable time 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.

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

(a) The Funding Loan shall be funded directly to the Borrower by the Funding Lender pursuant to the Construction Funding Agreement, in one or more installments not to exceed in the aggregate the Borrower Loan Amount in accordance with the disbursement procedures set forth in the Construction Funding 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. 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 of the Ground Lease and the, rehabilitation, equipping and/or operation of the Projects. The Borrower 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 and the Construction Funding Agreement. The Governmental Lender

acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental

Lender.

b) The Borrower 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 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.

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

i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument 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 (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

ii) delivery 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

iii) payment of all fees payable in connection with the closing of the Borrower Loan, including the Governmental Lender's Closing Fee and those Other Governmental Lender Fees payable at closing.

#### **Section 2.4 Borrower Loan Payments.**

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Notes. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Funding Lender or the Servicer by 2:00 p.m., New York City time, on the applicable Borrower Loan Payment Date. Each such payment shall be made to the Funding Lender or the Servicer by deposit to such account as the Funding Lender or Servicer, 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

21

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 under this Borrower Loan Agreement 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.

(b) Payments of principal and interest on the Borrower Notes shall be paid to the Servicer, except that if there is no Servicer, payments of principal and interest on the Borrower Notes shall be paid directly to Funding Lender.

#### **Section 2.5 Additional Borrower Payments.**

(a) The Borrower shall pay the following amounts:

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

ii) to the Governmental Lender, the Other Governmental Lender Fees and, on demand, 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 Projects, as and when the same become due;

iii) [Reserved];

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

v) to the Funding Lender, on demand, all charges, costs, advances, indemnities and expenses, including agent and 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 Projects, including, without limitation, any Review Fee, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all 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 Projects 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; and

vi) any Late Charge due and payable under the terms of the Borrower Notes and Section 2.6; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender.

## 22

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

i) all 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, Funding Lender or the Servicer;

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 expenses, costs and fees relating to inspections of the Projects required by the Governmental Lender, the Funding Lender, the Servicer or the Rehabilitation Consultant, 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 Servicer, a Late Charge in the amount and to the extent set forth in the Borrower Notes, if any.

Section 2.7 Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds. The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

Section 2.8 Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Security Instrument 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 pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Funding Lender or the Servicer for the Projects. 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 hereunder, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Funding Lender and the Servicer with respect to the Projects in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

## **23**

Section 2.9 Marshalling; Payments Set Aside. The Governmental Lender 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 or Funding Lender, or the Governmental Lender 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 or Funding Lender and any and all remedies available to the Governmental Lender or Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, the 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 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 Funding Lender 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 or Funding Lender in connection with the exercise by the Governmental Lender or Funding Lender of its rights under this Section 2.9.

Section 2.10 Borrower Loan Disbursements. The Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Funding Agreement.

## **ARTICLE III Conversion**

### **Section 3.1 Conversion Date and Extension of Outside Conversion Date.**

Borrower shall satisfy each of the Conditions to Conversion and cause the Conversion Date to occur on or before the Outside Conversion Date, as further provided in the Construction Funding Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date 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, Funding Lender shall deliver Written Notice to Borrower and the Governmental Lender 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.

## **24**

(b) 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 the Construction Funding Agreement, if and to the extent the Permanent Period Amount is less than the Interim Phase Amount, Funding Lender may in its sole discretion require Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Interim Phase Amount and the Permanent Period Amount, provided, however, that if the Permanent Period Amount is less than the Minimum Permanent Period Amount (as defined in the Construction Funding Agreement), then Funding Lender may in its sole discretion require Borrower to prepay the Borrower Loan in full.

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.

c) Notwithstanding anything herein to the contrary, the Borrower Loan is not subject to voluntary prepayment prior to the time that (i) all of the Projects are placed in service, or (ii) each of Project Number 1, Project Number 2, Project Number 3 and Project Number 4 satisfy the 50% test pursuant to Section 42(h)(4)(B) of the Code.

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 Borrower, Funding Lender shall deliver Written Notice thereof to Borrower and the Equity Investor 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, Funding Lender shall disburse Borrower Loan proceeds to Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Amounts so disbursed shall be applied to pay or reimburse previously incurred costs of the Projects in accordance with the Funding Loan Agreement and this Borrower Loan Agreement. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by Borrower to 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, Security Instrument, the Construction Funding

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, Security Instrument, the Construction Funding Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Notes, the Security Instrument, the Construction Funding 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.

## **25**

Section 3.6 Determinations by Funding Lender. In any instance where the consent or approval of Funding Lender may be given or is required under this Article III, or where any determination, judgment or decision is to be rendered by Funding Lender under this Article III, including in connection with the Construction Funding 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 sole and absolute discretion.

### **ARTICLE IV Representations And Warranties**

Section 4.1 Borrower Representations. To induce the Governmental Lender to execute this Borrower Loan Agreement and to induce the Funding Lender to make Disbursements, Borrower represents and warrants for the benefit of the Governmental Lender, the Funding Lender and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and, subject to Section 4.2, shall survive the making of the Borrower Loan and will be complete and accurate, and deemed remade, except as otherwise noted through notice to the Funding Lender and approved by the Funding Lender, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Conversion Date in accordance with the terms and conditions of the Borrower Notes.

1 Organization; Special Purpose. The Borrower is in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper corporate limited partnership or limited liability company action, as appropriate has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Projects.

2 Proceedings; Enforceability. Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

3 No Conflicts. The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute



a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

4.1.4 Litigation; Adverse Facts. There is no Legal Action, nor is there a basis known to Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of Borrower, the General Partner and the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Projects), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of Borrower, the General Partner and the Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, the General Partner or the Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Projects), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Projects), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; or (c) in default beyond the expiration of any applicable cure period with respect to any agreement to which the Borrower, the General Partner or the Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Projects), condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting the Borrower, the General Partner or the Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the

other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

5       Agreements; Consents; Approvals. Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Projects, or the Borrower's business, properties, operations or financial condition, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Projects are bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

6       Title. The Borrower shall have marketable title to the Projects free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee (or leasehold, if applicable) interest in the Projects and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Projects (including the Leases) to the extent such security interests can be perfected by the filing of a UCC financing statement, all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Projects, nor are there any claims for payment for work, labor or materials affecting the Projects which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents, in each case, except as are being contested in accordance with Section 10.16.

7       Survey. To the best knowledge of the Borrower, the survey for the Projects delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Projects or the title thereto.

8       No Bankruptcy Filing. The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation

28

of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

9       Full and Accurate Disclosure. No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Projects or the business, operations or financial condition of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

10 No Plan Assets. The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

11 Compliance. The Borrower, the Projects and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Projects any act or omission affording any Governmental Authority the right of forfeiture as against the Projects or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Documents.

12 Contracts. All service, maintenance or repair contracts affecting the Projects have been or will be entered into at arm's length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

13 Financial Information. All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Projects by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects as of the respective dates of such reports, (ii) accurately represent the financial condition of the Projects as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the

29

date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

14 Condemnation. No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with respect to all or part of the Projects or for the relocation of roadways providing access to the Projects.

15 Federal Reserve Regulations. No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

16 Utilities and Public Access. To the best of the Borrower's knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service them for their intended uses. To the best of the Borrower's knowledge, all public utilities necessary or convenient to the full use and enjoyment of the Projects is or will be located in the public right-of-way abutting the Projects, and all such utilities are or will be connected so as to serve the Projects without passing over other property absent a valid easement. To the best of the Borrower's knowledge, all roads necessary for the use of the Projects for its current purpose have been or will be completed and dedicated to

public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Projects do not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Projects and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

17 Not a Foreign Person. The Borrower is not a "foreign person" within the meaning of § 1445(f)(3) of the Code.

18 Separate Lots. Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

19 Assessments. Except as shown in the Title Insurance Policy, there are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Projects, or any contemplated improvements to the Projects that may result in such special or other assessments.

### **30**

20 Enforceability. The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

21 Insurance. The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

22 Use of Property; Licenses. The Projects will be used exclusively as multi-family residential rental Projects and other appurtenant and related uses, which use is consistent with the zoning classification for each Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of each Project (collectively, the "Licenses") required at this time for the construction or rehabilitation, as appropriate, and equipping of the Projects have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Projects and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Projects, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Projects do not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of any of the Projects.

23 Flood Zone. On the Closing Date, no structure within the Mortgaged Property lies or is located in an identifiable or designated Special Flood Hazard Area. If after the Closing Date any structure within the Mortgaged Property is determined to be in a Special Flood Hazard Area, the Borrower will obtain appropriate flood insurance as

required under the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994 as amended or as required by the Servicer pursuant to the Multifamily Underwriting Guidelines (as defined in the Construction Funding Agreement).

24 Physical Condition. The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, is or, after completion of the , rehabilitation and/or repairs, as appropriate, will be in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Projects, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Projects is not and will not be on completion in material violation of the ADA, if required under applicable law.

31

25 Encroachments. Except as may be shown on the survey, all of the Improvements included in determining the appraised value of the Projects will lie wholly within the boundaries and building restriction lines of the Projects, and no improvement on an adjoining property encroaches upon the Projects, and no easement or other encumbrance upon the Premises or the Facilities encroaches upon the Facilities or any of the Improvements, so as to affect the value or marketability of the Projects, except those insured against by the Title Insurance Policy or disclosed in the survey of the Projects as approved by the Servicer.

26 State Law Requirements. The Borrower represents, covenants and agrees that it is and will remain in compliance with the provisions of all applicable State laws relating to the Borrower Loan Documents, the Borrower Loan, the Funding Loan and the Projects.

27 Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Projects to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

28 Investment Company Act. The Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; or (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

29 Fraudulent Transfer. The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower's assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower's total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower's assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower's probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower's

assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

## **32**

30 Ownership of the Borrower. Except as set forth in the Partnership Agreement of the Borrower, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in the Borrower.

31 Environmental Matters. To the best of Borrower's knowledge, except as may be disclosed in the environmental reports reflected on the exhibit to the Agreement of Environmental Indemnification between Borrower and Funding Lender, no part of the Projects is in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up, and the Borrower will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Closing Date.

32 Name; Principal Place of Business. Unless prior Written Notice is given to the Funding Lender and the Governmental Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1, and the Borrower has no other place of business, other than the Projects and such principal place of business.

33 Subordinated Debt. There is no secured or unsecured indebtedness with respect to the Projects or any residual interest therein, other than Permitted Encumbrances and the permitted secured and unsecured indebtedness described in Section 6.7, except an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date and ordinary trade unsecured payables as permitted by the Borrower Loan Documents.

34 Filing of Taxes. The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

35 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Agreement are incorporated by reference in this Borrower Loan Agreement and the Borrower will comply with such as if set forth in this Borrower Loan Agreement.

36 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 Projects, (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 Projects, and (d) it has not relied on the

## **33**

Governmental Lender, the Funding Lender or the Servicer 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 Funding Lender or the Servicer in any manner.

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

38 Americans with Disabilities Act. The Projects, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Projects, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA"), to the extent required (as evidenced by an architect's certificate to such effect).

39 Requirements of Code and Regulations. Each Project satisfies and will continue to satisfy, for as long as there are any outstanding unpaid amounts of the Funding Loan or under the Governmental Lender Notes, all requirements of the Code and the Regulations applicable to each of them that are required to be satisfied in order for interest on the Funding Loan to be excluded from gross income of the owner thereof for federal income tax purposes.

40 Regulatory Agreement. Each 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 each 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 Code and the Regulations, and pursuant to leases which comply with all applicable laws.

41 Intention to Hold Project. The Borrower intends to hold the Projects for its own account and has no current plans, and has not entered into any agreement (except for rights granted to the CHA in any right of first refusal agreement, as contemplated in a purchase option agreement or as contemplated in the Partnership Agreement), to sell the Projects or any part of them; and the Borrower intends to occupy the Projects or cause the Projects to be occupied and to operate it or cause the Projects 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 Projects will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

#### **42 Concerning the General Partner.**

(a) The General Partner is a limited liability company duly organized and validly existing under the laws of the State of Delaware. The General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by such General Partner for its own account and on behalf of Borrower, as general partner of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

### **34**

b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of General Partner.

c) The General Partner is duly authorized to do business in the State.

d) The execution, delivery and performance by the Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of the General Partner on behalf of the Borrower, and by all necessary action on behalf of the General Partner.

e) The execution, delivery and performance by the General Partner, on behalf of the Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) the General Partner's organizational documents; (ii) any other Legal Requirement affecting the General Partner or any of its properties; or (iii) any agreement to which the General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral, or any of the property or funds pledged or delivered to the Funding Lender pursuant to the Security Documents.

43 Government and Private Approvals. All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, rehabilitation, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that the Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the construction or rehabilitation of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction or rehabilitation of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower, or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by Borrower or General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Projects is not conditional upon the happening of any further event.

44 Concerning the Guarantor. The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed

### 35

simultaneously with this Borrower Loan Agreement have been duly executed and delivered by the Guarantor and are legally valid and binding obligations of Guarantor, enforceable against the Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

45 No Material Defaults. Except as previously disclosed to Funding Lender in writing, there exists no material violation of or material default by Borrower under, and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Projects or to which Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Projects may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document;



(2) which involves the Projects and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of the Borrower, the General Partner or the Guarantor to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

46 Payment of Taxes. Except as previously disclosed to the Funding Lender in writing: (i) all tax returns and reports of the Borrower, the General Partner and the Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon the Borrower, the General Partner and the Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) the Borrower knows of no proposed tax assessment against it or against the General Partner or the Guarantor that would be material to the condition (financial or otherwise) of the Borrower, the General Partner or the Guarantor, and neither the Borrower nor the General Partner have contracted with any Government Authority in connection with such taxes.

47 Rights to Project Agreements and Licenses. The Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications to the extent provided in the Architect's Agreement and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. The Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by Funding Lender in its sole discretion or by the Governmental Lender when required in the exercise of its regulatory powers), set-off or deduction other than in the ordinary course of business.

36

48 Patriot Act Compliance. The Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified Borrower in writing is now included in "Government Lists", or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America that Funding Lender notified Borrower in writing is now included in "Government Lists".

49 Rent Schedule. Borrower has prepared a prospective Unit absorption and rent collection schedule with respect to the Projects substantially in the form attached as an exhibit to the Construction Funding Agreement, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and

(ii) any and all concessions including free rent periods, and on the basis of such schedule, Borrower believes it will collect rents with respect to the Projects in amounts greater than or equal to debt service on the Borrower Loan.

50 Other Documents. Each of the representations and warranties of Borrower or General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated in this Borrower Loan Agreement for the benefit of the Funding Lender.

51 Subordinate Loan Documents. The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the

### 37

passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

4.1.52 Ground Lease. The Ground Lease is in full force and effect and the Borrower has paid all rent and other amounts due and payable to the ground lessor thereunder. There exists no material violation of or material default by the Borrower under the Ground Lease, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default by any other party under the Ground Lease.

Section 4.2 Survival of Representations and Covenants. All of the representations and warranties in Section 4.1 and elsewhere in the Borrower Loan Documents (i) shall survive 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 the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1.

## ARTICLE V Affirmative Covenants

During the term of this Borrower Loan Agreement, the Borrower covenants and agrees with the Governmental Lender, the Funding Lender and the Servicer that:

Section 5.1 Existence. The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2 Taxes and Other Charges. The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all Taxes and Other Charges of any type or character charged to the Funding Lender affecting the amount available to the Funding Lender from payments to be received under this Borrower Loan Agreement or in any way arising due to the transactions contemplated by this Borrower Loan Agreement (including Taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding

Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such Taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such Taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such Taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would

38

adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3 Repairs; Maintenance and Compliance; Physical Condition. The Borrower shall cause the Projects to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Projects' tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4 Litigation. The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Projects.

Section 5.5 Performance of Other Agreements. The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Projects to the extent that failure to do so might materially adversely affect the Borrower's condition (financial or otherwise) or business, or the Projects.

Section 5.6 Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender, the Servicer the Equity Investor and the Special Limited Partner of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Projects that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

Section 5.7 Cooperate in Legal Proceedings. The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

Section 5.8 Further Assurances. The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that

Borrower's construction or renovation of the Projects alters any existing building foundations or footprints), certificates, plans and specifications, Appraisals, title and other insurance reports and agreements relating to the Projects, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Projects, each such search to be conducted by search firms reasonably designated by the Servicer or the Funding Lender in each of the locations reasonably designated by the Servicer or the Funding Lender.

Section 5.9 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 or the Servicer, deliver copies of all financial information required under Article IX.

Section 5.10 Environmental Matters. So long as the Borrower owns or is in possession of the Projects or a portion of them, the Borrower shall (a) keep the Projects in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Projects in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Projects required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11 Governmental Lender's and Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Other Governmental Lender Fees) 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 5.12 Estoppel Statement. The Borrower shall furnish to the Funding Lender or the Servicer for the benefit

of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) the unpaid principal of the Borrower Notes, (ii) the applicable Interest Rates, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Projects, if any, in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

Section 5.13 Defense of Actions. The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Projects or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Projects to make repairs or take other action to protect the security of the Projects, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit

41

of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14 Expenses. The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Funding Lender's and the Servicer'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 reasonable expenses of the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1) 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, the Funding Lender and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender and the Servicer to collect the Borrower Notes, or to enforce the rights of the Governmental Lender, the Funding Lender

and the Servicer under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Projects (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 reasonably incurred by the Governmental Lender, the Funding Lender and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Funding Lender and the Servicer, 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 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender or the Servicer, 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 Projects 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, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by Section 18(i) of the Security Instrument.

Section 5.15 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 and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender and other City Indemnified Parties, the Funding Lender, the Servicer, the Beneficiary Parties, Citigroup, Inc. and each of their respective officers, directors, employees, attorneys (including Tax Counsel) and agents (each an "Indemnified Party" and with respect to the Governmental Lender "City Indemnified Parties"), against any and all losses, damages,

## 42

claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable 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 federal or state securities laws or any 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 with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article IX);

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 Projects, 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 Projects or any part thereof;

c) Any lien (other than a Permitted Encumbrance) 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 Projects;

d) Any violation of any environmental law, rule or regulation with respect to, or the release of any

toxic substance from, the Projects or any part thereof during the period in which the Borrower is in possession or control of the Projects or portion thereof;

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) [Reserved];

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

#### 43

other information given or delivered by the Borrower, the General Partner, the Guarantor or a Borrower Affiliate to Governmental Lender, the Funding Lender, Servicer 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, the 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 Projects, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction, equipping or rehabilitation of, the Projects or any part thereof; or

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

except in the case of the foregoing indemnification of the Governmental Lender, the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party.

Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4.

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 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 Projects or part thereof 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 this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

#### 44

The rights of any persons to indemnity and the right to payment of fees and reimbursement of expenses hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement.

Nothing in this Section 5.15 shall in any way limit the Borrower's indemnification and other payment obligations set forth in the Regulatory Agreement.

Section 5.16 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 Projects or that they will be suitable for the Borrower's purposes or needs.

Section 5.17 Right of Access to the Projects. The Borrower agrees that the Governmental Lender, the Funding Lender, the Servicer and the Rehabilitation Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Projects without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Projects made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Projects.

Section 5.18 Notice of Default. The Borrower will provide the Governmental Lender, the Funding Lender and the Servicer as soon as possible, and in any event not later than five (5) Business Days after Borrower knows of the occurrence of any Potential Default or Event of Default with a statement of an Authorized Representative of Borrower describing the details of such Potential Default or Event of Default and any curative action Borrower proposes to take.

Section 5.19 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 others of the Governmental Lender Notes and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are declared to be for the benefit of the Governmental Lender, the Funding Lender and any lawful owner, holder or pledgee of the Borrower Notes or the Governmental Lender Notes from time to time.



Section 5.20 Obligation of the Borrower to Construct or Rehabilitate the Projects; Building Permit, (a) The Borrower shall proceed with reasonable dispatch to construct or rehabilitate, as appropriate, and equip the Projects. If the proceeds of the Borrower Loan, together with the Other Borrower Moneys, 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, the Funding Lender or the

## 45

Servicer 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 acquisition, construction and equipping of the Projects or part thereof is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Projects. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Projects, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Projects are not completed.

(b) The Borrower acknowledges and agrees that it has full responsibility to comply with all applicable law in connection with the Projects, including but not limited to, all requirements of the Building Code of the City of Chicago (the "Building Code"). The Borrower expressly acknowledges that the Governmental Lender has not waived any applicable requirements of the Building Code or any other legal requirements with respect to the Projects.

Section 5.21 Maintenance of Insurance. Borrower will maintain the insurance required by the Security Instrument.

Section 5.22 Information; Statements and Reports. Borrower shall furnish or cause to be furnished to Governmental Lender and Funding Lender:

a) Financial Statements: Rent Rolls. In the manner and to the extent required under the Security Instrument, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

b) General Partner. As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of General Partner, copies of the financial statements of General Partner as of such date, prepared in substantially the form previously delivered to the Governmental Lender and Funding Lender and in a manner consistent therewith, or in such form (which may include a form prepared in accordance with GAAP) as Funding Lender may reasonably request;

c) Leasing Reports. After each Project is placed in service, on a monthly basis (and in any event within fifteen (15) days after the end of each Calendar Month), a report of all efforts made by Borrower, if any, to lease all or any portion of such Project during such Calendar Month and on a cumulative basis since the Project's inception, which report shall be prepared and delivered by Borrower, shall be in form and substance satisfactory to Funding Lender, and shall, if requested by Funding Lender, be supported by copies of letters of intent, leases or occupancy agreements, as applicable;

d) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such

accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

e) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Projects or to Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of any material part of the Projects or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

f) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

g) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22 (a) submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

h) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of the Borrower, the General Partner, the Guarantor or the Projects, as the Funding Lender or the Governmental Lender may reasonably request from time to time.

Section 5.23 Additional Notices. Borrower will, promptly after becoming aware thereof, give notice to Funding Lender and the Governmental Lender of:

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

b) any Legal Action which is instituted by or against the Borrower, the General Partner, or the Guarantor, or any Legal Action which is threatened against the Borrower, the General Partner, or the Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of the Borrower, the General Partner, the Guarantor or the Projects;

c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which the Borrower, the General Partner, or the Guarantor is a party or by or to which the Borrower, the General Partner, or the Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations,

assets (including the Project), condition (financial or otherwise) or prospects of the Borrower, the General Partner, or the Guarantor, as applicable;

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

e) any notice of default, alleged default or potential default on the part of Borrower received from any tenant or occupant of the Project 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 at the Project have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

f) 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; and

g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement, after giving effect to any applicable notice, cure or grace period.

#### **Section 5.24 Compliance with Other Agreements; Legal Requirements.**

a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and 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 Projects 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 Projects, and all other agreements requiring a certain percentage of the Units 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 Projects or the terms of any other lease of all or any portion of the Projects. 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 Units to be rented to persons of low or moderate income, and Borrower

### **48**

shall supply all such information with respect thereto as Funding Lender may request and otherwise cooperate with Funding Lender in any such audit; provided, however, prior to the occurrence of an Event of Default, Borrower shall have no obligation to bear the expense of more than one audit every three (3) years. 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 Projects.

Section 5.25 Completion and Maintenance of Projects. 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 the Construction Funding Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under Section 10.16) ("Completion") on or before the Completion Date. Borrower shall thereafter maintain the Projects as residential rental units 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.

Section 5.26 Fixtures. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.27 Income from Projects. Borrower shall first apply all Gross Income to Expenses of the Projects, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement before using or applying such Gross Income for any other purpose. With the exception of asset management fees and tax credit adjustment amounts to the extent payable from Net Operating Income pursuant to the Partnership Agreement, or developer fees payable pursuant to the Partnership Agreement and subject to the Approved Developer Fee Schedule, 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 5.28 Leases and Occupancy Agreements.**

(a) Lease Approval.

(i) 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;

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

49

under any applicable CC&R, including the RAD Use Agreement, and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to the Construction Funding Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with 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 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) Obligations. Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Projects or any space within the Improvements.

c) Leasing and Marketing Agreements. Except as may be contemplated in the 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 5.29 Projects Agreement and Licenses. To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Projects Agreements and Licenses and the Plans and Specifications, together with assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Projects Agreements and Licenses, other than to Funding Lender and the Subordinate Lenders.

Section 5.30 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 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 Projects, or any

## 50

portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.31 ERISA. Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.32 Patriot Act Compliance. Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Projects, including those relating to money laundering and terrorism. Funding Lender shall have the right to audit Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Projects, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Funding Lender may, at its option, cause Borrower to comply therewith and any and all costs and expenses incurred by Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

Borrower covenants that it shall comply with all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect. Without limiting the foregoing, Borrower shall not take any action, or permit any action to be taken, that would cause Borrower's representations and warranties in this Article V become untrue or inaccurate at any time during the term of the Funding Loan. Upon any Beneficiary Party's request from time to time during the term of the Funding Loan, Borrower shall certify in writing to such Beneficiary Party that Borrower's representations, warranties and obligations under Article

V remain true and correct and have not been breached, and in addition, upon request of any Beneficiary Party, Borrower covenants to provide all information required to satisfy obligations under all Legal Requirements and internal requirements of Funding Lender relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, during the term of the Funding Loan. Borrower shall immediately notify the Funding Lender in writing of (a) Borrower's actual knowledge that any of such representations, warranties or covenants are no longer true and have been breached, (b) Borrower has a reasonable basis to believe that they may no longer be true and have been breached or (c) Borrower becomes the subject of an investigation by Governmental Authorities related to money laundering, anti-terrorism, trade embargos and economic sanctions. Borrower shall also reimburse Funding Lender for any expense incurred by Funding Lender in evaluating the effect of an investigation by Governmental Authorities on the Funding Loan and Funding Lender's interest in the collateral for the Funding Loan, in obtaining necessary license from Governmental Authorities as may be necessary for Funding Lender to enforce its rights under the Funding Loan Documents, and in complying with all Legal Requirements and internal requirements of Funding Lender relating to money laundering, antiterrorism, trade embargos and economic sanctions, now or hereafter in effect applicable to Funding Lender as a result of the existence of such an event and for any penalties or fines imposed upon Funding Lender as a result thereof.

Section 5.33 Funds from Equity Investor. Borrower shall use commercially reasonable efforts to cause the Equity Investor to fund all installments of the Equity

51

Contributions in the amounts and at the times subject, and according to the terms, conditions and adjustments of the Partnership Agreement; provided, that the foregoing shall not relieve the Borrower from any obligation to fund the Borrower Deferred Equity as and when required under this Borrower Loan Agreement or Construction Funding Agreement.

Section 5.34 Tax Covenants. The Borrower further represents, warrants and covenants as follows:

a) General. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. 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 that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument 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, the Funding Loan or affecting a Project. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Notes, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect 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 Governmental Lender Notes or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

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

i) Limitation on Net Proceeds. At least 95% of the net 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 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 of the Funding Loan.

## 52

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 Land. Less than 25 percent of the net proceeds of the Funding Loan actually expended in each Project will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

v) 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 each 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.

vi) 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 date of origination of the Funding Loan.

vii) Limitation of Project Expenditures. The acquisition, construction and equipping of each Project was not commenced (within the meaning of Section 144(a) of the Code) prior to the Closing Date, 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 such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing, reimbursement bond issuance and similar costs incurred prior to the commencement of construction, rehabilitation or acquisition of the applicable Project, and which do not exceed 20% of the portion of the issue price of the Governmental Lender Notes allocated to the respective Project.

viii) Qualified Costs. The Borrower represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which are (A) capital expenditures (as defined in Section 1.150-1(b) 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 Governmental Lender Notes shall be

## 53

deemed allocated on a pro rata basis to each building in each 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 proceeds of the Governmental Lender Notes 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 Governmental Lender Notes 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 any Project to be financed by the Funding Loan, 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 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 Governmental Lender Notes 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 "arbitrage bonds" 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 Governmental Lender Notes, 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 Governmental Lender Notes, 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 Governmental Lender Notes, 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 Governmental Lender Notes to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The

## 54

Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Governmental Lender Notes 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 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 not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter and not later than forty-five days after the final Computation Date 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 Regulations



and rulings thereunder, the Borrower shall not take or omit to take any action which action or omission to act would cause the Governmental Lender Notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the 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 covenants and agrees that each 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 applicable Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Notes remain 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 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

## 55

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 Governmental Lender Notes within the three-year period beginning on the 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 in accordance with Section 10.14, 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 Governmental Lender Notes will not be used in a manner that deviates in any substantial degree from the Projects described in the written notice of a public hearing regarding the Governmental Lender Notes.

(l) 40/60 Test Election. The Borrower and the Governmental Lender elect to apply the requirements of Section 142(d)(1)(B) to each Residential Project. The Borrower represents, covenants and agrees, continuously during the applicable 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 5.34 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 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

56

5.34, and the Borrower and the Governmental Lender 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 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 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 5.34.

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.

**Section 5.35 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 Servicer, within 55 days after each Computation Date:

A) 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 the future value of any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the 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 the future value of any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(00) of the Regulations); and

C) an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

## 57

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 Servicer (for deposit to the Rebate Fund) and cause the Servicer 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 Servicer 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 Notes 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 5.35 for at least six years after the later of the final maturity of the Governmental Lender Notes 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 5.35, 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 Servicer shall establish and hold a separate fund designated as the "Rebate Fund." The Servicer shall deposit or transfer to the credit of the

Rebate Fund each amount delivered to the Servicer by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

c) Within 5 days after each receipt or transfer of funds to the Rebate Fund, the Servicer shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

d) All payments to the United States of America pursuant to this Section 5.35 shall be made by the Servicer for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Servicer by the Borrower or the Rebate Analyst as set forth in this Section 5.35).

e) The Borrower shall preserve all statements, forms and explanations received delivered pursuant to this Section 5.35 and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

f) Moneys and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

g) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Notes. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender with respect to such withdrawal.

h) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 5.35 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender.

Section 5.36 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 5.37 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 Governmental Lender

Notes, the Borrower and other matters as specifically provided for in such agreement.

## ARTICLE VI Negative Covenants

Borrower 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 6.1 Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Property Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Property Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2 Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 6.3 Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Projects, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Projects or any 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 Projects or any Project.)

Section 6.4 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 6.5 Assets. Purchase or own any real property or personal property incidental thereto other than the Projects.

Section 6.6 Transfers. Make, suffer or permit the occurrence of any Transfer other than for rights granted to the CHA in any right of first refusal agreement, as contemplated in a

purchase option agreement or a transfer permitted under the Security Instrument, nor transfer any material License required for the operation of the Projects or any Project.

Section 6.7 Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Projects or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, (iv) trade payables incurred in the ordinary course of

business, and (v) unsecured deferred developer fees not to exceed the amount permitted by the Funding Lender as determined on the Closing Date and any unsecured loans payable solely from cash flow made by a partner of the Borrower as set forth in the Partnership Agreement.

Section 6.8 Assignment of Rights. Without the Funding Lender's or the Government 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 6.9 Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender and the Servicer.

Section 6.10 Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld, conditioned or delayed) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect, any of its rights or remedies under the Partnership Agreement, except as permitted by law and in accordance with the Security Instrument or Construction Funding Agreement; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement (i) resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument, or (ii) correcting scrivener's errors.

Section 6.11 ERISA. Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12 No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

### **Section 6.13 Loans and Investments; Distributions; Related Party Payments.**

a) Without the prior Written Consent of Funding Lender in each instance. Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Borrower Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent (I) contemplated by the Partnership Agreement, or (It) permitted by the Security Instrument and subject to the limitations set forth in Section 5.27).

b) Disbursements for fees and expenses of any Borrower Affiliate and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the construction or rehabilitation, as the case may be, of the Improvements, as determined by the Rehabilitation Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted by the Borrower Loan Documents or by the Funding Lender, no Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to the Conversion Date other than in

accordance with the Approved Developer Fee Schedule.

Section 6.14 Amendment of Related Documents or CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein or in the Construction Funding Agreement, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in the Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15 Personal Property. 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 other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16 Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall 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.

Section 6.17 Publicity. Neither Borrower nor General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify Funding Lender or any of its Affiliates as the source of the financing provided

62

for herein, without the prior written approval of Funding Lender in each instance (provided that nothing herein shall prevent Borrower or General Partner from identifying Funding Lender or its Affiliates as the source of such financing to the extent that Borrower or General Partner are required to do so by disclosure requirements applicable to publicly held companies). Borrower and General Partner agree that no sign shall be posted on the Projects in connection with the construction or rehabilitation of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or Funding Lender consents to not being identified on any such sign.

Section 6.18 Subordinate Loan Documents. Without Funding Lender's prior written consent, Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

Section 6.19 Ground Lease.. Without the Funding Lender's prior written consent, the Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Ground Lease.

## **ARTICLE VII Reserved**

## **ARTICLE VIII Defaults**

Section 8.1 Events of Default. Each of the following events shall constitute an "Event of Default" under this Borrower Loan Agreement:

- a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such

payment is due in accordance with the terms and provisions of the Borrower Notes, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Notes, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Notes, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including the Other Governmental Lender Fees and including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) Business Days after Written Notice thereof shall have been given to the Borrower;

c) an Event of Default, as defined by the Borrower Notes, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an "Event of Default" is not defined in any other Borrower Loan Document, any default or breach by

63

1

the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a non-profit Borrower Controlling Entity, may be replaced within sixty (60) days of such event with another non-profit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

g) any portion of Borrower Deferred Equity to be made by the Equity Investor and required for (i) completion of the construction or rehabilitation, as the case may be, of the Improvements, (ii) the satisfaction of the Conditions of Conversion or (iii) the operation of the Improvements, is not received in accordance with the terms of the Partnership Agreement after the expiration of all applicable notice and cure periods;

h) the failure by Borrower or any ERISA Affiliate of Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);



(i) a Bankruptcy Event shall occur with respect to the Borrower, the General Partner, or the Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the

64

Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(j) all or any part of the property of Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, within ten (10) days of the date thereof or (ii) after completion of the construction or rehabilitation, as the case may be, of the Improvements, within thirty (30) days of the date thereof;

(k) subject to Section 10.16, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting the Borrower, the General Partner, or the Guarantor, or property of the Borrower, the General Partner, or the Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by the Borrower, the General Partner, or the Guarantor, as applicable, provided that any such material litigation or proceeding against Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty in excess of \$50,000 (not subject to appeal or as to which the time for appeal has expired) is entered against the Borrower, the General Partner, or the Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or bonded over to the satisfaction of the Funding Lender or stayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction or rehabilitation, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine

65

or penalty against the Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against the Borrower, the General Partner, or the Guarantor, or against any of their respective assets, that is not paid, bonded over to the satisfaction of the Funding Lender, superseded or stayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction or rehabilitation, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against the Borrower, the General Partner, or the Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of the Borrower, the General Partner, or the Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, for a period of ten (10) days or (ii) after completion of the construction or rehabilitation, as the case may be, of the Improvements, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against the Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(o) the inability of Borrower to satisfy any condition for the receipt of a Disbursement hereunder (other than an Event of Default specifically addressed in this

Section 8.1) and failure to resolve the situation to the satisfaction of Funding Lender for a period in excess of thirty (30) days after Written Notice from Funding Lender unless such inability shall have been caused by Force Majeure;

(p) the construction or rehabilitation of the Improvements is abandoned or halted prior to completion for any period of thirty (30) consecutive days, except if due to Force Majeure;

(q) Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Mortgaged Property or the Projects orders or requires that construction or rehabilitation of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days,

(r) failure by the Borrower to Substantially Complete the construction or rehabilitation, as the case may be, of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date, unless such failure shall have been caused by Force Majeure;

(s) failure by Borrower to complete the construction or rehabilitation, as the case may be, of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date unless such failure shall have been caused by Force Majeure;

(t) failure by Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date, as it may be extended pursuant to the terms of the Construction Funding Agreement;

(u) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods;

(v) Borrower fails to obtain all applicable permits, licenses and authorizations from all applicable Governmental Authorities or third parties necessary for the completion of the rehabilitation, as the case may be, of the Improvements, and for the operation of, and access to, the Projects or any Project prior to the commencement of any work for which such permit, license or authorization is required; or

(w) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 8.1, including any obligations compliance with which is intended to maintain the tax exempt status of the Government Lender Notes and the Borrower Notes), as and when required, which, if susceptible of cure, continues for a period of thirty (30) days after written notice of such failure by the Governmental Lender, the Funding Lender or the Servicer on its behalf to the Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day

period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Notes or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor and/or Special Limited Partner 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.

### **Section 8.2 Remedies.**

1 Acceleration. Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action, without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Projects, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Notes to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

2 Remedies Cumulative. Upon the occurrence and during the continuance of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and

68

remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until it has exhausted all of its remedies, the Security Instrument has been foreclosed, the Projects or part thereof has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations have been paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Projects for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Projects or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor and/or Special Limited Partner 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.

3 Delay. No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender or the Governmental Lender shall

impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender reserves the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Projects, the Rents, the funds or any other collateral.

4       Set Off; Waiver of Set Off. Upon the occurrence of an Event of Default, Funding Lender may, at any time and from time to time, without notice to Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of Borrower to Funding Lender arising under or connected with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and Borrower grants to Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by Funding Lender to or for the credit or the account of Borrower.

5       Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Projects by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Notes, the Regulatory Agreement, and any other Borrower Loan Documents and Funding Loan Documents to which the Borrower

69

is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

6       Accounts Receivable. Upon the occurrence of an Event of Default, Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing Borrower's accounts, accounts receivable and other claims for payment of money, arising in connection with the Projects, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

7       Defaults under Other Documents. Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

8       Abatement of Disbursements. Notwithstanding any provision to the contrary herein or any of the other Borrower Loan Documents or the Funding Loan Documents, Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of Borrower to fail to be true and correct in all material respects, unless and until Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

9       Completion of Improvements. Upon the occurrence of any Event of Default, Funding Lender shall have the right to cause an independent contractor selected by Funding Lender to enter into possession of the Projects and to perform any and all work and labor necessary for the completion of the Projects substantially in accordance with the Plans and Specifications, if any, and to perform Borrower's obligations under this Borrower Loan Agreement. All sums expended by Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by Borrower

and shall be secured by the Security Documents.

10 Right to Directly Enforce. Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender, provided that only the Governmental Lender may enforce the Unassigned Rights and Funding Lender shall not impair Governmental Lender's enforcement of Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

11 Power of Attorney. Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured, or waived, Borrower constitutes and appoints Funding Lender, or an independent contractor selected by Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Projects and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and empowers said attorney-in-fact to do any or all of the

## 70

following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

a) to use any of the funds of Borrower or General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by Funding Lender for Borrower (including all funds in all deposit accounts in which Borrower has granted to Funding Lender a security interest), for the purpose of effecting completion of the construction or rehabilitation, as the case may be, of the Improvements, in the manner called for by the Plans and Specifications;

b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Projects in substantially the manner contemplated by the Plans and Specifications;

c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

d) to employ attorneys to defend against attempts to interfere with the exercise of power granted by this Borrower Loan Agreement;

e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Projects or the Improvements, or may be necessary or desirable for the completion of the construction or rehabilitation, as the case may be, of the Improvements, or clearance of objections to or encumbrances on title;

f) to execute all applications and certificates in the name of Borrower, which may be required by any other construction contract;

g) to prosecute and defend all actions or proceedings in connection with the Projects and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the construction or rehabilitation, as the case may be, of the Improvements, which Borrower might do on its own behalf;

- h) to let new or additional contracts to the extent not prohibited by their existing contracts;
- i) to employ watchmen and erect security fences to protect the Projects from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

## 71

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Projects and assume the obligations identified above, and the Borrower Notes, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

### ARTICLE IX Special Provisions

#### Section 9.1 Sale of Notes and Secondary Market Transaction.

9.1.1 Cooperation. Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer'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 or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Notes and the Funding 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 Governmental Lender Notes and the Funding Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall 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 or the Servicer, 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 Projects, the Borrower, the Property Manager, the contractor of the Projects or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Projects with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, 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 Projects, as may be reasonably requested from time to time by the Funding Lender or the Servicer 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 or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents (including, without limitation, auditor consents) to include or

incorporate by reference the Provided Information in an offering document or otherwise provide the Provided Information to investors and potential

72

investors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Projects, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, 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.

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 9.1.1(c), with the Funding Lender and the Servicer 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 Projects necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower consents to any and all such disclosures of such information; provided, however, in no event shall the personal financial statements of a Guarantor be included in any Secondary Market Disclosure Document without its consent.

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 Projects or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Projects or the third party). The Borrower shall, if requested by the Funding Lender, the Governmental Lender (if the Governmental Lender is the issuer of the Secondary Market Disclosure Document) or the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Projects or the Property Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Projects 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

73

obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower indemnifies the Funding Lender, the Governmental Lender, the City Indemnified Parties, Tax Counsel and the Servicer



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, except that its obligation to indemnify the Funding lender and the Servicer is limited to the extent such Liabilities are caused by the gross negligence or willful misconduct of the Funding Lender or the Servicer;; 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.

4       Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or in connection with the Securities Act, the Borrower shall (i) indemnify Funding Lender, the Governmental Lender and other City Indemnified Parties, Tax Counsel and the underwriter group for any securities(the "Underwriter Group") and all officials, employees and agents of any of them for any Liabilities to which Funding Lender, Governmental Lender and other the City Indemnified Parties, Tax Counsel, the Servicer 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, Governmental Lender, and other City Indemnified Parties, Tax Counsel, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, Governmental Lender and other City Indemnified Parties, Tax Counsel, the Servicer or the Underwriter Group in connection with defending or investigating such 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.

5       Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 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 9.1.5, and provided that the Borrower is in compliance with its obligations to assume the defense thereof under this Section, the Borrower shall not be responsible for any additional 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.

## 74

9.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 is for any reason held to be unenforceable with respect to an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4, 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 to this Borrower Loan Agreement agree that it may not be equitable if the amount of such

contribution were determined by pro rata or per capita allocation.

## **ARTICLE X**

### **Miscellaneous**

Section 10.1 Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a "notice") shall be deemed to be given and made when delivered by hand, by recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

## **75**

If to the Borrower:	Standard LPC Venture LP 401 North Michigan Avenue, Suite 1200 Chicago, Illinois 60611 Attention: Robert Koerner
and with a copy to:	Standard LPC Venture LP 1901 Avenue of the Stars, Suite 395 Los Angeles, California 90067 Attention: Bradley C. Martinson
If to the Equity Investor:	Boston Financial Institutional Tax Credits 56 Limited Partnership c/o Boston Financial Investment Management, LP. 101 Arch Street, 13th Floor Boston, MA 02110 <div style="text-align: right;">Attention: Asset Management (Lake Park Crescent)</div>
and with a copy to:	Holland & Knight LLP

10 St. James Avenue, 11th Floor Boston, MA 02116 Attention:  
Kristen M. Cassetta, Esq.

If to the Special Limited Partner:

BFIM Special Limited Partner, Inc. c/o Boston Financial Investment Management,  
LP 101 Arch Street, 13th Floor Boston, MA 02110  
Attention: Asset Management (Lake Park Crescent)

and with a copy to:

Holland & Knight LLP  
10 St. James Avenue, 11th Floor  
Boston, MA 02116  
Attention: Kristen M. Cassetta, Esq.

If to the Governmental Lender:

City of Chicago  
Department of Housing  
121 North LaSalle Street, 10th Floor  
Chicago, Illinois 60602  
Attention: Commissioner, Department of Housing Telephone: (312)744-4190  
Facsimile: (312)742-2271

76

City of Chicago

Office of the Corporation Counsel 121 North LaSalle Street, Room 600 Chicago, Illinois 60602 Attention: Finance and  
Economic Development Division Telephone: (312) 744-0200 Facsimile: (312)742-0277 (refer to "Finance & Econ.  
Development Division" on cover sheet)

City of Chicago

Department of Planning and Development 121 North LaSalle Street, 10th Floor Chicago, Illinois 60602 Attention:  
Commissioner, Department of  
Planning and Development Telephone: (312) 744-4190 Facsimile: (312)742-2271

City of Chicago Office of the City Comptroller 121 North LaSalle Street Chicago, Illinois 60602 Attention:  
City Comptroller Telephone: (312)744-7106 Facsimile: (312) 742-6544

Citibank, N.A.

388 Greenwich Street, Trading 4th Floor New York, New York 10013 Attention: Transaction and  
Asset Management Group Re: Lake Park Crescent Deal ID No.: 60000542 Facsimile: (212) 723-8209

and

Citibank, N.A.

325 East Hillcrest Drive, Suite 160 Thousand Oaks, California 91360 Attention: Operations General Partner/Asset Re:

Lake Crescent Park Deal ID No.: 60000542 Facsimile: (805) 557-0924

**77**

Prior to the Conversion Date                      Citibank, N.A.  
With a copy to:                                      388 Greenwich Street, Trading 4th Floor  
Following the Conversion Date With a copy to:  
New York, New York 10013 Attention: Account  
Specialist Re: Lake Park Crescent Deal ID No.:  
60000542 Facsimile: (212)723-8209

Citibank, N.A.  
and a copy of any notices of default sent to:  
c/o Berkadia Commercial Servicing Department 323 Norristown Road,  
Suite 300 Ambler, Pennsylvania 19002 Attention: Client Relations General  
Partner Re: Lake Park Crescent Deal ID No.: 60000542 Facsimile: (215)  
328-0305

Citibank, N.A.  
388 Greenwich Street, 17<sup>th</sup> Floor New York, New York  
10013 Attention: General Counsel's Office Re: Lake Park  
Crescent Deal ID No.: 60000542 Facsimile: (646)291-5754

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties as provided herein.

Section 10.2 Brokers and Financial Advisors. The Borrower represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 10.3 Survival. This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Notes and the assignment of the Borrower Notes to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in

78

this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Funding Lender and the Servicer.

Section 10.4 Preferences. The Governmental Lender shall have the continuing and exclusive right to apply or

reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 10.5 Waiver of Notice. The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower expressly waives the right to receive any notice from the Funding Lender or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer to the Borrower.

Section 10.6 Offsets, Counterclaims and Defenses. The Borrower waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is expressly waived by the Borrower.

Section 10.7 Publicity. The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or Borrower Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

79

Section 10.8 Construction of Documents. The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 10.9 No Third Party Beneficiaries. The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 10.10 Assignment. The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the

Funding Loan Documents and all Funding Lender's rights, title, obligations and interests therein may be assigned by the Funding Lender, at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise. Upon such assignment, all references to Funding Lender in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender. Borrower shall accord full recognition to any such assignment, and all rights and remedies of Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by Funding Lender before such assignment. In connection with any proposed assignment, Funding Lender may disclose to the proposed assignee any information that Borrower has delivered, or caused to be delivered, to Funding Lender with reference to the Borrower, the General Partner, the Guarantor or any Borrower Affiliate, or the Projects, including information that Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted by this Borrower Loan Agreement.

**Section 10.11 [<http://Section 10.11>](#) [Intentionally Omitted].**

Section 10.12 Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership. None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the

80

Governmental Lender, the Funding Lender or the Servicer or to create an equity interest in the Projects in the Governmental Lender, the Funding Lender or the Servicer. Neither the Governmental Lender, the Funding Lender nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Projects or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender, the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer and the Borrower, or to create an equity interest in the Projects in the Funding Lender or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13 Release. The Borrower acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 10.14 Term of Borrower Loan Agreement. This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Notes, this Borrower Loan Agreement shall be terminated, without further action by the parties to this Borrower Loan Agreement; provided, however, that the obligations of the Borrower under Sections 5.11 (Governmental Lender's Fees), 5.14 (Expenses), 5.15 (Indemnity), 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 (Reimbursement of Expenses) hereof, as well as under Section 5.7 of the Construction Funding Agreement, shall survive the termination of this Borrower Loan Agreement.

Section 10.15 Reimbursement of Expenses. If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Note.

81

Section 10.16 Permitted Contests. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless Borrower shall have given prior Written Notice to the Governmental Lender and the Funding Lender of Borrower's intent to so contest or object thereto, and unless (i) Borrower has, in the Governmental Lender's and the Funding Lender's judgment, a reasonable basis for such contest, (ii) Borrower pays when due any portion of the claim, demand, levy or assessment to which Borrower does not object, (iii) Borrower demonstrates to Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Projects, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, the amount so determined to be due and owing by Borrower. In the event that Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and Funding Lender may draw or realize upon any bond or other security delivered to Funding Lender in connection with the contest by Borrower, in order to make such payment.

Section 10.17 Funding Lender Approval of Instruments and Parties. All proceedings taken in accordance with transactions provided for herein, and all surveys, Appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by Funding Lender. Funding Lender's approval of any

matter in connection with the Projects shall be for the sole purpose of protecting the security and rights of Funding Lender. No such approval shall result in a waiver of any default of Borrower. In no event shall Funding Lender's approval be a representation of any kind with regard to the matter being approved.

Section 10.18 Funding Lender Determination of Facts. Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 10.19 Calendar Months. With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31 st day of any

82

Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

Section 10.20 Determinations by Lender. Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under 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 Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

Section 10.21 Governing Law. This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 10.22 Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against Borrower or any of Borrower's assets in any court of any other jurisdiction.

Section 10.23 Successors and Assigns. This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

Section 10.24 Severability. The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

Section 10.25 Entire Agreement; Amendment and Waiver. This Borrower Loan Agreement contains the complete



and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without

83

limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender's or the Funding Lender's obligation to make further Disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

Section 10.26 Counterparts. This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 10.27 Captions. The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 10.28 Servicer. Borrower acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Notes, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 10.29 Beneficiary Parties as Third Party Beneficiary. Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 10.30 Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

Section 10.31 Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

**Section 10.32 [Reserved].**

Section 10.33 Reference Date. This Borrower Loan Agreement is dated for reference purposes only as of the first day of May, 2022, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

## ARTICLE XI Limitations on Liability

Section 11.1 Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower 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.

Section 11.2 Limitation on Liability of Governmental Lender. The Funding Loan, and interest thereon, are special, limited obligations of the Governmental Lender, payable solely from the Security pledged under the Funding Loan Agreement. The Funding Loan is not a general indebtedness of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal and interest on the Funding Loan, and the Funding Loan is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement (and not against any money due or to become due to the Governmental Lender pursuant to Unassigned Rights). No holder of the Funding Loan or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Funding Loan or the interest thereon.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Funding Loan or for any claim based thereon or any obligation, covenant or agreement in the Funding Loan Agreement against any official of the Governmental Lender, or any official, officer, agent, employee or independent contractor of the Governmental Lender or any person executing this Borrower Loan Agreement. No covenant, stipulation, promise, agreement or obligation contained in this Borrower Loan Agreement or any other document executed in connection herewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future official, officer, agent or employee of the Governmental Lender in his or her individual capacity and neither any official of the Governmental Lender nor any officers executing this Borrower Loan Agreement shall be liable personally or be subject to any personal liability or accountability by reason of this Borrower Loan Agreement.

Section 11.3 Waiver of Personal Liability. No member, officer, agent or employee of the Governmental Lender or any director, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of 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 member, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

### Section 11.4 Limitation on Liability of 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 under any other agreement unrelated to the Projects. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their

respective officers, directors, employees or agents shall be liable or responsible for (i) 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, provided that the Funding Lender and the Governmental Lender shall not be exculpated from their own gross negligence or willful misconduct. 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 Governmental Lender and the Funding Lender.

b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective officers, directors, employees or 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 Projects. 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 Projects. 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 Projects, 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 Projects or any of the Governmental Lender's or the Funding Lender's shareholders (if any), directors, officers,

86

employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 11.5 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.

[Remainder of Page Intentionally Left Blank]

87

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:

Standard LPC Venture LP, an Illinois limited partnership

By: Standard LPC Manager LLC, a Delaware limited liability company

its General Partner <sup>y^^/^V^</sup>,  
*By:*           Z-           .

Name: Bradley C. Martinson

Title: Authorized Representative

[Signature Page to Borrower Loan Agreement]

Governmental Lender:

[Signature Page to Borrower Loan Agreement]

Agreed to and Acknowledged by: Funding Lender: Citibank, N.A.

**By:.**  
Michael Hemmens Vice President

I.

[Signature Page to Borrower Loan Agreement]