

RESOLUTION NO. 21-029

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS GOVERNMENTAL LENDER NOTE (CAROLINE LOFTS) SERIES 2021; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development, construction and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds (including notes), for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Housing Governmental Note (Caroline Lofts) Series 2021 (the "Governmental Lender Note") pursuant to and in accordance with the terms of a Funding Loan Agreement (the "Funding Loan Agreement") among the Department, Zions Bancorporation, N.A. dba Amegy Bank, as funding lender (the "Funding Lender"), and Zions Bancorporation, National Association, as fiscal agent (the "Fiscal Agent"), for the purpose of providing funds in connection with the financing of the "affordable units" portion of the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Governmental Lender Note to fund a mortgage loan to Caroline Lofts, LP, a Texas limited partnership (the “Borrower”) in connection with the acquisition, construction and equipping of a qualified residential rental development described in Exhibit A attached hereto (the “Development”) located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on October 8, 2020, declared its intent to issue its revenue bonds to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas; and

WHEREAS, it is anticipated that the Department and the Borrower will execute and deliver a Borrower Loan Agreement (the “Borrower Loan Agreement”) pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Governmental Lender Note (the “Borrower Loan”) to the Borrower to enable the Borrower to finance the cost of acquisition, construction and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a multifamily note in an original principal amount equal to the original aggregate principal amount of the Governmental Lender Note (the “Borrower Note”), and providing for payment of interest on such principal amount equal to the interest on the Governmental Lender Note and to pay other costs described in the Borrower Loan Agreement; and

WHEREAS, it is anticipated that the Borrower Note will be secured by a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas) (the “Security Instrument”) from the Borrower for the benefit of the Department and assigned to the Fiscal Agent; and

WHEREAS, the Department’s rights (except for certain reserved rights) under the Borrower Loan Agreement, the Borrower Note and the Security Instrument will be assigned to the Fiscal Agent pursuant to an Assignment of Deed of Trust and Loan Documents (the “Assignment”) from the Department to the Fiscal Agent; and

WHEREAS, in order to assure compliance with Section 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, the Board has determined that the Department, the Fiscal Agent and the Borrower will execute a Tax Exemption Certificate and Agreement (the “Tax Exemption Agreement”), in connection with the Governmental Lender Note, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Governmental Lender Note as exempt from gross income for federal income tax purposes; and

WHEREAS, the Board has determined that the Department, the Fiscal Agent, and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the “Regulatory

Agreement”) with respect to the Development, which will be filed of record in the real property records of Harris County, Texas; and

WHEREAS, the Board has further determined that Funding Lender will purchase the Governmental Lender Note from the Department; and

WHEREAS, upon completion of certain conditions it is expected that Citibank, N.A., a national banking association (“Citibank”) will facilitate the financing of the Development in the permanent phase by acquiring the Governmental Lender Note and in connection with the conversion to the permanent phase the Borrower will execute and deliver an Amended and Restated Multifamily Promissory Note (the “Amended Borrower Note”); and

WHEREAS, the Board has examined proposed forms of (a) the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement, the Assignment and the Tax Exemption Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution and (b) the Security Instrument, the Borrower Note and the Amended Borrower Note; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article 1, to authorize the issuance of the Governmental Lender Note, the execution and delivery of the Issuer Documents, the acceptance of the Security Instrument and the Borrower Note and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE 1

ISSUANCE OF GOVERNMENTAL LENDER NOTE; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Governmental Lender Note. That the issuance of the Governmental Lender Note is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, all under and in accordance with the conditions set forth herein and in the Funding Loan Agreement, and that, upon execution and delivery of the Funding Loan Agreement, the Authorized Representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department’s seal to the Governmental Lender Note and to deliver the Governmental Lender Note to the Attorney General of the State (the “Attorney General”) for approval, the Comptroller of Public Accounts of the State for registration and the Fiscal Agent for authentication (to the extent required in the Funding Loan Agreement), and thereafter to deliver the Governmental Lender Note to or upon the order of the Funding Lender.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price of the Governmental Lender Note. That (i) the Governmental Lender Note shall bear interest prior to the Conversion Date at the Construction Interest Rate (each term as defined in the Funding Loan Agreement),

and from and after the Conversion Date at a Permanent Period Interest Rate (as defined in the Funding Loan Agreement) of a fixed rate per annum, which rate shall be determined at least six (6) business days prior to the delivery of the Governmental Lender Note, as described in the Amended Borrower Note, subject to adjustment as provided in the Funding Loan Agreement; provided that, in no event shall the interest rate (including any default rate) on the Governmental Lender Note exceed the maximum interest rate permitted by applicable law; (ii) the aggregate principal amount of the Governmental Lender Note shall be \$20,000,000; (iii) the final maturity of the Governmental Lender Note shall occur on May 1, 2054; and (iv) the price at which the Governmental Lender Note is sold to the Funding Lender shall be the principal amount thereof.

Section 1.3 Reserved.

Section 1.4 Approval, Execution and Delivery of the Funding Loan Agreement. That the form and substance of the Funding Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Funding Loan Agreement, and to deliver the Funding Loan Agreement to the Fiscal Agent and the Funding Lender.

Section 1.5 Approval, Execution and Delivery of the Borrower Loan Agreement. That the form and substance of the Borrower Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Borrower Loan Agreement, and to deliver the Borrower Loan Agreement to the Borrower.

Section 1.6 Approval, Execution and Delivery of the Tax Exemption Agreement. The form and substance of the Tax Exemption Agreement relating to the Governmental Lender Note are hereby approved and that the Authorized Representatives each are hereby authorized to execute the Tax Exemption Agreement and to deliver the Tax Exemption Agreement to the Borrower and the Fiscal Agent.

Section 1.7 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Fiscal Agent and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.8 Sale of the Governmental Lender Note. That the sale of the Governmental Lender Note to the Funding Lender is hereby authorized and approved.

Section 1.9 Acceptance of the Borrower Note, the Amended Borrower Note and the Security Instrument. That the form and substance of the Borrower Note, the Amended Borrower Note and the Security Instrument are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Borrower Note to the order of the Fiscal Agent without recourse.

Section 1.10 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Fiscal Agent.

Section 1.11 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives each are hereby authorized to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.12 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives each are hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell LLP, Bond Counsel to the Department ("Bond Counsel"), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.13 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Funding Loan Agreement
- Exhibit C - Borrower Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Borrower Note
- Exhibit F - Security Instrument
- Exhibit G - Amended Borrower Note
- Exhibit H - Assignment
- Exhibit I - Tax Exemption Agreement

Section 1.14 Authorized Representatives. That the following persons are hereby named as Authorized Representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department, and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives."

Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Governmental Lender Note in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Governmental Lender Note.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Governmental Lender Note and all other Department activities.

Section 2.4 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Governmental Lender Note and the fees and revenues to be received in connection with the financing of the Development in accordance with the Funding Loan Agreement and the Tax Exemption Agreement and to enter into any agreements relating thereto only to the extent permitted by the Funding Loan Agreement and the Tax Exemption Agreement.

Section 2.5 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.6 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Governmental Lender Note and the financing of the Development are hereby ratified and confirmed.

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Borrower Loan Agreement, the Tax Exemption Agreement and the Regulatory Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Borrower Loan Agreement, the Tax Exemption Agreement and the Regulatory

Agreement, which require, among other things, that the “affordable units” portion of the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Governmental Lender Note in connection with the financing of the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Tax Exemption Agreement and the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Borrower Loan established pursuant to the Borrower Loan Agreement will produce the amounts required, together with other available funds, to pay for the Department’s costs of operation with respect to the Governmental Lender Note and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Governmental Lender Note.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase the Governmental Lender Note in the secondary open market for municipal securities.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Governmental Lender Note and the interest thereon shall be a special limited obligation of the Department payable solely from the trust estate created under the Funding Loan Agreement, including the revenues and funds of the Department pledged under the Funding Loan Agreement to secure payment of the Governmental Lender Note, and under no circumstances shall the Governmental Lender Note be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Governmental Lender Note shall not be and does not create or constitute in any way an obligation, a debt or a liability of

the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. The Governmental Lender Note shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Governing Board.

PASSED AND APPROVED this 13th day of May, 2021.

EXHIBIT A

Description of Development

Borrower: Caroline Lofts, LP, a Texas limited partnership

Development: The Development is a 119-unit multifamily community (consisting of 95 affordable units and 24 market rate units as noted below) to be known as Caroline Lofts, and to be located at 2403 Caroline Street, Houston, Harris County, TX 77004. It will consist of two (2) residential buildings with approximately 103,221 net rentable square feet. The unit mix will consist of:

65	one-bedroom/one-bath units
54	two-bedroom/two-bath units
119	Total Units

NOTE – The 119 total units are comprised of:

- 95 affordable units (51 1B/1BA and 44 2B/2BA); and
- 24 market rate units (14 1B/1BA and 10 2B/2BA).

Unit sizes will range from approximately 716 square feet to approximately 1,029 square feet.

FUNDING LOAN AGREEMENT

Among

**ZIONS BANCORPORATION, N.A. dba AMEGY BANK,
as Funding Lender**

and

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender**

and

**ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
as Fiscal Agent**

**\$20,000,000
MULTIFAMILY HOUSING GOVERNMENTAL NOTE
(CAROLINE LOFTS)
SERIES 2021**

Dated as of [May] 1, 2021

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FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of [May] 1, 2021 (this “Funding Loan Agreement”), is entered into by ZIONS BANCORPORATION, N.A. dba AMEGY BANK, (together with any successors and assigns hereunder, the “Funding Lender”) and TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its successors and assigns, the “Governmental Lender”) and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, a national banking association incorporated under the laws of the United States, as Fiscal Agent (together with its successors and assigns, the “Fiscal Agent”).

RECITALS

WHEREAS, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the “Act”); 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; (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, Caroline Lofts, LP, a Texas limited partnership (the “Borrower”), has requested the Governmental Lender to enter into this Funding Loan Agreement under which (i) the Funding Lender will purchase the Governmental Lender Note (as defined herein) and (ii) the Governmental Lender will apply the proceeds of the Governmental Lender Note to make a loan (the “Borrower Loan”) to the Borrower to finance the acquisition, construction and equipping of a multifamily rental housing development to be located in Harris County, Texas, known as Caroline Lofts (the “Project”); and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the “Borrower Loan Agreement”), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Governmental Lender Note and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender the Borrower Note (as defined herein) and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project pursuant to the Security Instrument (as defined herein), made by the Borrower in favor of the Governmental Lender, as assigned to the Fiscal Agent to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, in order to assure compliance with Sections 103 and 142 through 150, inclusive, of the Code, the Governmental Lender, the Fiscal Agent and the Borrower have entered into the Tax Exemption Agreement and the Regulatory Agreement (as each such term is defined herein), each of which

sets forth various certifications, representations, and covenants relating to the tax-exempt status of the Governmental Lender Note; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender the Governmental Lender Note evidencing its obligation to make the payments due to the Funding Lender as provided in this Funding Loan Agreement, all things necessary to make the Governmental Lender Note the legal, valid, and binding limited obligations 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 Note, subject to the terms hereof, have in all respects been duly authorized; and

WHEREAS, pursuant to that certain Forward Purchase Agreement dated as of even date herewith (the "Forward Purchase Agreement"), by and among the Borrower, Funding Lender and Citibank, N.A. ("Citibank"), Citibank has agreed, subject to the satisfaction of the terms and conditions set forth therein, to purchase up to \$[11,330,000.00] in aggregate principal amount of the Funding Loan from the Funding Lender, and upon completion of such purchase on the Conversion Date in accordance with the Forward Purchase Agreement, for all purposes of this Funding Loan Agreement, Citibank will become the Funding Lender. In connection therewith, Funding Lender will assign its respective rights, interests and obligations under this Funding Loan Agreement, the Governmental Lender Note, the Borrower Loan Agreement, the Borrower Note, the Security Instrument (if any) and certain other documents executed in connection with the Borrower Loan to Citibank as of the Conversion Date (as defined herein);

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

It is hereby covenanted and declared that (i) the Governmental Lender Note is to be delivered to evidence the payment obligations of the Governmental Lender pursuant to this Funding Loan Agreement and (ii) the Collateral (as defined in the Borrower Loan Agreement) subject to this Funding Loan Agreement is to be held and applied by the Fiscal Agent, subject to the covenants, conditions and trusts hereinafter set forth, and the Governmental Lender does hereby covenant and agree to and with the Fiscal Agent, for the benefit (except as otherwise expressly provided herein) of the Funding Lender, as follows:

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 herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Exemption 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" contained herein 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 herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to “Approved Accounting Method” refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

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

(g) References to the Governmental Lender Note as “tax-exempt” or to the “tax-exempt status” of the Governmental Lender Note are to treatment of interest on the Governmental Lender Note as excludable from gross income for federal income tax purposes pursuant to Section 103(a) of the Code, except with respect to interest on the Governmental Lender Note for any period during which it is held by a Person who is a “substantial user” of the Project or a “related person” of such a “substantial user,” each within the meaning of Section 147(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.

“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, or (3) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned only by QIBs.

“Authorized Amount” shall mean \$20,000,000.

“Authorized Representative” shall mean with respect to (i) the Governmental Lender, the Chair or Vice Chair of the Board, the Executive Director of the Governmental Lender, the Director of Administration of the Governmental Lender, the Director of Financial Administration of the Governmental Lender, the Director of Bond Finance and Chief Investment Officer of the Governmental Lender, the Director of Multifamily Bonds of the Governmental Lender, the Director of Texas Homeownership of the Governmental Lender, and the Secretary or Assistant Secretary to the Board; (ii) the Borrower, an Authorized Borrower Representative (as defined in the Borrower Loan Agreement); and (iii) the Funding Lender, an authorized signatory of the Funding Lender or, in each case, such other person at any time designated by the Governmental Lender, the Borrower or the Funding Lender to act on behalf of the Governmental Lender, the Borrower or the Funding Lender, as the case may be, as evidenced by a written certificate delivered to the Fiscal Agent containing the specimen signature of such person and signed by one of the above titled officers. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties and exercise all powers of an Authorized Representative. The Fiscal Agent may conclusively presume that a person designated in a written certificate filed with it as an Authorized Representative is an Authorized Representative until such time as the Governmental Lender,

the Borrower and/or the Funding Lender, as the case may be, file with it a written certificate revoking such person's authority to act in such capacity.

"Board" shall mean the Governing Board of the Governmental Lender.

"Borrower" shall mean Caroline Lofts, LP, a Texas limited partnership.

"Borrower Equity Account" shall mean the Borrower Equity Account of the Project Fund established under Section 7.3 hereof.

"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 Note.

"Borrower Loan Agreement" shall mean the Borrower Loan Agreement, of even date herewith, 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 as defined and 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 all applicable notice, grace, and cure periods.

"Borrower Loan Amount" shall mean the amount of \$20,000,000.

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

"Borrower Note" shall mean that certain Promissory Note, dated the Closing Date, in the original principal amount of \$20,000,000, made by the Borrower and payable to the Governmental Lender, evidencing the loan of the proceeds of the Governmental Lender Note, as executed by the Borrower on the Closing Date and endorsed and assigned by the Governmental Lender without recourse to the Fiscal Agent, and as it may thereafter be amended, restated or supplemented from time to time.

"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 in the location of the Corporate Trust Office or Operations Office are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

"Citibank" shall mean Citibank, N.A., a national banking association, and its successors and assigns.

"Closing Costs Fund" shall mean the fund of that name established under Section 7.3(d) hereof.

"Closing Date" means the date upon which the Governmental Note is issued and delivered in exchange for the proceeds representing the purchase price of the Governmental Note paid by the original purchaser thereof.

"Code" shall have the meaning given such term in the Tax Exemption Agreement.

"Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

“Conditions to Conversion” shall have the meaning given such term in the Forward Purchase Agreement.

“Construction Disbursement Agreement” means that certain Construction Disbursement Agreement of even date herewith, between the Funding Lender and the Borrower, setting forth certain provisions relating to disbursement of the Borrower Loan during construction (including when the Funding Lender will approve Requisitions), insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Construction Interest Rate” shall have the meaning given to that term in the Borrower Note.

“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.

“Conversion Date” shall have the meaning contained in the Forward Purchase Agreement.

“Corporate Trust Office” means the office designated as such for the Fiscal Agent pursuant to Section 12.1 hereof.

“Costs of Issuance” shall have the meaning given such term in the Tax Exemption Agreement.

“Event of Default” shall have the meaning ascribed thereto in Section 9.1 hereof.

“Fiscal Agent” shall mean Zions Bancorporation, National Association, as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

“Fiscal Agent’s Fees” shall mean the ongoing compensation and expenses payable to the Fiscal Agent as follows:

(a) the annual administration fee of the Fiscal Agent, for the ordinary services of the Fiscal Agent rendered under this Funding Loan Agreement during each twelve month period and shall be equal to an annual minimum fee of \$3,000, payable annually in advance on the Closing Date and thereafter on each [May] 1, commencing [May] 1, 2022 until the Governmental Lender Note is paid in full;

(b) the reasonable fees and charges of the Fiscal Agent for necessary extraordinary services rendered by it and/or reimbursement for extraordinary expenses incurred by it under this Funding Loan Agreement as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial or for appellate proceedings); provided, however, that the Fiscal Agent shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Fiscal Agent shall have been made; and

(c) for purposes of the Borrower Loan Agreement, indemnification of the Fiscal Agent by the Borrower as more particularly set forth in the Borrower Loan Agreement.

“Forward Purchase Agreement” shall mean the Forward Purchase Agreement described in the recitals of this Funding Loan Agreement.

“Funding Lender” shall mean Zions Bancorporation, N.A. dba Amegy Bank, a national banking association; provided, however, that upon Citibank’s purchase of the Funding Loan on the Conversion Date pursuant to the terms and conditions of the Forward Purchase Agreement, Citibank shall be the Funding Lender for all purposes under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan” shall mean the funds advanced by the Funding Lender on the Closing Date to the Governmental Lender and applied by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” shall mean this Funding Loan Agreement, of even date herewith, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as it may from time to time be supplemented, modified or amended by one or more funding loan agreements, indentures or other instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

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

“Governmental Lender” shall mean the Texas Department of Housing and Community Affairs, a public and official agency of the State.

“Governmental Lender Administration Fee” means the fee payable annually in advance to the Governmental Lender on each [May] 1, in the amount of .10% per annum of the aggregate principal amount of the Governmental Lender Note Outstanding at the inception of each payment period. On the Closing Date, the Borrower will pay the Governmental Lender Administration Fee for the period from the Closing Date to [April 30], 2023. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), payable solely from funds provided by the Borrower, all payments of the Governmental Lender Administration Fee due on or after [May] 1, 2023.

“Governmental Lender Closing Costs” shall mean the fees, costs and expenses incurred by the Governmental Lender in connection with the issuance of the Governmental Lender Note.

“Governmental Lender Compliance Fee” means the fee payable annually in advance to the Governmental Lender on each [May] 1, in the amount of \$25 per Low-Income Unit (as defined in the Regulatory Agreement) in the Project, for the duration of the State Restrictive Period (as defined in the Regulatory Agreement). The first annual Governmental Lender Compliance Fee shall be paid on the Closing Date. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), solely from funds provided by the Borrower, all payments of the Governmental Lender Compliance Fee due on or after [May] 1, 2024. The Governmental Lender Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“Governmental Lender Counsel” shall mean any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes and selected by the Governmental Lender, and initially shall mean Bracewell LLP.

“Governmental Lender Counsel Approving Opinion” shall mean an opinion of Governmental Lender Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross

income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Governmental Lender Counsel No Adverse Effect Opinion” shall mean, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Governmental Lender Counsel to the effect that such action or omission does not adversely affect the excludability of interest payable on the Governmental Lender Note from gross income for federal income tax purposes under existing law (subject to the inclusion of any exceptions contained in the opinion of Governmental Lender Counsel delivered upon original issuance of the Governmental Lender Note or other customary exceptions acceptable to the recipient thereof).

“Governmental Lender Fees” means, collectively, the Governmental Lender Administration Fee and the Governmental Lender Compliance Fee.

“Governmental Lender Note” shall mean that certain Multifamily Housing Governmental Note (Caroline Lofts) Series 2021, in the original principal amount of \$20,000,000, the form of which is contained in Exhibit A hereto.

“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.

“Initial Note” means the initial Governmental Lender Note registered by the Comptroller and subsequently canceled and replaced by a definitive Governmental Lender Note pursuant to this Funding Loan Agreement.

“Loan Payment Date” means (i) the first day of each calendar month, commencing [July] 1, 2021, (ii) the date of any prepayment of the Funding Loan, and (iii) the Maturity Date.

“Maturity Date” shall mean May 1, 2054.

“Maximum Rate” shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Governmental Lender Note under State law pursuant to Chapter 1204 of the Texas Government Code.

“Minimum Beneficial Ownership Amount” shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Governmental Lender Note.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Mortgaged Property” means the real property described in the Security Instrument, together with all improvements, fixtures and personal property (to the extent of the Borrower’s interest therein) located on such real property.

“Noteowner” or “owner of the Governmental Lender Note” means the owner of the Governmental Lender Note as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.5(b) hereof.

“Note Proceeds Account” means the Note Proceeds Account of the Project Fund established under Section 7.3 hereof.

“Operations Office” means the Corporate Trust and Escrow Services offices of the Fiscal Agent where principal and interest on the Governmental Lender Note are paid and where the Governmental Lender Note is surrendered for transfer, exchange or cancellation, which office is presently located at 1801 Main Street, Suite 1190 in Houston, Texas.

“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 Governmental Lender Counsel.

“Permanent Period Funding Agreement” shall mean that certain Loan Covenant Agreement, between Citibank and the Borrower, setting forth certain provisions relating to the Borrower Loan after the Conversion Date, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Permanent Period Interest Rate” means, from and after the Conversion Date, the fixed interest rate of [_____] % per annum, or as otherwise provided in the Borrower Note.

“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 the Fiscal Agent or its affiliates or 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 the Fiscal Agent or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s and 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, which may be administered by the Fiscal Agent or its affiliates.

(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 the Fiscal Agent or 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 and Fiscal Agent. 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 Governmental Lender Note, 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 Reserved Rights) derived from or in connection with the Project and the Funding Loan Documents,

including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, 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 (except any amounts on deposit in the Rebate Fund and the Closing Costs Fund).

“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 Note (including any Prepayment Premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“Project” shall have the meaning given to that term in the Borrower Loan Agreement.

“Qualified Project Costs” shall have the meaning given such term in the Tax Exemption Agreement.

“Rating Agency” shall mean any one and each of S&P, Moody’s and Fitch, Inc. 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.

“Rebate Amount” shall have the meaning given to that term in the Tax Exemption Agreement.

“Rebate Analyst” shall have the meaning given to that term in the Tax Exemption Agreement.

“Rebate Fund” means the Rebate Fund created by Section 7.3(e) hereof.

“Regulations” shall mean the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” shall mean that certain Regulatory and Land Use Restriction Agreement, dated as of the date hereof, by and among the Governmental Lender, the Borrower and the Fiscal Agent, as hereafter amended or modified.

“Required Transferee Representations Letter” shall mean the representations in substantially the form of the letter attached to this Funding Loan Agreement as Exhibit B, duly executed by the holder of the Governmental Lender Note and delivered to the Governmental Lender and the Fiscal Agent.

“Reserved Rights” means (a) all of the Governmental Lender’s right, title and interest in and to all reimbursement, costs, expenses and indemnification, (b) all rights of the Governmental Lender to receive the Governmental Lender Fees and any Rebate Amount, (c) all rights of the Governmental Lender to receive notices, reports and other statements and to make any determination and to grant any approval or consent to anything in this Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and the Borrower Loan Documents requiring the determination, consent or approval of the Governmental Lender, (d) all rights of the Governmental Lender of access to the Mortgaged Property and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Tax Exemption Agreement and in the Regulatory Agreement, (e) any and all rights, remedies and limitations of liability of the Governmental Lender set forth in this Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement and the other Funding Loan Documents, as applicable, regarding (1) the negotiability, registration and transfer

of the Governmental Lender Note, (2) the loss or destruction of the Governmental Lender Note, (3) the limited liability of the Governmental Lender as provided in the Act, this Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and the other Funding Loan Documents, (4) no liability of the Governmental Lender to third parties, and (5) no warranties of suitability or merchantability by the Governmental Lender, (f) all rights of the Governmental Lender in connection with any amendment to or modification of this Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement and the other Funding Loan Documents, and (g) any and all limitations of the Governmental Lender's liability and the Governmental Lender's disclaimers of warranties set forth in this Funding Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement or the Borrower Loan Agreement, and the Governmental Lender's right to inspect and audit the books, records and permits of the Borrower and the Mortgaged Property.

"Resolution" shall mean the resolution of the Governmental Lender authorizing the Governmental Lender Note and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

"Responsible Officer" shall mean any officer within the Corporate Trust Office of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

"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 Note and this Funding Loan Agreement as more fully set forth in Article IV hereof.

"Security Instrument" shall have the meaning given to that term in the Borrower Loan Agreement.

"Servicer" shall mean (a) prior to the Conversion Date, Zions Bancorporation, N.A., or its designee, and (b) on and after the Conversion Date, the Servicer contracting with or appointed by Citibank as of the Conversion Date to service the Borrower Loan.

"Servicing Agreement" shall mean the servicing agreement, if any, 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 S&P Global Ratings, a business of Standard & Poor's Financial Services LLC, or its successors.

"State" shall mean the State of Texas.

"Tax Exemption Agreement" shall mean that certain Tax Exemption Certificate and Agreement dated as of the date hereof, by and among the Governmental Lender, the Borrower and the Fiscal Agent, as in effect on the Closing Date and as it may be amended, supplemented or restated in accordance with its terms.

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

"Written Certificate," "Written Certification," "Written Consent," "Written Direction," "Written Notice," "Written Order," "Written Request," "Written Requisition," "Approved in Writing," and

“Approval in Writing” shall mean a written certificate, consent, direction, notice, order, request, requisition or approval signed by an Authorized Representative of the Borrower, the Funding Lender or the Governmental Lender, as applicable, and delivered to the Funding Lender, the Servicer, if any, the Fiscal Agent or such other Person as required under the Funding Loan Documents.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

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 said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, 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 hereto 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 NOTE

Section 2.1. Terms.

(a) Principal Amount. The principal amount of the Governmental Lender Note is hereby expressly limited to the Authorized Amount.

(b) Funding. The purchase price of the Governmental Lender Note, which shall be equal to the principal amount thereof, shall be paid by the Funding Lender to the Fiscal Agent for the account of the Governmental Lender on the Closing Date, and will be disbursed to the Borrower in accordance with the disbursement provisions of Section 7.7 hereof, Section 2.10 of the Borrower Loan Agreement and the Construction Disbursement Agreement.

(c) Issuance Date; Maturity. The Governmental Lender Note shall be issued on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount therefor, to the extent not previously paid, and all accrued and unpaid interest thereon, shall be due and payable.

(d) Principal. The outstanding principal amount of the Governmental Lender Note as of any given date shall be the Authorized Amount, less any payments of principal of the Governmental Lender Note previously received from payments of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the 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 Fiscal Agent shall keep a record of all principal repayments made under the Governmental Lender Note and shall upon Written Request provide the Governmental Lender and the Funding Lender with a statement of the outstanding principal balance of the Governmental Lender Note.

(e) Interest. Interest shall be paid on the outstanding principal amount of the Governmental Lender Note on each Loan Payment Date at (i) the Construction Interest Rate prior to the Conversion Date, and (ii) the Permanent Period Interest Rate from and after the Conversion Date, and otherwise as set forth in the Borrower Loan Agreement; provided, however, that in no event shall interest paid on the Governmental Lender Note (including any default interest rate) exceed the Maximum Rate.

(f) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, late payment fees and other amounts due on the Governmental Lender Note shall be made on the Loan Payment Date and shall be identical with and shall be made on the same terms and conditions, as the principal, interest, premium, if any, late payment fees and other amounts due on the Borrower Note. If there is a Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer when required under the Borrower Note and Borrower Loan Agreement, and the Servicer, on behalf of the Funding Lender, shall then remit such funds to the Fiscal Agent to be deposited in the Governmental Lender Note Payment Fund established under this Funding Loan Agreement. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Fiscal Agent and deposited into the Governmental Lender Note Payment Fund.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, 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 including Chapter 1204 of the Texas Government Code and other applicable laws of the State of Texas. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, 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. In no event shall the interest on the Governmental Lender Note exceed the Maximum Rate. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid on the Governmental Lender Note 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 such Governmental Lender Note.

(h) Notwithstanding any other provision of this Funding Loan Agreement to the contrary, **THE GOVERNMENTAL LENDER SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON, THE GOVERNMENTAL LENDER NOTE SOLELY OUT OF THE SECURITY, INCLUDING PLEDGED REVENUES. THE GOVERNMENTAL LENDER NOTE SHALL BE A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM THE SECURITY, INCLUDING PLEDGED REVENUES. THE GOVERNMENTAL LENDER NOTE SHALL CONSTITUTE A VALID CLAIM OF THE**

RESPECTIVE NOTEOWNERS THEREOF AGAINST THE SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL LENDER NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS FUNDING LOAN AGREEMENT.

Section 2.2. Forms of Governmental Lender Note. Simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement. Except for the Initial Note, which shall be numbered I-1, the Governmental Lender Note shall be numbered consecutively from R-1 upwards.

The Initial Note, registered by the Comptroller, shall be identical to the form of Governmental Lender Note attached as Exhibit A hereto, except that the third-to-last paragraph of the form shall be replaced with the following in the Initial Note:

“THIS GOVERNMENTAL LENDER NOTE SHALL NOT BE VALID OR BECOME OBLIGATORY for any purpose or be entitled to any benefit or security under the Funding Loan Agreement unless the Comptroller’s Registration Certificate hereon has been executed by an authorized representative of the Texas Comptroller of Public Accounts by manual signature.”

In lieu of the authentication certificate of the Fiscal Agent, the Initial Note shall contain the following certificate:

“COMPTROLLER’S REGISTRATION CERTIFICATE

OFFICE OF THE COMPTROLLER OF	§	
PUBLIC ACCOUNTS	§	REGISTER NO. _____
THE STATE OF TEXAS	§	

I HEREBY CERTIFY that this Governmental Lender Note has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Texas Comptroller of Public Accounts.

Witness my signature and seal of office this _____.

Texas Comptroller of Public Accounts

(SEAL)”

The provisions of Exhibit A may be rearranged or re ordered for purposes of the Initial Note.

Section 2.3. Execution and Authentication of Governmental Lender Note. The Governmental Lender Note (including the Initial Note) shall be signed, by the manual or facsimile signature of the Chair or Vice Chair of the Governmental Lender, and attested by the manual or facsimile signature of the Secretary or an Assistant Secretary of the Governmental Lender and shall bear an impression or a facsimile of the seal of the Governmental Lender. In case any officer whose signature or a facsimile of whose signature appears on any Governmental Lender Note shall cease to be that officer before the issuance of such Governmental Lender Note, the officer’s signature or the facsimile thereof nevertheless shall be

valid and sufficient for all purposes, the same as if he or she had remained in office until that time. Any Governmental Lender Note may be executed on behalf of the Governmental Lender by an officer who, on the date of execution is the proper officer, although on the date of such Governmental Lender Note that person was not the proper officer.

Except for the Initial Note, no Governmental Lender Note shall be secured by, or be entitled to any lien, right or benefit under, this Funding Loan Agreement or be valid or obligatory for any purpose, unless there appears on such Governmental Lender Note a certificate of authentication substantially in the form provided for herein, executed by the Fiscal Agent by manual signature, and such certificate upon a definitive Governmental Lender Note shall be conclusive evidence, and the only evidence, that such definitive Governmental Lender Note has been duly authenticated and delivered hereunder.

Section 2.4. Mutilated, Lost, Stolen or Destroyed Governmental Lender Note. If any Governmental Lender Note is mutilated, lost, stolen or destroyed, the Governmental Lender shall execute and the Fiscal Agent shall authenticate and deliver a new Governmental Lender Note of the same maturity, interest rate, principal amount, series and tenor in lieu of and in substitution for the mutilated, lost, stolen or destroyed Governmental Lender Note, provided, however, that in the case of any mutilated Governmental Lender Note, the mutilated Governmental Lender Note must first be surrendered to the Fiscal Agent, and in the case of any lost, stolen or destroyed Governmental Lender Note, there must be first furnished to the Fiscal Agent evidence satisfactory to it of the ownership of such Governmental Lender Note, and of the loss, theft or destruction, together with indemnity satisfactory to the Fiscal Agent and the Governmental Lender and compliance with such other reasonable requirements as the Fiscal Agent and the Governmental Lender may prescribe. If any such Governmental Lender Note will mature within the ensuing 60 days, or if such Governmental Lender Note has been called for prepayment or a prepayment date pertaining to such Governmental Lender Note has passed, instead of replacing such Governmental Lender Note, the Fiscal Agent may, upon receipt of such indemnity, pay the Governmental Lender Note on such maturity date or prepayment date. The Fiscal Agent shall cancel any mutilated Governmental Lender Note surrendered to it. In connection with any such substitution or payment, the Governmental Lender and the Fiscal Agent may charge the holder of such Governmental Lender Note their reasonable fees and expenses, including attorneys' fees and expenses.

If, after the delivery of such replacement Governmental Lender Note, the original Governmental Lender Note in lieu of which such replacement Governmental Lender Note was issued is presented for payment or registration, the Fiscal Agent shall seek to recover such replacement Governmental Lender Note from the person to whom it was delivered or any person taking therefrom and shall be entitled to recover from the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Fiscal Agent, the Borrower or the Governmental Lender in connection therewith.

Section 2.5. Registration and Transfer of Governmental Lender Note.

(a) The Fiscal Agent acknowledges that the Funding Lender is the initial holder of the Governmental Lender Note and shall remain the sole holder of the Governmental Lender Note except as transferred as provided herein.

(b) The Fiscal Agent, on behalf of the Governmental Lender, shall provide for the registration of the Governmental Lender Note and the registration of transfers thereof pursuant to Chapter 1203 of the Texas Government Code. In that regard, the Fiscal Agent shall maintain a register, which shall contain a record of every Governmental Lender Note at any time authenticated hereunder, together with the name and address of the holder thereof, the date of authentication, the date of transfer or payment, and such other matters as may be deemed appropriate by the Fiscal Agent or the Governmental Lender. The Governmental Lender, the Fiscal Agent and any agent of the Governmental Lender or the Fiscal Agent may treat the

person in whose name the Governmental Lender Note is registered as the owner of such Governmental Lender Note for the purpose of receiving payment of such Governmental Lender Note and for all other purposes whatsoever whether or not Governmental Lender Note payments are overdue thereon, and, to the extent permitted by law, neither the Governmental Lender, the Fiscal Agent nor any such agent shall be affected by notice to the contrary.

(c) The transfer of the Governmental Lender Note is subject to registration by the holder thereof only upon compliance with the conditions for registration of transfer imposed on the holder under this Section 2.5 and under Section 2.6 hereof. Upon surrender of the Governmental Lender Note at the Operations Office of the Fiscal Agent, the Governmental Lender shall execute (if necessary), and the Fiscal Agent shall authenticate and deliver, in the name of the designated transferee (but not registered in blank or to “bearer” or a similar designation), a new Governmental Lender Note of like principal amount, and having the same stated maturity, series, tenor and interest rate.

(d) A Governmental Lender Note delivered in exchange for or upon transfer of a Governmental Lender Note shall be a valid limited obligation of the Governmental Lender evidencing the same debt, and entitled to the same benefits under this Funding Loan Agreement, as the Governmental Lender Note surrendered for such exchange or transfer.

(e) Registration of the transfer of the Governmental Lender Note may be made on the Fiscal Agent’s register by the holder thereof in person or by such holder’s attorney duly authorized in writing. The Governmental Lender Note presented or surrendered for registration of transfer or exchange shall (i) be accompanied by evidence of compliance with the provisions of Section 2.6 hereof, (ii) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in a form satisfactory to the Fiscal Agent, duly executed and with guaranty of signature of the holder thereof or his, her or its attorney duly authorized in writing and (iii) include written instructions as to the details of the transfer of the Governmental Lender Note.

(f) No service charge shall be made to the registered holder of the Governmental Lender Note for any registration, transfer or exchange, but the Fiscal Agent and the Governmental Lender may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of such Governmental Lender Note, and any legal or unusual costs of transfers.

(g) The Governmental Lender Note may not be transferred through the services of the Depository Trust Company or any other third-party registrar other than the Fiscal Agent.

Section 2.6. Required Transferee Representations Letter; Participations; Sale and Assignment.

(a) The Funding Lender shall deliver to the Governmental Lender and the Fiscal Agent a signed Required Transferee Representations Letter in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Note in whole, or (ii) subject to subsection (c) below, participation interests or other beneficial ownership interests in the Governmental Lender Note in each case only in Minimum Beneficial Ownership Amounts, provided that in each case such sale shall be only to Approved Transferees that execute and deliver to the Fiscal Agent, with a copy to the Governmental Lender, the Required Transferee Representations Letter. Anything herein to the contrary notwithstanding, the Governmental Lender Note shall only be transferable in whole so that

there is, at any time, only a single registered owner of the Governmental Lender Note, although participation or beneficial ownership interests may be sold or transferred subject to the requirements of this Section 2.6.

(c) Notwithstanding the other provisions of this Section 2.6, no participation interest or other beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount.

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

(e) The Fiscal Agent will have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Funding Loan Agreement or under applicable law with respect to any transfer of the Governmental Lender Note other than to examine the Required Transferee Representations Letter delivered to it to determine substantial compliance as to form with the express requirements hereof.

ARTICLE III PREPAYMENT

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

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received by the Governmental Lender, to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of such 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, but only from amounts received pursuant to the Borrower Loan Documents.

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

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the Written Direction of the Funding Lender in accordance with the terms of the 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, but only from amounts received pursuant to the Borrower Loan Documents.

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

ARTICLE IV SECURITY

Section 4.1. Security for the Governmental Lender Note. To secure the payment of the Governmental Lender Note, to declare the terms and conditions on which the Governmental Lender Note is secured, and in consideration of the premises and of the purchase of the Governmental Lender Note 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 Fiscal Agent (except as limited herein) for the benefit of the holder from time to time of the Governmental Lender Note, a lien on and security interest in the following described property (excepting, however, the Reserved 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 Borrower Note, including, without limitation, all rents, revenues and receipts derived thereunder by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments (except those related to the Reserved Rights) 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 be limited to the Security received by the Governmental Lender from the Borrower, but such limitation 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 by the Fiscal Agent under this Funding Loan Agreement (other than the Rebate Fund and the Closing Costs Fund), 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 Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for 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 the 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 Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or 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 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 Governmental Lender Note, the Governmental Lender has pledged and assigned its right, title and interest in the Security to the Fiscal Agent in trust for the benefit of the Noteowners. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Fiscal Agent the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The Borrower Note endorsed without recourse to the Fiscal Agent by the Governmental Lender;
- (b) Copies of the Borrower Loan Agreement and Regulatory Agreement;
- (c) Copies of the Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Fiscal Agent, in recordable form and acceptable to the Funding Lender as evidenced by its acceptance thereof on the Closing Date;
- (d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Fiscal Agent's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing and acceptable to the Funding Lender as evidenced by its acceptance thereof on the Closing Date; 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 and acceptable to the Funding Lender as evidenced by its acceptance thereof on the Closing Date.

The Governmental Lender shall deliver and deposit with the Fiscal Agent or the Funding Lender such additional documents, financing statements, and instruments as the Fiscal Agent at the Written Direction of the Funding Lender, or 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, at the expense of the Borrower.

ARTICLE V LIMITED LIABILITY

Section 5.1. Source of Payment of Governmental Lender Note and Other Obligations. Notwithstanding any other provision of this Funding Loan Agreement to the contrary, ANY OBLIGATION THAT THE GOVERNMENTAL LENDER MAY INCUR UNDER THIS FUNDING LOAN AGREEMENT OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION HERewith THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER, BUT SHALL BE A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE SECURITY, INCLUDING PLEDGED REVENUES. THE GOVERNMENTAL LENDER NOTE SHALL CONSTITUTE A VALID CLAIM OF THE RESPECTIVE HOLDER THEREOF AGAINST THE SECURITY, INCLUDING PLEDGED REVENUES, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY AND INTEREST ON THE GOVERNMENTAL LENDER NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS FUNDING LOAN AGREEMENT. THE GOVERNMENTAL LENDER NOTE, TOGETHER WITH INTEREST THEREON, SHALL BE A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER GIVING RISE TO NO CHARGE AGAINST THE GOVERNMENTAL LENDER'S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY,

THE SECURITY PLEDGED THEREFOR. THE PRINCIPAL OF, PREMIUM, IF ANY AND INTEREST ON THE GOVERNMENTAL LENDER NOTE SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE GOVERNMENTAL LENDER (EXCEPT TO THE EXTENT OF THE SECURITY PLEDGED THEREFOR). THE GOVERNMENTAL LENDER NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

Section 5.2. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future officer, director, employee or agent of the Governmental Lender in his individual capacity, and neither the officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note 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 sale of the Governmental Lender Note 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 executed Governmental Lender Note, authenticated by the Fiscal Agent;

(b) Receipt by the Fiscal Agent of the original executed Borrower Note, endorsed to the Fiscal Agent by the Governmental Lender;

(c) Receipt by the Funding Lender of executed counterparts of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Disbursement Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Security Instrument, and any UCC financing statement required by the Security Instrument;

(d) Receipt by the Fiscal Agent of a certified copy of the Resolution;

(e) Receipt by the Governmental Lender and Fiscal Agent of the executed Required Transferee Representations Letter from the Funding Lender;

(f) A written request and authorization by the Governmental Lender (acting through an Authorized Representative) to the Fiscal Agent to authenticate and deliver the Governmental Lender Note to or for the account of the Funding Lender upon receipt from the Funding Lender of the proceeds of the Governmental Lender Note;

(g) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the origination of the Borrower Loan and the delivery of the Governmental Lender Note and any underlying real estate transfers or transactions, including the Costs of Issuance Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;

(h) Receipt by the Funding Lender and the Fiscal Agent of a Governmental Lender Counsel Approving Opinion;

(i) Receipt by the Funding Lender and the Fiscal Agent of an Opinion of Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act of 1933, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(j) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender, the Fiscal Agent and the Funding Lender to the effect that the Borrower Loan Documents, the Regulatory Agreement, and the Tax Exemption 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;

(k) Receipt by the Funding Lender of the Initial Note registered by the Comptroller and an Opinion of the Attorney General of the State of Texas approving the Governmental Lender Note; and

(l) Receipt by the Funding Lender and the Governmental Lender of any other documents or opinions that the Funding Lender, the Governmental Lender or Governmental Lender Counsel may require.

The Funding Lender shall be deemed to have received or waived all conditions precedent upon the release of the Funding Loan.

ARTICLE VII FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. Funds and accounts shall be established on the Closing Date as provided in Section 7.3 hereof. Fiscal Agent is 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, the Fiscal Agent or the Servicer, if any, 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 in Permitted Investments at the Written Direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Exemption Agreement, and as more particularly described in Section 7.7 hereof. Absent Written Direction of the Borrower, Fiscal Agent will invest funds in the [_____]. [TO COME FROM BORROWER]

The Fiscal Agent shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Funding Loan Agreement. The Fiscal Agent is hereby authorized, in making or disposing of any investment permitted by this Funding Loan Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Fiscal Agent or for any third person or dealing as principal for its own account. The Parties acknowledge that the Fiscal Agent is not providing investment supervision, recommendations, or advice.

Pursuant to the Tax Exemption Agreement, the Fiscal Agent shall cause to be kept and maintained adequate records pertaining to investment of all proceeds of the Governmental Lender Note sufficient to permit the Borrower, on behalf of the Governmental Lender, to determine the amount of rebate, if any, required to be paid to the United States of America pursuant to Section 148 of the Code. The Fiscal Agent

shall have no responsibility to make such determination.

Section 7.3. Establishment of Funds. There are established with the Fiscal Agent the following funds and accounts:

- (a) The Governmental Lender Note Payment Fund, and within such Fund, a Capitalized Interest Account;
- (b) The Project Fund, and within such Fund, a Note Proceeds Account and a Borrower Equity Account;
- (c) The Expense Fund;
- (d) The Closing Costs Fund; and
- (e) The Rebate Fund.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent in trust for the benefit of the Funding Lender, and except for money held in the Expense Fund, the Closing Costs Fund and the Rebate Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

Section 7.4. Governmental Lender Note Payment Fund. On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Capitalized Interest Account of the Governmental Lender Note Payment Fund, the amount of \$[_____]. The Governmental Lender and the Borrower shall have no interest in the Governmental Lender Note Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Governmental Lender Note Payment Fund any amounts received from the Borrower as payments of principal, interest, premiums, if any, late payment fees on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

The Fiscal Agent shall apply all amounts on deposit in the Governmental Lender Note Payment Fund, including the Capitalized Interest Account therein, in the following order of priority:

First, to pay or provide for the payment of the interest then due on the Governmental Lender Note;

Second, to pay or provide for the payment or the prepayment of principal (and Prepayment Premium, if any) on the Governmental Lender Note, provided moneys have been transferred or deposited into the Governmental Lender Note Payment Fund for such purpose; and

Third, to pay or provide for the payment of the Governmental Lender Note on the Maturity Date therefor.

Section 7.5. Expense Fund. The Fiscal Agent shall deposit in the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the

Governmental Lender or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) the Governmental Lender Fees, as and when required under this Funding Loan Agreement, or on the Written Direction of the Governmental Lender, (ii) on each [May] 1, commencing [May] 1, 2022, to the Fiscal Agent amounts due pursuant to subpart (a) of the definition of “Fiscal Agent’s Fees” herein, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to, or at the Written Direction of, the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

Written notice of any insufficiency, which results in the Governmental Lender not receiving the Governmental Lender Fees on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date.

Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

Notwithstanding anything herein to the contrary, the Governmental Lender shall prepare and submit to the Fiscal Agent, and the Fiscal Agent, on behalf of the Governmental Lender, shall submit a written invoice to the Borrower for payment of the Governmental Lender Fees not later than 30 days prior to the due date for payment of the Governmental Lender Fees, and the Fiscal Agent shall remit moneys received from the Borrower to the Governmental Lender for payment of the Governmental Lender Fee.

Section 7.6. Closing Costs Fund. On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Closing Costs Fund, the amount of \$[_____]; provided that, no more than two percent of the proceeds of the Governmental Lender Note shall be deposited in the Closing Costs Fund. Amounts in the Closing Costs Fund shall be disbursed by the Fiscal Agent to pay Closing Costs on the Closing Date or as soon as practicable thereafter: (a) Costs of Issuance, as stated in a completed requisition in the form of Exhibit D; and (b) the Fiscal Agent its closing fee of \$2,500 and first year annual minimum administration fee of \$3,000. Any interest earnings on amounts on deposit in the Closing Costs Fund shall remain in the Closing Costs Fund. Any moneys remaining in the Closing Costs Fund (including investment proceeds) after the earlier of (i) the payment of all Costs of Issuance as certified in writing to the Fiscal Agent by the Borrower or (ii) a period of six months after the Closing Date, shall be paid to or at the direction of the Borrower and the Closing Costs Fund shall be closed.

Section 7.7. Project Fund.

(a) All proceeds of the Governmental Lender Note provided by the Funding Lender shall be deposited to the Note Proceeds Account of the Project Fund and disbursed as herein provided. The Fiscal Agent shall disburse moneys in the Project Fund for the acquisition, construction and equipping of the Project, to pay other Qualified Project Costs and to pay other costs related to the Project as further provided herein. All funds, other than proceeds from the sale of the Governmental Lender Note, deposited by or on behalf of the Borrower for credit to the Project Fund shall be deposited to the Borrower Equity Account of

the Project Fund per the Written Direction of the Borrower or the Funding Lender and disbursed as requested by the Borrower pursuant to a Written Requisition in the form attached hereto as Exhibit C or as otherwise provided herein.

Before any payment shall be made from the Project Fund, the Regulatory Agreement shall have been executed and submitted to a title company for recordation in the official records of Harris County, Texas, and there shall be filed with the Fiscal Agent a Written Requisition of the Borrower substantially in the form attached hereto as Exhibit C and Approved in Writing by the Funding Lender pursuant to the terms, conditions and provisions of the Construction Disbursement Agreement.

In addition to the above, in connection with a Written Requisition:

(i) Only the signature of an Authorized Representative of the Funding Lender shall be required on a Written Requisition during any period in which Borrower Loan Agreement Default has occurred and is then continuing under the Borrower Loan Documents (Written Notice of which default has been given by an Authorized Representative of the Funding Lender to the Borrower, the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such Written Notice as to the occurrence and continuation of such a default).

(ii) The Fiscal Agent shall disburse amounts in the Project Fund upon receipt of a Written Requisition in the form attached hereto as Exhibit C signed only by the Funding Lender (and without any need for any signature by an Authorized Representative of the Borrower), so long as the amount to be disbursed is to be used solely to make payments of principal, interest and/or fees due under the Funding Loan Documents.

(iii) The Fiscal Agent may conclusively rely on all Written Requisitions, the execution of the Written Requisitions by the Authorized Representative of the Borrower and the approval of all Written Requisitions by the Authorized Representative of the Funding Lender, as required by this Section 7.7, as conditions of payment from the Project Fund, which Written Requisitions constitute, as to the Fiscal Agent, irrevocable determinations that all conditions to payment of the specified amounts from the Project Fund have been satisfied. These documents shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to inspect the Project or the construction work or to make any independent investigation with respect to the matters set forth in any Written Requisition or other statements, orders, certifications and approvals received by the Fiscal Agent. The Fiscal Agent is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, construction, renovation, equipping, improvement and installation of the Project.

(b) Upon receipt of each Written Requisition submitted by the Borrower substantially in the form attached hereto as Exhibit C and Approved in Writing by the Funding Lender, the Fiscal Agent shall promptly, but in any case within three Business Days, make payment from the appropriate account within the Project Fund in accordance with such Written Requisition. The Fiscal Agent shall have no duty to determine whether any requested disbursement from the Project Fund complies with the terms, conditions and provisions of the Funding Loan Documents, constitutes payment of Qualified Project Costs or complies with the other representations in the Written Requisition. The Approval in Writing of a Written Requisition by the Funding Lender shall be deemed a certification and, insofar as the Fiscal Agent is concerned, shall constitute conclusive evidence that all of the terms, conditions and requirements of the Funding Loan Documents applicable to such disbursement have been fully satisfied or waived and the Written Requisition

from the Borrower shall, insofar as the Fiscal Agent is concerned, constitute conclusive evidence that the costs described in the Written Requisition constitute Qualified Project Costs or other permitted Project costs.

The Fiscal Agent shall promptly provide Written Notice to the Borrower, the Funding Lender and the Governmental Lender if there are not sufficient funds available to or on deposit with the Fiscal Agent to make the disbursements as and when required by this Section 7.7(b). Except as provided in the next sentence, all such payments shall be made by check or draft payable, or by wire transfer, either (i) directly to the Person to be paid, (ii) to the Borrower and such Person, or (iii) upon receipt by the Funding Lender of evidence that the Borrower has previously paid such amount and Written Direction to the Fiscal Agent as to such payment as evidenced by the Funding Lender's Approval in Writing of the Written Requisition, to the Borrower. Upon the occurrence of an Event of Default of the Borrower of which the Fiscal Agent has knowledge as provided herein, which is continuing under the Funding Loan Documents, with the Written Consent of the Funding Lender, the Fiscal Agent may apply amounts on deposit in the Borrower Equity Account of the Project Fund to the payment of principal of and interest on the Governmental Lender Note. If a Written Requisition signed by the Authorized Representative of the Borrower and countersigned by an Authorized Representative of the Funding Lender is received by the Fiscal Agent, the requested disbursement shall be paid by the Fiscal Agent as soon as practicable, but in no event later than three Business Days following receipt thereof by the Fiscal Agent. Upon final disbursement of all amounts on deposit in the Project Fund, the Fiscal Agent shall close the Project Fund.

(c) *Intentionally omitted.*

(d) Amounts on deposit in the Borrower Equity Account of the Project Fund shall be disbursed from time to time by the Fiscal Agent to pay designated amounts as set forth in and upon receipt of a Written Requisition of the Borrower signed by an Authorized Borrower Representative and the Funding Lender.

(e) Immediately prior to any mandatory prepayment of the Governmental Lender Note pursuant to the terms hereof, any amounts then remaining in the Note Proceeds Account and the Borrower Equity Account of the Project Fund shall, at the Written Direction of the Funding Lender, be transferred to the Governmental Lender Note Payment Fund to be applied to the prepayment of such Governmental Lender Note pursuant hereto.

(f) Amounts on deposit in the Project Fund shall be invested in Permitted Investments at the Written Direction by the Borrower, in accordance with Section 7.2 hereof. Investment income earned on amounts on deposit in each account of the Project Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Project Fund.

(g) Amounts on deposit in the Governmental Lender Note Payment Fund, including the Capitalized Interest Account therein, Expense Fund and Closing Costs Fund shall be invested in Permitted Investments at the Written Direction of the Borrower, in accordance with Section 7.2 hereof. Investment income earned on amounts on deposit in each account of the Governmental Lender Note Payment Fund, Expense Fund and Closing Costs Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Governmental Lender Note Payment Fund, Expense Fund and Closing Costs Fund.

The Fiscal Agent is authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees, which may be deducted from income earned on investments. The Fiscal Agent shall have no discretion in investing funds or advising any party on investing funds. The Fiscal Agent shall not be liable for any losses (including specifically a decline in value) resulting from the investment of funds as provided herein.

The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement through its own trust or banking department or any Affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its Affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal Agent shall not be liable for any losses from, or the Governmental Lender Note becoming an “arbitrage bond” as defined in Section 148 of the Code as a result of, investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall detail all investment transactions, if any, made by the Fiscal Agent hereunder.

(h) Unless otherwise approved by the Governmental Lender and the Funding Lender, any amounts representing proceeds of the Funding Loan remaining on deposit in any fund or account held under this Funding Loan Agreement on the Termination Date (as defined in the Forward Purchase Agreement), shall be immediately transferred to the Governmental Lender Note Payment Fund and used to prepay the Governmental Lender Note.

Section 7.8. Rebate Fund. The Rebate Fund shall be for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Funding Lender. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all investments thereof and income from investments therefrom, shall be held in trust and applied solely as provided in the Tax Exemption Agreement. Notwithstanding the foregoing, the Fiscal Agent with respect to the Rebate Fund is afforded all the rights, protections and immunities otherwise accorded to it hereunder.

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 public and official agency of the State of Texas, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the special limited obligation represented by the Governmental Lender Note and the Funding Loan and apply the proceeds of such obligation or loan to finance the Project and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender’s execution and delivery of, and its performance under, such Funding Loan Documents and all other agreements and instruments relating thereto.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender

is a party, a default under or violation of which would prevent it from entering into the Funding Loan Agreement, executing and delivering the Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note 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 Funding Loan Agreement as evidenced by the Governmental Lender Note.

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

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Governmental Lender Note. Subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement, but only from available Pledged Revenues.

Section 8.4. Servicer. The Funding Lender may appoint a Servicer to service and administer the Funding Loan and/or the Borrower Loan on behalf of the Funding Lender and the Fiscal Agent, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to the Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement. If a Servicer other than the Funding Lender is appointed at any time, the Funding Lender will retain certain duties and obligations as set forth in a Servicing Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated) perform and observe any 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 Fiscal Agent will promptly notify the Borrower, the Governmental Lender, the Servicer, if any, and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Fiscal Agent has received Written Notice or otherwise has knowledge of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

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

(b) The Governmental Lender and the Fiscal Agent, as applicable, will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender and the Fiscal Agent, as applicable, relating to the Project and the Governmental Lender Note, if any, and to make copies thereof.

Section 8.7. Tax Covenants.

(a) Governmental Lender's Covenants. The Governmental Lender represents, covenants and agrees that:

(i) the Governmental Lender will comply with all applicable requirements of the Code that are necessary to preserve the excludability of interest on the Governmental Lender Note from gross income for federal income tax purposes, all as set forth in the Tax Exemption Agreement.

(ii) the Governmental Lender will not take any action inconsistent with its expectation stated in the Tax Exemption Agreement and will comply with its covenants and requirements stated therein and incorporated by reference herein.

(b) Fiscal Agent's Representations and Covenants. The Fiscal Agent represents, covenants and agrees that it will not take any action inconsistent with its expectations stated in the Tax Exemption Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(c) Change in Law. To the extent that published rulings of the Internal Revenue Service or amendments to the Code or the Regulations modify the covenants of the Governmental Lender or the Fiscal Agent that are set forth in this Funding Loan Agreement or that are necessary for interest on the

Governmental Lender Note to be excludable from gross income for federal income tax purposes, the Fiscal Agent and the Governmental Lender will comply with such modifications upon the direction of Governmental Lender Counsel specifying such modifications.

Section 8.8. 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, on behalf 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 8.9. Maintenance of Records. The Funding Lender shall keep and maintain adequate records pertaining to funds and accounts relative to the Borrower Loan not established with the Fiscal Agent, if any, including all deposits to and disbursements from said funds and accounts and will provide information and records relating thereto to the Fiscal Agent or the Governmental Lender upon request.

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 Note when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note 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 8.8 hereof, 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 12.1 hereof, 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 or Borrower 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 or the Borrower 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 by Written Direction of 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 all applicable notice, grace and cure periods therein).

Section 9.2. Provisions Regarding Any Default and Acceleration.

(a) In the event an Event of Default has occurred and is continuing, the Funding Lender, in its discretion, may accelerate the amounts due hereunder and under the Borrower Loan Agreement and take other remedial actions available hereunder or thereunder. The Funding Lender may, in its discretion, upon the acceleration of the Borrower's obligations under the Borrower Loan Documents, give Written Direction to the Fiscal Agent and the Governmental Lender to simultaneously accelerate the maturity of the Governmental Lender Note and apply any funds available hereunder to the payment of the Governmental Lender Note (after paying the fees and expenses of the Fiscal Agent and the Governmental Lender). The Governmental Lender shall cooperate with the Fiscal Agent and the Funding Lender in exercising rights and remedies under the Funding Loan Documents and the Borrower Loan Documents, but only upon being satisfactorily indemnified by the Borrower for any fees or expenses relating thereto as provided in the Funding Loan Agreement, the Borrower Loan Agreement and Regulatory Agreement. The Fiscal Agent shall take Written Direction from the Funding Lender with respect to the foregoing matters. The Funding Lender will provide written notice of any such acceleration to Governmental Lender.

(b) At any time after a declaration of acceleration has been made pursuant to paragraph (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 Fiscal Agent a sum sufficient to pay (1) all overdue installments of interest on the Governmental Lender Note, (2) the principal of and Prepayment Premium on the Governmental Lender Note 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 Note, (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 Note, and (4) all sums paid or advanced by the Funding Lender and the Fiscal Agent and the reasonable compensation, expenses, disbursements and advances of the Funding Lender and the Fiscal Agent, their 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 Governmental 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 hereof.

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 Project 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) If an Event of Default has occurred and is continuing, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, 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 Project is 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 Governmental Lender Note 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 Note, 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.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note 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 Note, and provided that the Governmental Lender may enforce specific performance with respect to the Reserved Rights.

(d) 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.

(e) 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 hereof).

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 amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Governmental Lender Note, including, without limitation, any amounts due to the Fiscal Agent, Governmental Lender, the Funding Lender, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Governmental Lender Note, 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 Note) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Governmental Lender Note; provided, however, that partial interests in any portion of the Governmental Lender Note 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

(c) Third: 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.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement, if any, shall control. Capitalized terms used in this 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 Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If the 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 the Funding Lender. No waiver of any default or Event of Default pursuant to

Section 9.9 hereof 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 hereof, by Written Notice to the Governmental Lender, the Fiscal Agent 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 Reserved 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 Note. As set forth in this Section 9.10 but subject to Section 9.9 hereof, 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 Note (provided all applicable notice, cure and grace periods have expired without cure of such default), whether or not the Governmental Lender Note has 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, hereby 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 assignee or designee shall become the legal or beneficial owner of the Project 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 Note, 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.

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.

**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 Note may be amended or waived only by an instrument signed by the Funding Lender, the Governmental Lender and the Fiscal Agent, provided, however, no such amendment or waiver 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 all applicable notice, cure and grace periods), no Borrower consent shall be required unless such amendment or waiver 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, the Fiscal Agent 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. The Fiscal Agent shall not be obligated to sign any amendment or waiver instrument authorized pursuant to this Article X, if the amendment or waiver, in the sole discretion of the Fiscal Agent, adversely affects the rights, duties, liabilities or immunities of the Fiscal Agent.

Section 10.2. Amendments Require Funding Lender Consent. Neither the Governmental Lender nor the Fiscal Agent shall 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.

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 in Writing the same in its sole discretion and (ii) the Governmental Lender, the Fiscal Agent and the Funding Lender shall have received, at the expense of the Borrower, a Governmental Lender 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.

**ARTICLE XI
THE FISCAL AGENT**

Section 11.1. Appointment of Fiscal Agent; Acceptance. The Governmental Lender hereby appoints Zions Bancorporation, National Association, as Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

Section 11.2. Certain Duties and Responsibilities of Fiscal Agent.

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an Event of Default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and subject to Section 11.2(c)(iii) hereof, use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her office.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Fiscal Agent shall not be liable for any action taken, or error of judgment made, in good faith, by any of its officers, employees or agents unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(iii) The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Funding Lender relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power conferred upon the Fiscal Agent under this Funding Loan Agreement; and

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Borrower Loan Documents to which it is a party and other related documents, solely in its capacity as the Fiscal Agent.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Funding Loan Agreement.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

(g) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 shall extend to actions taken or omitted in its role as assignee of the Governmental Lender under the Borrower Loan Agreement and the other Funding Loan Documents.

Section 11.3. Notice of Defaults. Upon the occurrence of any default hereunder or under any Borrower Loan Document and provided that a Responsible Officer of the Fiscal Agent has actual knowledge of or has received Written Notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

Section 11.4. Certain Rights of Fiscal Agent. Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may request at the expense of the Borrower, rely on and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Representative of the Governmental Lender;

(c) Whenever in the administration of this Funding Loan Agreement or any Borrower Loan Document the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Written Certificate of the Governmental Lender, the Funding Lender, the Servicer or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any Borrower Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of its powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice; and

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or Governmental Lender Fees when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Notice of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the Corporate Trust Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

Section 11.5. Not Responsible for Recitals; Other Matters. The recitals contained herein and in the Governmental Lender Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Governmental Lender Note.

The Fiscal Agent shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the funding of the Governmental Lender Note.

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. Unless otherwise expressly provided, the Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement.

The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

Section 11.6. May Hold Governmental Lender Note. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Governmental Lender Note and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not the Fiscal Agent.

Section 11.7. Moneys Held in Trust. Moneys held by the Fiscal Agent in trust hereunder need not be segregated from other funds except to the extent required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

Section 11.8. Compensation and Reimbursement. Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation

for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

(a) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.

(b) As security for the performance of the obligations of the Borrower under this Section and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Pledged Revenues.

(c) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Governmental Lender Note or the Borrower Loan or the release of this Funding Loan Agreement.

Section 11.9. Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State Approved in Writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, have at least \$500,000,000 of trust assets under management and have a combined capital surplus of at least \$2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender and the Governmental Lender in their sole and absolute discretion.

Section 11.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 45 days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, with the Written Consent of the Funding Lender, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), with the Written Consent of the Funding Lender and the Governmental Lender, or (iii) the Funding Lender by Written Notice delivered to the Fiscal Agent, the Governmental Lender and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the Office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender. In case all or substantially all of the Pledged Revenues and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof

delivered to the Governmental Lender, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment in the manner hereinafter provided, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause Written Notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

Section 11.11. Acceptance of Appointment by Successor.

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights, powers and trusts.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article, to the extent operative.

Section 11.12. Merger, Conversion, Consolidation or Succession to Business. Any entity into which the Fiscal Agent may be merged or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such entity shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Borrower, the Governmental Lender and Funding Lender within 30 days of such succession.

Section 11.13. Appointment of Co-Fiscal Agent. It is the purpose of this Funding Loan Agreement that there shall be no violation of any laws of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be

necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co-fiscal agent hereunder, upon Written Notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co-fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co-fiscal agent.

Section 11.14. Loan Servicing. The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

Section 11.16. Compliance with Texas Government Code. Each of the Fiscal Agent and the Funding Lender hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Funding Loan Agreement, and with respect to the Fiscal Agent, the Regulatory Agreement and the Tax Exemption Agreement, and such representation is hereby incorporated by reference into each of such referenced documents, as applicable. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Each of the Fiscal Agent and the Funding Lender understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the respective entity and exists to make a profit.

Each of the Fiscal Agent and the Funding Lender represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Fiscal Agent, the Funding Lender and each of such entity's parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Each of the Fiscal Agent and the Funding Lender understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the respective entity and exists to make a profit.

ARTICLE XII MISCELLANEOUS

Section 12.1. Notices. 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, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

The Governmental Lender: Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Director of Multifamily Bonds
Telephone: (512) 475-3344
Facsimile: (512) 475-1895
Email: teresa.morales@tdhca.state.tx.us

The Fiscal Agent: Zions Bancorporation, National Association
1801 Main Street, Suite 1190
Houston, Texas 77002
Attention: Robert Lozano
Telephone: (713) 232-1919
Facsimile: (844) 527-2686

The Borrower: Caroline Lofts, LP
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380
Attention: David Mark Koogler
Telephone: 281.292.1968
E-mail: dkoogler@mark-dana.com

with a copy to: Locke Lord LLP
600 Congress Ave, Suite 2200
Austin, Texas 78701
Attention: Richard Morrow, Esq.
Telephone: (512) 305-4709
Facsimile: (512) 305-4800
Email : RMorrow@lockelord.com

Equity Investor: RBC Community Investments, LLC
600 Superior Avenue, Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel

with a copy to: Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett P. Applegate
E-mail: bapplegate@att-law.com

If to Funding Lender (prior to the Conversion Date): Amegy Bank
4576 Research Forest Drive
The Woodlands, TX 77381
Attention: Don Hickey
Email: don.hickey@amegybank.com

If to Funding Lender (from and after the Conversion Date): CITIBANK, N.A.
388 Greenwich Street, Trading 6th Floor
New York, New York 10013
Attention: Transaction and Asset Management Group
Deal ID# [_____]]
Facsimile: (212) 723-8209

and CITIBANK, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Deal ID# [_____]]
Facsimile: (805) 557-0924

and CITIBANK, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Deal ID# [_____]]
Facsimile: (215) 328-0305

And a copy of any notices
of default send to:

CITIBANK, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# [_____]
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 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. 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 as provided herein.

Section 12.2. 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 Governmental Lender Note has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 12.3. 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 12.4. 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 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 12.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable 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 that of the State. The Fiscal Agent's rights, duties, power and obligations hereunder are governed entirely by the terms and provisions of this Funding Loan Agreement and the Regulatory Agreement. The parties hereby (i) irrevocably submit to the exclusive jurisdiction of the federal or state courts sitting in Texas, (ii) waive any

objection to laying of venue in any such action or proceeding in such courts, and (iii) waive any objection that such courts are an inconvenient forum or do not have jurisdiction over any party.

Section 12.6. 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 Note 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 12.7. 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 12.8. 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 or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 12.9. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES EXCEPT THE GOVERNMENTAL LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING 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 12.10. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and related documents 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.

[Executed on the following page]

IN WITNESS WHEREOF, the Funding Lender, the Governmental Lender and the Fiscal Agent have caused this Funding Loan Agreement to be duly executed as of the date first written above.

**ZIONS BANCORPORATION, N.A.,
DBA AMEGY BANK**
as Funding Lender

By: _____
Name: Sara Hale
Title: Senior Vice President

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: James B. "Beau" Eccles
Title: Secretary to the Board

**ZIONS BANCORPORATION, NATIONAL
ASSOCIATION,**
as Fiscal Agent

By: _____
Name: _____
Title: _____
Amegy Bank Division

EXHIBIT A

FORM OF GOVERNMENTAL LENDER NOTE

THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON THIS GOVERNMENTAL LENDER NOTE. THE FAITH, CREDIT OR TAXING POWER OF THE STATE OF TEXAS IS NOT PLEDGED, GIVEN OR LOANED TO PAYMENT OF THIS GOVERNMENTAL LENDER NOTE'S PRINCIPAL OR INTEREST.

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 THIS 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.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING GOVERNMENTAL NOTE
(CAROLINE LOFTS) SERIES 2021**

\$20,000,000

Dated Date: [____], 2021

No. ____

FOR VALUE RECEIVED, the undersigned TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS ("Obligor" or "Governmental Lender") promises to pay to the order of ZIONS BANCORPORATION, N.A. dba AMEGY BANK, as the registered owner hereof or its registered assigns ("Holder") the principal sum of TWENTY MILLION AND NO/100 DOLLARS (\$20,000,000), on May 1, 2054 or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below, but solely from the Security pledged therefor, including Pledged Revenues available for such purpose.

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, 2021 (the "Funding Loan Agreement"), among Obligor, Zions Bancorporation, National Association, as fiscal agent (the "Fiscal Agent") and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on this Governmental Lender Note 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 this Governmental Lender Note in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of this Governmental Lender Note so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

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

The principal of, premium, if any, and interest on this Governmental Lender Note is payable at the designated corporate trust office of the Fiscal Agent. Payment of all amounts hereunder shall be in any

coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

This Governmental Lender Note is a pass-through obligation relating to a construction and permanent loan (the “Borrower Loan”) made by Obligor from proceeds of this Governmental Lender Note to Caroline Lofts, LP, a Texas limited partnership, as borrower (the “Borrower”), under that certain Borrower Loan Agreement, dated as of [May] 1, 2021 (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 Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms set forth in the Borrower Note, payments on which are passed-through under this Governmental Lender Note. An estimated amortization schedule for this Governmental Lender Note and the Borrower Note is attached hereto as Schedule 1.

THIS GOVERNMENTAL LENDER NOTE IS ISSUED UNDER THE PROVISIONS OF CHAPTER 2306, TEXAS GOVERNMENT CODE, AS AMENDED (THE “ACT”). THIS GOVERNMENTAL LENDER NOTE IS NOT A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER BUT IS A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE MONEYS AND PROPERTIES PLEDGED FOR PAYMENT THEREOF.

This Governmental Lender Note is a special, limited obligation of the Obligor, payable solely from the Pledged Revenues and the other funds and moneys and security pledged and assigned under the Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on this Governmental Lender Note or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or this Governmental Lender Note or any of the Governmental Lender’s agreements or obligations with respect to the Funding Loan or this Governmental Lender Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The Governmental Lender has no taxing power.

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE GOVERNMENTAL LENDER MAY INCUR UNDER THE FUNDING LOAN AGREEMENT OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION THEREWITH THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER, BUT SHALL BE A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE PLEDGED SECURITY. THIS GOVERNMENTAL LENDER NOTE SHALL CONSTITUTE A VALID CLAIM OF THE HOLDER HEREOF AGAINST THE SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS GOVERNMENTAL LENDER NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THE FUNDING LOAN AGREEMENT. THIS GOVERNMENTAL LENDER NOTE SHALL BE A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER GIVING RISE TO NO CHARGE AGAINST THE GOVERNMENTAL LENDER’S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE SECURITY PLEDGED THEREFOR. PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS GOVERNMENTAL LENDER NOTE SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE GOVERNMENTAL LENDER (EXCEPT TO THE EXTENT OF THE SECURITY PLEDGED

THEREFOR). THIS GOVERNMENTAL LENDER NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS GOVERNMENTAL LENDER NOTE OR FOR ANY CLAIM BASED ON THIS GOVERNMENTAL LENDER NOTE, OR OTHERWISE IN RESPECT OF THIS GOVERNMENTAL LENDER NOTE, OR BASED ON OR IN RESPECT OF THE FUNDING LOAN AGREEMENT OR ANY SUPPLEMENTAL FUNDING LOAN AGREEMENT, AGAINST THE GENERAL CREDIT OF THE GOVERNMENTAL LENDER OR AGAINST ANY PAST, PRESENT OR FUTURE GOVERNING BOARD MEMBER, DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF THE GOVERNMENTAL LENDER, OR OF ANY SUCCESSOR TO THE GOVERNMENTAL LENDER, AS SUCH, EITHER DIRECTLY OR THROUGH THE GOVERNMENTAL LENDER OR ANY SUCCESSOR TO THE GOVERNMENTAL LENDER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS GOVERNMENTAL LENDER NOTE.

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; 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 hereby made part of this Governmental Lender Note.

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 hereby 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.

Neither the directors, officers, agents or employees of the Governmental Lender nor any person executing this Governmental Lender Note shall be personally liable hereon or be subject to any personal liability or accountability by reason of the issuance of this Governmental Lender Note, whether by virtue of any Constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the execution of the Funding Loan Agreement and the issuance of this Governmental Lender Note.

This Governmental Lender Note shall not be entitled to any benefit under the Funding Loan Agreement or be valid or obligatory for any purpose until the Fiscal Agent shall have executed the Certificate of Authentication appearing hereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Governmental Lender Note is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Governmental Lender Note to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that all acts, conditions and things necessary to be done or performed by the Governmental Lender or to have happened precedent to or in the execution and delivery of the Funding Loan Agreement have been done and performed and have happened in regular and due form as required by law.

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.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

(SEAL)

ATTEST:

By: _____
[Vice] Chair

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

This Governmental Lender Note is issued under the provisions of and described in the within-mentioned Funding Loan Agreement.

Date of Authentication: _____

**ZIONS BANCORPORATION, NATIONAL
ASSOCIATION**

By: _____

Name: _____

Title: _____

Amegy Bank Division

ASSIGNMENT

For value received, the undersigned sells, assigns and transfers unto _____
the within Governmental Lender Note and irrevocably constitutes and appoints _____ attorney
to transfer that Governmental Lender Note on the books kept for registration thereof, with full power of
substitution in the premises.

Dated: _____

Signature

Signature Guaranteed:

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Governmental Lender Note in every particular, without alteration or any change whatever.

SCHEDULE 1
FUNDING LOAN AMORTIZATION SCHEDULE
(See Attached Amortization Schedule)

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS LETTER

[To be prepared on letterhead of transferee]

[Date]

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Zions Bancorporation, National Association
1801 Main Street, Suite 1190
Houston, Texas 77002
Attention: Robert Lozano

Re: Caroline Lofts

Ladies and Gentlemen:

The undersigned representative of _____ (the “Funding Lender”), the funding lender of the Texas Department of Housing and Community Affairs Multifamily Housing Governmental Note (Caroline Lofts) Series 2021, dated as of [____], 2021 (the “Governmental Funding Lender Note”), does hereby certify, represent and warrant for the benefit of the Texas Department of Housing and Community Affairs (the “Governmental Funding Lender”) and Zions Bancorporation, National Association, as fiscal agent (the “Fiscal Agent”), that the Funding Lender is a “qualified institutional buyer” as defined in Rule 144A under the Securities Act of 1933, as amended (a “QIB”).

The Funding Lender hereby acknowledges, represents, and warrants to, and agrees with, the Governmental Funding Lender and the Fiscal Agent, as follows:

(1) The Funding Lender is purchasing the Governmental Funding Lender Note with its own funds (or with funds from accounts over which it has sole investment authority) and not the funds of any other person, and for its own account (or for accounts over which it has sole investment authority) and not as nominee or agent for the account of any other person and not with a view to any distribution thereof, other than the deposit of the Governmental Funding Lender Note in a custodial or trust arrangement each of the beneficial owners of which shall be required to be a QIB.

(2) The Funding Lender has such knowledge and experience in business and financial matters and with respect to the purchase and ownership of multifamily housing revenue bonds, tax-exempt securities and other investment vehicles similar in character to the Governmental Funding Lender Note, so as to enable it to understand and evaluate the risks of such investments and form an investment decision with respect thereto, the Funding Lender has no need for liquidity in such investment and the Funding Lender is (or any account for which it is purchasing is) able to bear the risk of such investment for an indefinite period and to afford a complete loss thereof.

(3) The Funding Lender acknowledges that it has been provided with, and has had the opportunity to review, the documents relating to the issuance of the Governmental Funding Lender Note by the Governmental Funding Lender. The Funding Lender either has been supplied with or has had access

to information, including financial statements, and other financial information, and has had the opportunity to ask questions and receive answers from individuals concerning the Governmental Funding Lender, Caroline Lofts, LP (the “Borrower”), and its credit standing, the Borrower Loan Agreement dated as of [May] 1, 2021, between the Governmental Funding Lender and the Borrower (the “Borrower Loan Agreement”), the Funding Loan Agreement dated as of [May] 1, 2021, among the Governmental Funding Lender, ZIONS BANCORPORATION, N.A. dba AMEGY BANK, as funding lender and the Fiscal Agent (the “Funding Loan Agreement”), and the Governmental Funding Lender Note so that, as a sophisticated investor, the Funding Lender has been able to make its decision to purchase the Governmental Funding Lender Note.

(4) The Funding Lender has had the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information it may request.

(5) The Funding Lender is a nationally- or state-chartered bank that regularly extends credit to state and local governments by making loans the repayment obligations under which are evidenced by obligations such as the Governmental Funding Lender Note; has knowledge and experience in financial and business matters that make it capable of evaluating the Borrower, the Governmental Funding Lender Note and the risks associated with the extension of credit evidenced by the Governmental Funding Lender Note; and has the ability to bear the economic risk of extending the credit evidenced by the Governmental Funding Lender Note. The Funding Lender is not acting as a broker, dealer, municipal securities underwriter, municipal advisor or fiduciary in connection with its extension of credit evidenced by the Governmental Funding Lender Note.

(6) The Funding Lender acknowledges that (a) the Governmental Funding Lender Note (i) has not been registered under the Securities Act of 1933, as amended, (ii) has not been registered or otherwise qualified for sale under the securities laws of any state, and (iii) will not be listed on any securities exchange and (b) there is no established market for the Governmental Funding Lender Note and that none is likely to develop.

(7) THE FUNDING LENDER UNDERSTANDS THAT:

(i) NEITHER THE STATE OF TEXAS NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF TEXAS, SHALL BE LIABLE OR OBLIGATED (GENERAL, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE PRINCIPAL OF THE GOVERNMENTAL FUNDING LENDER NOTE OR THE PREMIUM, IF ANY, OR INTEREST THEREON, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE GOVERNMENTAL FUNDING LENDER NOTE; AND

(ii) THE GOVERNMENTAL FUNDING LENDER HAS NO TAXING POWER AND PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL FUNDING LENDER NOTE ARE PAYABLE SOLELY OUT OF THE MONEYS TO BE RECEIVED BY THE FISCAL AGENT ON BEHALF OF THE GOVERNMENTAL FUNDING LENDER UNDER THE BORROWER LOAN AGREEMENT AND AMOUNTS ON DEPOSIT IN THE FUNDS AND ACCOUNTS ESTABLISHED AND PLEDGED UNDER THE FUNDING LOAN AGREEMENT.

(8) The Funding Lender understands that in connection with any proposed transfer or exchange of the Governmental Funding Lender Note, there must be delivered to the Fiscal Agent a letter of the

transferee in substantially the same effect as this letter or otherwise as permitted under the Funding Loan Agreement.

(9) The Funding Lender understands that, in connection with any proposed transfer of the Governmental Funding Lender Note, such transfer must be limited to an Eligible Funding Lender. "Eligible Funding Lender" means a prospective transferee that the Funding Lender has clear grounds to believe and does believe can make representations with respect to itself to substantially the same effect as the representations set forth herein.

(10) THE FUNDING LENDER INDEMNIFIES THE GOVERNMENTAL FUNDING LENDER AND THE FISCAL AGENT AGAINST ANY AND ALL LIABILITY, COST OR EXPENSE (INCLUDING ATTORNEYS' FEES) THAT RESULT IF THE REPRESENTATIONS CONTAINED IN THE FUNDING LENDER'S TRANSFEREE REPRESENTATIONS LETTER ARE FALSE IN ANY MATERIAL RESPECT.

(11) The Funding Lender is acquiring 100% of the Governmental Funding Lender Note.

The Funding Lender has conducted its own investigation to the extent it deemed necessary. The Funding Lender has been offered an opportunity to have made available to it any and all such information it might request from the Governmental Funding Lender and the Borrower. On this basis, it is agreed by the Funding Lender that the Funding Lender is not relying on any other party or person to undertake the furnishing or verification of information related to the referenced transaction.

The Governmental Funding Lender Note for this Funding Lender should be registered with the Fiscal Agent as follows and an executed W-9 has been attached:

Name: _____
Address: _____
Tax ID #: _____

Payment instructions: () wire () check

This letter and the representations and agreements contained herein are made for your benefit.

IN WITNESS WHEREOF, I have hereunto set my hand the ____ day of _____, 20__.

FUNDING LENDER

By: _____

Name: _____

Title: _____

**MUST BE SIGNED BY ACTUAL FUNDING
LENDER. MAY NOT BE SIGNED BY NOMINEE
OR AGENT**

EXHIBIT C

PROJECT FUND REQUISITION

Zions Bancorporation, National Association, as Fiscal Agent

Re: Caroline Lofts

You are requested to disburse funds from the Project Fund pursuant to Section 7.7 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the “**Requisition**”). The terms used in this requisition shall have the meaning given to those terms in the Funding Loan Agreement (the “**Funding Loan Agreement**”), dated as of [May] 1, 2021, by and among ZIONS BANCORPORATION, N.A. DBA AMEGY BANK, in its capacity as Funding Lender (the “**Funding Lender**”), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Governmental Lender**”) and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as Fiscal Agent (the “**Fiscal Agent**”), securing the Texas Department of Housing and Community Affairs Multifamily Housing Governmental Note (Caroline Lofts) Series 2021, dated as of [____], 2021 (the “**Governmental Lender Note**”).

REQUISITION NO.:

PAYMENT DUE TO:

AMOUNT(S) TO BE DISBURSED: \$ _____ from the Note Proceeds Account

\$ _____ from the Borrower Equity Account

The undersigned Borrower hereby represents and warrants that the following information and certifications provided in connection with this Requisition are true and correct as of the date hereof and authorizes Servicer to submit this Requisition to the Fiscal Agent on behalf of Borrower:

1. Purposes for which disbursement is requested are specified in the **attached Schedule**.
2. Party or parties to whom the disbursements shall be made are specified in the **attached Schedule** (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned); provided, that no reimbursement shall be made for advances and payments made prior to 60 days prior to October 8, 2020.
3. The undersigned certifies that:
 - (a) the conditions precedent to disbursement set forth in the Construction Disbursement Agreement have been satisfied;
 - (b) the disbursement requested pursuant to this Requisition will be used solely to pay a cost or costs allowable under the Funding Loan Agreement and the Construction Disbursement Agreement;
 - (c) none of the items for which disbursement is requested pursuant to this Requisition has formed the basis for any disbursement previously made from the Project Fund and all such items have been properly recorded in Borrower’s books and are set forth on the Schedule attached hereto, along with paid invoices attached for any sum for which reimbursement is requested and invoices or bills of sales for all other items;

(d) all labor and materials for which disbursements have been requested have been incorporated into the Project in accordance with reasonable and standard building practices, the Construction Disbursement Agreement and all applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Project;

(e) the materials, supplies and equipment furnished or installed for the Improvements are not subject to any lien or security interest or that the funds to be disbursed pursuant to this Requisition are to be used to satisfy any such lien or security interest;

(f) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, including that none of the proceeds of the Funding Loan (including investment earnings thereon) will be used to provide an airplane, a skybox or any other private luxury box, any facility primarily used for gambling, health club facility or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;

(g) with respect to amounts from the Note Proceeds Account of the Project Fund, not less than 95% of the sum of:

- (A) the amounts requisitioned by this Requisition; plus
- (B) all amounts previously requisitioned and disbursed from the Note Proceeds Account of the Project Fund;

have been or will be applied by Borrower to pay the Qualified Project Costs;

(h) Borrower is not in default under the Borrower Loan Agreement, the Construction Disbursement Agreement or any other Borrower Loan Document to which it is a party and nothing has occurred to the knowledge of Borrower that would prevent the performance of its obligations under such documents;

(i) no amounts being requisitioned hereby will be used to pay, or reimburse, any Costs of Issuance incurred in connection with the delivery of the Governmental Lender Note or pay debt service with respect to the Governmental Lender Note; and

(j) Funds deposited with Borrower for further disbursement to third parties shall be paid to such third parties by check dated the date of such deposit and Borrower reasonably expects such funds will be disbursed from its account within five Business Days of such deposit.

[Following items may not be required for Initial Disbursement]

Estimated costs of completing the uncompleted construction as of the date of this Requisition:

_____.

Percent of the construction completed as of the date this request: _____%

IN WITNESS WHEREOF, the undersigned has executed this Requisition as of the day and date first above written.

Date: _____

CAROLINE LOFTS, LP,
a Texas limited liability company

By: Caroline Lofts Advisors, LLC,
its General Partner

By: Mark-Dana Corporation,
its Managing Member

By: _____
David Mark Koogler
President

APPROVED:

ZIONS BANCORPORATION, N.A. dba AMEGY BANK,
a national banking association

By: _____
Name: _____
Title: _____

EXHIBIT D

**CLOSING COSTS REQUISITION
(Closing Costs Fund)**

Zions Bancorporation, National Association, as Fiscal Agent

Re: Caroline Lofts

Fiscal Agent:

You are requested to disburse funds from the Closing Costs Fund pursuant to Section 7.6 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the "Requisition"). The terms used in this requisition shall have the meaning given to those terms in the Funding Loan Agreement (the "Funding Loan Agreement"), dated as of [May] 1, 2021, by and among ZIONS BANCORPORATION, N.A. dba AMEGY BANK, in its capacity as Funding Lender (the "Funding Lender"), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as Fiscal Agent, securing the Texas Department of Housing and Community Affairs Multifamily Housing Governmental Note (Caroline Lofts) Series 2021, dated as of [____], 2021 (the "**Governmental Lender Note**").

REQUISITION NO.:
PAYMENT DUE TO:
AMOUNT TO BE DISBURSED: \$

The undersigned, on behalf of CAROLINE LOFTS, LP, a limited partnership duly organized and existing under the laws of the State of Texas (the "**Borrower**"), certifies that:

- (a) the expenditures for which money is requisitioned by this Requisition represent proper charges against the Closing Costs Fund, have not been included in any previous requisition and are set forth in the Schedule attached to this Requisition, with invoices attached for any sums for which reimbursement is requested; and
- (b) the money requisitioned is not greater than is necessary to meet obligations due and payable or to reimburse the applicable party for funds actually advanced for Costs of Issuance.
- (b) the total amount of Costs of Issuance paid from proceeds of the Governmental Lender Note is not in excess of 2% of the sale proceeds of the Governmental Lender Note.

Attached to this Requisition is a Schedule, together with copies of invoices or bills of sale covering all items for which payment is being requested.

Date of Requisition: _____

CAROLINE LOFTS, LP,
a Texas limited liability company

By: Caroline Lofts Advisors, LLC,
its General Partner

By: Mark-Dana Corporation,
its Managing Member

By: _____
David Mark Koogler
President

BORROWER LOAN AGREEMENT

between

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender,**

and

**CAROLINE LOFTS, LP,
as Borrower**

Dated as of [May] 1, 2021

Relating to:

**\$20,000,000
MULTIFAMILY HOUSING GOVERNMENTAL NOTE
(CAROLINE LOFTS)
SERIES 2021**

**purchased by ZIONS BANCORPORATION, N.A.,
dba Amegy Bank, as Funding Lender**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as fiscal agent (the "Fiscal Agent") for the benefit of ZIONS BANCORPORATION, N.A., dba AMEGY BANK, as funding lender (the "Funding Lender") under that certain Funding Loan Agreement, of even date herewith, by and among Texas Department of Housing and Community Affairs, the Fiscal Agent and the Funding Lender, under which the Funding Lender is purchasing the Governmental Lender Note issued by the Governmental Lender, the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

Caroline Lofts

DM-#8022052.4

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BORROWER LOAN AGREEMENT

THIS BORROWER LOAN AGREEMENT (this “Borrower Loan Agreement”) is entered into as of the first day of [____], 2021, between TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its successors and assigns, the “Governmental Lender”) and CAROLINE LOFTS, LP, a Texas limited partnership (together with its successors and assigns, the “Borrower”).

WITNESSETH:

RECITALS

WHEREAS, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the “Act”); and

WHEREAS, pursuant to the Act, the Governmental Lender is authorized to issue bonds and to use the proceeds thereof to provide monies to aid in financing the acquisition, construction and equipping of residential rental property for dwelling units; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the “Borrower Loan”), for the acquisition, construction and equipping of a 119-unit multifamily rental housing development to be located in the city of Houston, Harris County, Texas, and to be known as Caroline Lofts (the “Project”); and

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

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the “Funding Loan Agreement”), among the Governmental Lender, Zions Bancorporation, National Association, as fiscal agent (the “Fiscal Agent”), and Zions Bancorporation, N.A., dba Amegy Bank (the “Funding Lender”), under which the Funding Lender will purchase the Governmental Lender Note (as defined herein) issued by the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement to the Borrower to finance the acquisition, construction and equipping of the Project (the “Borrower Loan”); and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas) (as amended, restated and/or supplemented from time to time, the “Security Instrument”), of even date herewith in favor of the Governmental Lender, as assigned to the Fiscal Agent, to secure the Governmental Lender Note, encumbering the Project, and will be advanced to Borrower pursuant to this Borrower Loan Agreement and the Construction Disbursement Agreement (as defined herein); and

WHEREAS, pursuant to that certain Forward Purchase Agreement dated as of even date herewith (the “Forward Purchase Agreement”), by and among the Borrower, the Funding Lender and Citibank, N.A. (“Citibank”), Citibank has agreed, subject to the satisfaction of the terms and conditions set forth therein, to purchase up to \$[11,330,000.00] in aggregate principal amount of the Funding Loan from the Funding Lender, and upon completion of such purchase on the Conversion Date in accordance with the Forward Purchase Agreement, for all purposes of this Borrower Loan Agreement, Citibank will become the Funding Lender. In connection therewith, the Funding Lender, will assign its rights, interests and obligations under this Borrower Loan Agreement, the Governmental Lender Note, the Funding Loan Agreement, the

Borrower Note, the Security Instrument (if any) and certain other documents executed in connection with the Borrower Loan to Citibank as of the Conversion Date (as defined herein).

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

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

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

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

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

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

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

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

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

“Act” shall mean Chapter 2306, Texas Government Code, as amended.

“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 thereof.

“ADA” shall have the meaning set forth in Section 4.1.38 hereof.

“Additional Borrower Payments” shall mean, prior to the Conversion Date, the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default) and Section 5.14 (Expenses), and from and after the Conversion Date, the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default), Section 5.14 (Expenses) and Section 10 (Prepayments) of the Borrower Note.

“Agreement of Environmental Indemnification” shall mean, prior to the Conversion, the environmental indemnification from Borrower and guaranteed by Guarantor as provided in the Security Instrument, and from and after the Conversion Date, the Agreement of Environmental Indemnification to be executed by the Borrower and the Guarantor in favor of Citibank and the other Beneficiary Parties referenced therein, as contemplated under the terms of the Forward Purchase Agreement.

“Appraisal” shall mean an appraisal of the Project, 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.

“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.

“Architect’s Agreement” means any agreement that Borrower and any Architect from time to time may execute pursuant to which 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 Amount” has the meaning assigned thereto in the Funding Loan Agreement.

“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, the Fiscal Agent 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 Code” shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Bankruptcy Event” shall mean, (a) prior to the Conversion Date, (i) the filing of a petition by the Borrower, the General Partner, the Guarantor or any other person or entity which is in any manner obligated to the Funding Lender under or in connection with the Loan Documents (as defined in the Construction Disbursement Agreement) (each, a “*Bankruptcy Party*”) for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization or other debtor relief law; (ii) the failure of any Bankruptcy Party to effect a full dismissal of any involuntary petition under the Bankruptcy Code or under any other debtor relief law that is filed against such Bankruptcy Party or in any way restrains or limits such Bankruptcy Party, the Governmental Lender or the Funding Lender regarding the Borrower Loan or the Project prior to the earlier of the entry of any court order granting relief sought in such involuntary petition or 30 days after the date of filing of such involuntary petition; (iii) the filing of any pleading or an answer by any Bankruptcy Party in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition’s material allegations regarding the Borrower’s insolvency; (iv) a general assignment by any Bankruptcy Party for the benefit of creditors; or (v) any Bankruptcy Party applying for, or the appointment of, a receiver, trustee, custodian or liquidator of any Bankruptcy Party or any of its property; and (b) from and after the Conversion Date, shall have the meaning in the Security Instrument.

“Bankruptcy Proceeding” shall have the meaning set forth in Section 4.1.8 hereof.

“Beneficiary Parties” shall mean, collectively, the Funding Lender, the Governmental Lender, the Fiscal Agent and the Servicer, if any.

“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 (to the third degree of consanguinity) 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, the shareholders thereof.

“Borrower Deferred Equity” shall mean the Equity Requirement (as defined in the Construction Disbursement Agreement) with the exception of the Initial Equity Requirement.

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

“Borrower Loan Agreement” shall mean this Borrower Loan Agreement.

“Borrower Loan Amount” shall mean \$20,000,000, the original maximum aggregate principal amount of the Borrower Note.

“Borrower Loan Documents” shall mean (a) prior to the Conversion Date, this Borrower Loan Agreement, the Construction Disbursement Agreement, the Borrower Note, the Guaranty, the Security Agreement, the Forward Purchase Agreement and the documents, instruments and agreements that constitute the “Facility Documents” (as defined in the Construction Disbursement Agreement), and (b) from and after the Conversion Date, this Borrower Loan Agreement, Borrower Note, the Security Instrument, the Continuing Disclosure Agreement, the Agreement of Environmental Indemnification, the Guaranty, the Replacement Reserve Agreement, the Permanent Period Funding Agreement, the Forward Purchase Agreement, and all other documents or agreements evidencing, governing, or securing the Borrower Loan.

“Borrower Loan Payment Date” with respect to the Borrower Note, (i) the first day of each calendar month, commencing [July] 1, 2021, or (ii) any other date on which the Borrower Loan is prepaid or paid, whether at scheduled maturity or upon prepayment or acceleration of the maturity thereof; provided, however, that if a Borrower Loan Payment Date is not a Business Day, payment shall be made on the first Business Day following such Borrower Loan Payment Date.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Loan Proceeds” shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Section 2.10 of this Borrower Loan Agreement, Section 7.7 of the Funding Loan Agreement and the Construction Disbursement Agreement.

“Borrower Note” shall mean the Promissory Note dated the Closing Date in the original maximum principal amount of \$20,000,000 made by the Borrower and payable to the Governmental Lender, and assigned to the Fiscal Agent, as it may be amended, supplemented or replaced as of the Conversion Date by that certain Amended and Restated Multifamily Note to be made by the Borrower in favor of the Governmental Lender, or otherwise from time to time.

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

“Budget” shall have the meaning given to that term in the Construction Disbursement Agreement.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which the Fiscal Agent or federally insured depository institutions in New York, New York 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 hereof.

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

“CC&R’s” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Mortgaged Property.

“Citibank” shall mean Citibank, N.A., a national banking association, and its successors and assigns.

“Closing Date” means the date upon which the Governmental Note is issued and delivered in exchange for the proceeds representing the purchase price of the Governmental Note paid by the original purchaser thereof.

“Code” shall have the meaning set forth in the Tax Exemption Agreement.

“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, including, without limitation, the Project, all of which collateral (exclusive of the Reserved Rights) is pledged and assigned to the Fiscal Agent and the Funding Lender under the Funding Loan Agreement to secure the Governmental Lender Note.

“Commercial Lease” shall mean the lease and occupancy agreement, pursuant to the form approved by Funding Lender, by which Borrower leases the Commercial Space to Mark-Dana Corporation, as tenant (or such other tenant approved by Funding Lender, such approval not to be unreasonably withheld).

“Commercial Space” shall mean [_____].

“Completion” shall have the meaning set forth in Section 5.25.

“Completion Date” shall have the meaning given such term in the Construction Disbursement Agreement.

“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 Project, whether direct or indirect.

“Conditions to Conversion” shall have the meaning given to that term in the Forward Purchase Agreement.

“Construction Consultant” means any construction consultant or inspector appointed or retained by the Funding Lender in connection with its review and oversight of the progress of construction of the Project in accordance with the Plans and Specifications.

“Construction Contract” shall have the meaning given to that term in the Construction Disbursement Agreement.

“Construction Disbursement Agreement” means that certain Construction Disbursement Agreement of even date herewith, between the Funding Lender and the Borrower, 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.

“Construction Schedule” shall mean a schedule of construction or rehabilitation progress with the anticipated commencement and completion dates of each phase of construction 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.

“Continuing Disclosure Agreement” shall mean that certain Continuing Disclosure Agreement, between the Borrower and Citibank, to be executed by the Borrower and Citibank in connection with Citibank’s purchase of the Governmental Lender Note, pursuant to which the Borrower will agree to provide certain information with respect to the Project, the Borrower and the Governmental Lender Note subsequent to the Conversion Date, as amended, supplemented or restated from time to time.

“Contractor” shall mean any licensed general contractor or subcontractor that Borrower may directly engage from time to time, with the approval of Funding Lender, to construct and/or rehabilitate any portion of the Improvements.

“Conversion Date” has the meaning given that term in the Forward Purchase Agreement.

“Costs of Issuance” shall have the meaning given thereto in the Tax Exemption Agreement.

“Costs of Issuance Deposit” shall mean the amount required to be deposited by the Borrower with the Title Company or Fiscal Agent to pay Costs of Issuance in connection with the closing of the Borrower Loan and the Governmental Lender Note on the Closing Date.

“Cost of Improvements” shall mean the costs for the Improvements, as set forth on the Budget.

“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 Note 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 Governmental Lender Counsel, in each case to the effect that all or a portion of the interest on the Governmental Lender Note 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 Note, other than a holder who is a “substantial user” of the Project or a “related person” to such a “substantial user” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i), (ii) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

“Developer Fee” shall have the meaning set forth in the Construction Disbursement Agreement.

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

“Eligible Tenant” has the meaning set forth in the Regulatory 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 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 Borrower, in accordance with and subject to the terms and conditions of the Partnership Agreement.

“Equity Investor” shall mean RBC Community Investments, LLC, an Illinois limited liability company, and its permitted 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 beyond all applicable notice, grace and cure periods.

“Excess Revenues” shall have the meaning ascribed thereto in Section 2.2(e) hereof.

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

“Expenses of the Project” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs that 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 5% of the gross rental income of the Project, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Fiscal Agent” shall mean the fiscal agent from time to time under and pursuant to the Funding Loan Agreement. Initially, the Fiscal Agent is Zions Bancorporation, National Association.

“Fitch” shall mean Fitch, Inc.

“Force Majeure Causes” shall have the meaning given to such term in the Construction Disbursement Agreement.

“Forward Purchase Agreement” shall mean that certain Forward Purchase Agreement dated as of even date herewith, by and among the Borrower, the Funding Lender and Citibank, pursuant to which the Funding Lender has agreed to sell and Citibank has agreed to purchase, subject to the satisfaction of the terms and conditions set forth therein, up to \$[10,380,000.00] in principal amount of the Funding Loan on the Conversion Date.

“Funding Lender” shall have the meaning assigned thereto in the Funding Loan Agreement.

“Funding Loan” shall have the meaning given to that term in the Funding Loan Agreement.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, among the Governmental Lender, the Fiscal Agent and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

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

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

“General Partner” shall mean, collectively, (i) Caroline Lofts Advisors, LLC, a Texas limited liability company, and/or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted pursuant to the Borrower Loan Documents), selected to be a 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 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 Counsel” shall have the meaning set forth in the Funding Loan Agreement.

“Governmental Lender Note” shall mean that certain Multifamily Housing Governmental Note (Caroline Lofts) Series 2021 dated the Closing Date in the original principal amount of \$20,000,000, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Governmental Lender’s Closing Fee” shall mean \$[100,000]. The Governmental Lender’s Closing Fee is payable to the Governmental Lender on the Closing Date pursuant to Section 2.3(c)(iii) hereof.

“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 Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

“Guarantor” shall mean Mark-Dana Corporation, a Virginia corporation.

“Guaranty” shall mean, collectively, (i) the Payment and Performance Guaranty, dated as of the date of this Borrower Loan Agreement, by the Guarantor for the benefit of the Governmental Lender and the Funding Lender, and (ii) the Exceptions to Non-Recourse Guaranty, to be entered into as of the Conversion Date, by Guarantor for the benefit of the Beneficiary Parties (as defined therein).

“Hazardous Materials” has the meaning given to such term in the Security Instrument.

“Hazardous Materials Laws” has the meaning given to such term in the Security Instrument.

“Improvements” shall mean the 119-unit multifamily rental housing development to be constructed upon the Land and to be known as Caroline Lofts, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property owned by the Borrower to be

constructed, rehabilitated and/or installed at or on the Land substantially in accordance with the Budget and the Plans and Specifications.

“Indemnified Party” shall have the meaning set forth in Section 5.15 hereof.

“Initial Equity Requirement” shall have the meaning set forth in the Construction Disbursement Agreement.

“Interest Rate” shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“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 Note, as provided in Section 6 in the Borrower Note and Section 2.5 hereof.

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

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

“Liabilities” shall have the meaning set forth in Section 5.15 hereof.

“Licenses” shall have the meaning set forth in Section 4.1.22 hereof.

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

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

“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.

“Material Adverse Change” means any set of circumstances or events which (a) has any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is material and adverse to the business, properties, assets, financial

condition, results of operations of the Borrower, General Partner, Guarantor or the Mortgaged Property; (c) materially impairs the ability of the Borrower, General Partner or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially 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, Inc., 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 Project.

“Nonprofit Lender” shall mean [**Urban Partnerships Community Development Corporation**].

“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 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 Project.

“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 Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Partnership Agreement” shall mean that certain Amended and Restated Agreement of Limited Partnership of the Borrower dated [May] 1, 2021, 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 hereof.

“Permanent Period Amount” shall mean the principal amount of the Borrower Loan as of the Conversion Date, as determined in accordance with the Forward Purchase Agreement.

“Permanent Period Funding Agreement” shall have the meaning given to such term in the Funding Loan Agreement.

“Permitted Encumbrances” shall (a) prior to the Conversion Date, have the meaning given to that term in the Construction Disbursement Agreement, and (b) from and after the Conversion Date, have the meaning given to that term in the Security Instrument.

“Permitted Lease” shall mean (a) 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 or more than two (2) years; and (b) the Commercial Lease.

“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 have the meaning set forth in the Construction Disbursement Agreement and all approved changes thereto pursuant to the approval process set forth in the Construction Disbursement Agreement, for the construction and/or rehabilitation, as the case may be, of the Project, as approved by the 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 any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in such Borrower Note).

“Project” shall mean the Land (as defined in the Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements.

“Project Agreements and Licenses” shall mean any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other written licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project to which the Borrower is a party or by which the Project is bound.

“Provided Information” shall have the meaning set forth in Section 9.1.1(a) hereof.

“Qualified Project Costs” shall have the meaning set forth in the Tax Exemption Agreement.

“Rebate Fund” shall mean the Rebate Fund created pursuant to Section 7.3 of the Funding Loan Agreement.

“Regulations” has the meaning given to that term in the Tax Exemption Agreement.

“Regulatory Agreement” shall mean that certain Regulatory and Land Use Restriction Agreement, dated as of [May] 1, 2021, by and among the Governmental Lender, the Fiscal Agent and the Borrower, as in effect on the Closing Date and as it may thereafter be amended or modified in accordance with its terms.

“Related Documents” shall mean, collectively, any agreement or other document to which Borrower is a party or by which the Project is bound or to which the Guarantor is party with respect to the Project or the Borrower Loan (other than the Borrower Loan Documents) granting a security interest in all or a portion of the Project (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) executed by Borrower in connection with the transactions contemplated by this Borrower Loan Agreement.

“Replacement Reserve Agreement” shall mean the Replacement Reserve Agreement, to be entered into as of the Conversion Date, between the Borrower and Citibank, 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.

“Reserved Rights” shall have the meaning set forth in the Funding Loan Agreement.

“Retainage” shall have the meaning set forth in the Construction Disbursement Agreement.

“Review Fee” shall mean, from and after the Conversion Date, the three thousand dollar (\$3,000) fee payable to Citibank 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 hereof.

“Secondary Market Transaction” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Security Instrument, the Assignments (as such term is defined in the Construction Disbursement Agreement), this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other Borrower Loan Documents that are security instruments that are entered into by the Borrower with respect to the Project as of the date hereof or as of the Conversion Date, as applicable.

“Security Instrument” shall have the meaning set forth in the recitals to this Borrower Loan Agreement, as the same may be modified, amended or restated as of the Conversion Date by that certain Amended and Restated Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing to be made by the Borrower for the benefit of the Fiscal Agent, or otherwise 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 will be Zions Bancorporation, N.A., doing business as Amegy Bank; provided, on and after the Conversion Date, the Servicer shall be Citibank or its designee.

“Servicing Agreement” shall mean any servicing agreement or master servicing agreement, between the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

“Sponsor” shall mean Mark-Dana Corporation, a Virginia corporation, as sponsor.

“Sponsor Loan” means the subordinate loan from the Sponsor to the Borrower in the amount of \$[633,671].

“Standard & Poor’s” or “S&P” shall mean S&P Global Ratings, or its successors.

“State” shall mean the State of Texas.

“Subordinate Debt” shall mean, collectively or individually, as the context requires, (i) the \$17,836,036 subordinate loan from the Nonprofit Lender to Borrower, which loan the Nonprofit Lender has collaterally assigned to the City of Houston, Texas; and (ii) the Sponsor Loan.

“Subordinate Lender” shall mean, collectively or individually, as the context requires, the Nonprofit Lender and the Sponsor.

“Subordinate Loan Documents” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or governing the Subordinate Debt.

“Substantial Completion Date” means the date when the Project is Substantially Complete.

“Substantially Complete” or “Substantially Completed” shall have the meaning given to those terms in the Construction Disbursement Agreement.

“Tax Exemption Agreement” shall mean the Tax Exemption Certificate and Agreement, dated as of the date hereof, by and among the Governmental Lender, the Fiscal Agent and the Borrower, as in effect on the Closing Date and as it may be amended, supplemented or restated in accordance with its terms.

“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 Project.

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

“Termination Date” shall have the meaning given to such term in the Forward Purchase Agreement.

“Title Company” means [_____].

“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 mean any sale, assignment, lease, conveyance, pledge, encumbrance, hypothecation or other disposition of any real or personal property which is prohibited by, or requires the consent of the beneficiary under, the Security Instrument.

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

“Unit” shall have the meaning given to that term in the Regulatory Agreement.

“Written Consent” and “Written Notice” shall mean a written consent or notice signed by an Authorized Borrower Representative or an Authorized Representative (as defined in the Funding Loan Agreement) 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 and to satisfy the closing requirements under Section 1372 of the Texas Government Code, the Governmental Lender agrees that it will, in accordance with the Act, enter into the Funding Loan Agreement and accept the Funding Loan proceeds from, and deliver the Governmental Lender Note to, the

Funding Lender. The proceeds of the Governmental Lender Note shall be advanced by the Funding Lender and the Fiscal Agent to the Borrower in accordance with the terms of the Construction Disbursement Agreement, the Funding Loan Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby assigns to the Funding Lender all of its rights, power and authority 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 to the extent those actions and remedies are not delegated to the Fiscal Agent. This assignment 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 assignee. The Funding Lender may designate Servicer to fulfill any such rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1. Disbursements of the Borrower Loan shall be made from the Project Fund held under the Funding Loan Agreement by the Fiscal Agent.

Section 2.2. Security for the Governmental Lender Note.

(a) As security for the Governmental Lender Note, the Governmental Lender has pledged and assigned to the Fiscal Agent for the benefit of the Funding Lender under and pursuant to the Funding Loan Agreement (i) the Borrower Note and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Reserved Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (ii) the amounts on deposit from time to time in any and all funds, other than the Rebate Fund and the Closing Costs Fund, established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered to the Fiscal Agent. The Borrower hereby acknowledges and consents to such assignment to the Fiscal Agent for the benefit of the Funding Lender.

(b) With respect to the Reserved 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, the Regulatory Agreement, the Borrower Loan Agreement, and the Tax Exemption Agreement; seek injunctive relief against acts which may be in violation of any of the tax covenants; and enforce the Borrower's obligation to pay the Rebate Amount (as defined in Section 14 of the Tax Exemption Agreement) for credit to the Rebate Fund;

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

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

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

(i) prosecute its action to a lien on the Project or any portion thereof; or

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

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

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

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

(e) As used in this Section 2.2, the term “Excess Revenues” means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Governmental Lender Note, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to agreement, but excluding depreciation and amortization of intangibles.

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

(a) The Governmental Lender Note shall be purchased in the full Authorized Amount therefor by the Funding Lender under the Funding Loan Agreement, and the Fiscal Agent shall deposit the proceeds thereof as required under the Funding Loan Agreement. Upon purchase of the Governmental Lender Note on the Closing Date, 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 Note. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition, construction, development, operation, and equipping of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with the delivery of this Borrower Loan Agreement to the

Governmental Lender, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

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

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

In addition, closing of the Borrower Loan shall be subject to the delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender, dated the Closing Date, in form and substance acceptable to Governmental Lender Counsel, regarding the due execution by the Borrower of, and the enforceability against the Borrower of, the Borrower Loan Documents.

Section 2.4. Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Fiscal Agent (i) prior to the Conversion Date, prior to 11:00 a.m., central (Houston, Texas) time, on the date when due; and (ii) on and after the Conversion Date, by 2:00 p.m., New York City time, two (2) Business Days prior to a Borrower Loan Payment Date, or if to the Servicer as provided in clause (b) below, by 11:00 a.m., New York City time, two (2) Business Days prior to a Borrower Loan Payment Date. Each such payment shall be made to the Fiscal Agent or Servicer, as applicable, by deposit to such account as the Fiscal Agent or Servicer, as applicable, may designate by Written Notice to the Borrower. If payments are to be made to the Fiscal Agent, such payments shall be deposited into the Governmental Lender Note Payment Fund established under the Funding Loan Agreement. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Governmental Lender Note. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for,

any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) If there is a Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer and the Servicer shall then remit such funds to the Fiscal Agent to be deposited in the Governmental Lender Note Payment Fund established under the Funding Loan Agreement. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Fiscal Agent and deposited into the Governmental Lender Note Payment Fund.

Section 2.5. Additional Borrower Payments.

(a) The Borrower shall pay the following amounts:

(i) to the Fiscal Agent for payment to the United States of America, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 14 of the Tax Exemption Agreement and any costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Fiscal Agent for remittance to the Governmental Lender, the Governmental Lender Fees (as defined in the Funding Loan Agreement) 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, as and when the same become due;

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

(iv) to the Funding Lender, on demand, all reasonable 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 Governmental Lender Note or the Project, 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 Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal tax audit;

(v) all Late Charges due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (v) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Fiscal Agent on behalf of the Funding Lender; and

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

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

(i) all 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, Fiscal Agent 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 reasonable expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer or the Construction 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 Note, 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, or if there is no Servicer, the Funding Lender 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 hereby pledges and assigns to the Fiscal Agent (solely for the benefit of the Funding Lender) and the Funding Lender, and grants to the Fiscal Agent (solely for the benefit of the Funding Lender) and 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 Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Fiscal Agent, the Funding Lender and the Servicer may apply or cause to be applied any sums held by the Fiscal Agent, the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.9. 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 Fiscal Agent, Governmental Lender or Funding Lender, or the Fiscal Agent, 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 Fiscal Agent, Governmental Lender or Funding Lender and any and all remedies available to the Fiscal Agent, Governmental Lender or Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against Borrower, Guarantor or 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 Fiscal Agent, 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 Fiscal Agent, 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 Fiscal Agent, Governmental Lender or Funding Lender in connection with the exercise by the Fiscal Agent, Governmental Lender or Funding Lender of its rights under this Section 2.9.

Section 2.10. Borrower Loan Disbursements. The Borrower Loan shall be funded by the Funding Lender, on behalf of the Governmental Lender, pursuant to the Construction Disbursement Agreement by depositing Governmental Lender Note proceeds with the Fiscal Agent under the Funding Loan Agreement. Amounts held by the Fiscal Agent shall be disbursed to or for the benefit of the Borrower as provided in the Funding Loan Agreement and Construction Disbursement Agreement.

ARTICLE III

CONVERSION

Section 3.1. Conversion Date and Extension of Termination Date. The Borrower shall satisfy each of the Conditions to Conversion and cause the Conversion Date to occur on or before the Termination Date, as further provided in the Construction Disbursement Agreement and the Forward Purchase Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Termination Date (or such earlier time as may be required in the Construction Disbursement Agreement) shall constitute an Event of Default under the Borrower Loan Document.

Section 3.2. Notice From Citibank; Citibank's Calculation Final.

(a) Following satisfaction of all of the Conditions to Conversion, Citibank shall deliver Written Notice to the Borrower and the Funding Lender (with a copy to the Governmental Lender) of: (i) the Conversion Date, and (ii) the amount of the Permanent Period Amount.

(b) Subject to the terms and conditions of the Borrower Loan Documents, Citibank'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 Forward Purchase Agreement, if and to the extent the Permanent Period Amount is less than the Borrower Loan 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 Borrower Loan Amount and the Permanent Period Amount.

(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 Note.

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 on or before the Conversion Date. Within ten (10) business days after delivery of such notice and in accordance with Section 2.10 hereof, but in no event later than the Termination Date, Funding Lender shall approve and the Fiscal Agent shall disburse Borrower Loan proceeds to Borrower so that the aggregate principal amount of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by Borrower to the Fiscal Agent for deposit to the Project Fund.

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 Note, Security Instrument, the Construction Disbursement Agreement, Permanent Period Funding Agreement, Forward Purchase 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 Note, Security Instrument, the Construction Disbursement Agreement, Permanent Period Funding Agreement, Forward Purchase Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Note, Security Instrument, the Construction Disbursement Agreement, Permanent Period Funding Agreement, Forward Purchase Agreement and other Borrower Loan Documents shall control; provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6. Determinations by Funding Lender. In any instance where the consent or approval of the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Funding Lender under this Article III, including in connection with the Construction Disbursement 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 Funding Lender to make Disbursements, Borrower represents and warrants for the benefit of the Governmental Lender, 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 hereof, shall survive the making of the Borrower Loan and will be complete and accurate, and deemed remade, except as otherwise noted through notice to Funding Lender and approved by Funding Lender, as of the date of each Disbursement and as of the Conversion Date, in accordance with the terms and conditions of the Borrower Note:

Section 4.1.1 Organization; Special Purpose. The Borrower is a limited partnership duly organized and validly existing and in good standing under the laws of the State, has full legal right, power and authority to enter into the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, and by proper

corporate limited partnership action, as appropriate has duly authorized the execution, delivery and performance of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party. The Persons executing the Borrower Loan Documents and the Funding Loan Documents on behalf of the Borrower 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 Project.

Section 4.1.2 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.

Section 4.1.3 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, (other than to the extent created or permitted under the Security Instrument or the Partnership Agreement), 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.

Section 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, General Partner and 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 Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, General Partner or 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, General Partner and 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, General Partner or Guarantor. None of Borrower, General Partner or Guarantor are (a) in

violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, or assets (including the Project), condition (financial or otherwise) of Borrower, General Partner or 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 Project), or condition (financial or otherwise) of Borrower, General Partner or Guarantor, as applicable; or (c) in default with respect to any agreement to which Borrower, General Partner or 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 Project), condition (financial or otherwise) of Borrower, General Partner or Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower, General Partner or 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.

Section 4.1.5 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 Project, 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 Project is 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.

Section 4.1.6 Title. The Borrower shall have indefeasible title to the Project, 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 Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all of Borrower's right, title and interest in the personalty included in the Project (including the Permitted Leases), to the extent such personalty is the type in which a security interest may be perfected under the UCC by filing of a financing statement with the Secretary of State of the State, 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 Project, nor are there any claims for payment for work, labor or materials affecting the Project 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.

Section 4.1.7 Survey. To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

Section 4.1.8 No Bankruptcy Filing. The Borrower is not contemplating either the filing of a petition by it under the Bankruptcy Code or any state bankruptcy or insolvency law or the liquidation 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.

Section 4.1.9 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 Project 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.

Section 4.1.10 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.

Section 4.1.11 Compliance. The Borrower, the Project 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 Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower’s obligations under any Borrower Loan Document or any Funding Loan Document.

Section 4.1.12 Contracts. All service, maintenance or repair contracts affecting the Project have been 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.

Section 4.1.13 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 Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project 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 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.

Section 4.1.14 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 Project or for the relocation of roadways providing access to the Project.

Section 4.1.15 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.

Section 4.1.16 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 it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project (or available to the Project via easement), and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project 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 Project does 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 Project 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.

Section 4.1.17 Not a Foreign Person. The Borrower is not a "foreign person" within the meaning of §1445(f)(3) of the Code.

Section 4.1.18 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.

Section 4.1.19 Assessments. There are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

Section 4.1.20 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.

Section 4.1.21 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.

Section 4.1.22 Use of Property; Licenses. The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, including without limitation, the Commercial Space, which use is consistent with the applicable zoning classification for the Project, if any. 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 the Project (collectively, the "Licenses") required at this time for the construction or rehabilitation, as

appropriate, and equipping of the Project have been obtained or will be timely 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 Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses necessary for the continued use of the Project for its intended purpose will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does 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 the Project.

Section 4.1.23 Flood Zone. On the Closing Date, no structure on the Land lies or is located in an identifiable or designated Special Flood Hazard Area. Subsequent to the Closing Date, if the Land is determined to be in a Special Flood Hazard Area, 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 its underwriting guidelines.

Section 4.1.24 Physical Condition. The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are or, after completion of the construction, 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 Project, 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 Project is not in material violation of the ADA, if required under applicable law.

Section 4.1.25 Encroachments. All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

Section 4.1.26 State Law Requirements. The Borrower hereby represents, covenants and agrees to comply in all material respects with the provisions of all applicable state laws relating to the Borrower Loan, the Governmental Lender Note and the Project.

Section 4.1.27 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 Project 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.

Section 4.1.28 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.

Section 4.1.29 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).

Section 4.1.30 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.

Section 4.1.31 Environmental Matters. To the best of Borrower’s knowledge, except as disclosed in environmental reports delivered to the Funding Lender prior to the Closing Date, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up, and 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.

Section 4.1.32 Name; Principal Place of Business. Unless prior Written Notice is given to the Funding 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 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

Section 4.1.33 Subordinated Debt. There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances, unsecured loans made by the partners pursuant to the Partnership Agreement, which are subordinate to the Borrower Loan and subject to the standstill of rights and remedies until the full and final payment of the Borrower Loan, the Subordinate Debt, and the permitted secured indebtedness described in Section 6.7 hereof, except an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date.

Section 4.1.34 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.

Section 4.1.35 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Exemption Agreement are incorporated by reference herein and the Borrower will comply with such as if set forth herein. As of the Closing Date, the Borrower is in compliance with all requirements of the Tax Exemption Agreement, and the representations set forth in the Tax Exemption Agreement are true and accurate.

Section 4.1.36 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 Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender, the Fiscal Agent 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, the Fiscal Agent or the Servicer in any manner.

Section 4.1.37 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 4.1.38 Americans with Disabilities Act. The Project, 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 Project, 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).

Section 4.1.39 Requirements of Act, Code and Regulations. The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

Section 4.1.40 Regulatory Agreement. In order to maintain the excludability of interest on the Governmental Lender Note from gross income for federal income tax purposes and to ensure compliance with the Act and other laws of the State, and certain additional requirements of the Governmental Lender, the Borrower has, concurrently with or before the issuance of the Governmental Lender Note, executed and delivered and will cause to be recorded in the official records of Harris County, Texas, the Regulatory Agreement. The Borrower is in compliance with all requirements of the Regulatory Agreement, and the representations set forth in the Regulatory Agreement pertaining to the Borrower and the Project are true and accurate. The Borrower intends to cause the Units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases which comply with all applicable laws and the Regulatory Agreement.

Section 4.1.41 Intention to Hold Project. The Borrower intends to hold the Project for its own account and, except as set forth in the Partnership Agreement, has no current plans, and has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 4.1.42 Concerning General Partner.

(a) The General Partner is a limited liability company, duly organized and validly existing and in good standing under the laws of the State. 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.

(b) 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, or condition (financial or otherwise) of General Partner.

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

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

(e) The execution, delivery and performance by General Partner, on behalf of Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) General Partner's organizational documents; (ii) any other Legal Requirement affecting General Partner or any of its properties; or (iii) any agreement to which 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 Funding Lender pursuant to the Security Documents.

Section 4.1.43 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 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 Project is not conditional upon the happening of any further event.

Section 4.1.44 Concerning Guarantor. The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by Guarantor and are legally valid and binding obligations of Guarantor, enforceable against 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.

Section 4.1.45 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 Project 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 Project 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 Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of Borrower, General Partner or Guarantor or 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.

Section 4.1.46 Payment of Taxes. Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of Borrower, General Partner and Guarantor required to be filed have been timely filed (or an extension has been timely filed), and all taxes, assessments, fees and other governmental charges upon Borrower, General Partner and Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of Borrower, General Partner or Guarantor, and neither Borrower nor General Partner have contracted with any Governmental Authority in connection with such taxes.

Section 4.1.47 Rights to Project Agreements and Licenses. Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications 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 except as pledged in the Borrower Loan Documents and the Subordinate Loan Documents. 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 Subordinate Loan Documents, the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

Section 4.1.48 Patriot Act Compliance. 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".

Section 4.1.49 Rent Schedule. Borrower has prepared or will prepare a rent roll with respect to the Project substantially in the form required by the Permanent Period Funding Agreement, which schedule shall take 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 Project in amounts greater than or equal to debt service on the Borrower Loan.

Section 4.1.50 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 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 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 herein for the benefit of Funding Lender.

Section 4.1.51 Other 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 a Subordinate Lender thereunder, as applicable. 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 passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

Section 4.1.52 No Claim to Ad Valorem Tax Exemption. The Borrower will not claim any ad valorem tax exemption relative to the Project or transfer or assign the Project to any entity that qualifies for an exemption from ad valorem taxation.

Section 4.1.53 Revenue Sufficient. The Borrower certifies, based upon the pro forma budget, that the revenues from the Project are projected to be sufficient to pay the principal of, premium, if any, and interest on the Governmental Lender Note and all other obligations under the documents to which the Borrower is a party and that the Borrower has not incurred any indebtedness for borrowed money (other than in the ordinary course of business) other than under this Borrower Loan Agreement, the Subordinate Loan Documents, and the Security Instrument.

Section 4.1.54 Location of Project. The Project is located entirely within Harris County, Texas.

Section 4.2. Survival of Representations and Covenants. All of the representations and warranties in Section 4.1 hereof 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 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

ARTICLE V

AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby 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 hereunder or in any way arising due to the transactions contemplated hereby (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 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 Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's 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 Project.

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 Project.

Section 5.6. Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer 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 Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Documents 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, the Fiscal Agent and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender, the Fiscal Agent 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, the Fiscal Agent 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 hereof), (i) furnish to the Servicer, the Fiscal Agent and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that Borrower's construction or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements relating to the Project, reasonably requested by the Servicer, the Fiscal Agent 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, the Fiscal Agent 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, the Fiscal Agent 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 liability or obligations under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's, the Fiscal Agent'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 Project, each such search to be conducted by search firms reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender in each of the locations reasonably designated by the Servicer, the Fiscal Agent or the Funding Lender.

Section 5.9. Delivery of Financial Information. After written 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 hereof.

Section 5.10. Environmental Matters. So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws, (b) promptly notify the Funding Lender, the Fiscal Agent, the Governmental Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project 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, Fiscal Agent's and Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Governmental Lender Fees), the Fiscal Agent, the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender, the Fiscal Agent 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, the Fiscal Agent 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 Note, (ii) the applicable Interest Rate, (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 Project 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 hereof, 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 Project 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 Project to make repairs or take other action to protect the security of the Project, 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 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, the Fiscal Agent and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Governmental Lender Note, including reasonable fees and expenses of the Governmental Lender's, the Fiscal Agent'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 the 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, the Fiscal Agent and the Servicer (except as provided in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Governmental Lender Note, 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, the Fiscal Agent and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the Funding Lender, the Fiscal Agent 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, the Fiscal Agent 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 Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender, the Fiscal Agent 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, the Fiscal Agent and the Servicer, all of which shall constitute part of the Borrower Loan and the Governmental Lender Note 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 Fiscal Agent or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents, the Governmental Lender Note and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and following the Conversion Date 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.

(a) Indemnification of the Governmental Lender and the Fiscal Agent.

(i) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE GOVERNMENTAL LENDER, THE FISCAL AGENT AND THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS BORROWER LOAN

AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE MORTGAGED PROPERTY OR THE FINANCING OF THE MORTGAGED PROPERTY INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE MORTGAGED PROPERTY OR THE OPERATION OF THE MORTGAGED PROPERTY DURING THE TERM OF THIS BORROWER LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS BORROWER LOAN AGREEMENT, OR (III) THE MORTGAGED PROPERTY OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE MORTGAGED PROPERTY EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL LENDER NOTE, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE MORTGAGED PROPERTY OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE GOVERNMENTAL LENDER, THE FISCAL AGENT, OR ANY OF THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER, THE FISCAL AGENT OR ANY OF THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE, AND PROVIDE COMPETENT COUNSEL REASONABLY SATISFACTORY TO SUCH PARTY; PROVIDED, HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(ii) IT IS THE INTENTION OF THE PARTIES HERETO THAT THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS BORROWER LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HEREUNDER IN CONNECTION WITH THE ISSUANCE OF THE GOVERNMENTAL LENDER NOTE, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS BORROWER LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS BORROWER LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS BORROWER LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE MORTGAGED PROPERTY OR THE FINANCING OF THE MORTGAGED PROPERTY, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS BORROWER LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE GOVERNMENTAL LENDER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD

INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE GOVERNMENTAL LENDER THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE GOVERNMENTAL LENDER AND THE BORROWER SHALL PAY THE GOVERNMENTAL LENDER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE GOVERNMENTAL LENDER; PROVIDED, HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(iii) NOTWITHSTANDING ANY PROVISION OF THIS BORROWER LOAN AGREEMENT TO THE CONTRARY, THE GOVERNMENTAL LENDER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

The Borrower agrees to indemnify the Fiscal Agent or any predecessor Fiscal Agent for and to hold it harmless against all liabilities, claims, costs and expenses incurred without negligence or misconduct on the part of the Fiscal Agent, on account of any action taken or omitted to be taken by the Fiscal Agent in accordance with the terms of the Governmental Lender Note or the Funding Loan Documents arising out of or in connection with the administration of the trusts hereunder or any action taken at the request of or with the consent of the Borrower, including the costs and expenses of the Fiscal Agent in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under the Governmental Lender Note or the Funding Loan Documents.

In case any action or proceeding is brought against the Governmental Lender or the Fiscal Agent, or any of their respective governing board members, officers, commissioners, directors, officials, employees, agents, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding anything else in this Borrower Loan Agreement to the contrary, except for the provisions of this Section 5.15(a), the Borrower shall be responsible for the fees, costs and expenses of counsel to the Governmental Lender and Fiscal Agent at all times; provided that the Governmental Lender and the Fiscal Agent maintain control of the selection of their counsel at all times.

The provisions of this Section shall survive the termination of this Borrower Loan Agreement and the repayment of the Governmental Lender Note and the Project Loan.

Notwithstanding any provisions herein to the contrary, the Borrower shall not indemnify the Fiscal Agent for the Fiscal Agent's, or any Person's acting on behalf of the Fiscal Agent, own negligence or misconduct.

(b) 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, the Fiscal Agent 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 Funding Lender, the Fiscal Agent, the Servicer, Citigroup, Inc., and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, 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) (together with the Governmental Lender Indemnity Liabilities, 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:

(i) 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 GOVERNMENTAL LENDER NOTE, EXCEPT WITH RESPECT TO ANY SECONDARY MARKET DISCLOSURE DOCUMENT (OTHER THAN ANY BORROWER'S OBLIGATIONS UNDER ARTICLE IX);

(ii) 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, THE GOVERNMENTAL LENDER NOTE OR THE PROJECT, THE OPERATION OF THE PROJECT, OR THE CONDITION, ENVIRONMENTAL OR OTHERWISE, OCCUPANCY, USE, POSSESSION, CONDUCT OR MANAGEMENT OF WORK DONE IN OR ABOUT, OR FROM THE PLANNING, DESIGN, ACQUISITION, CONSTRUCTION OR INSTALLATION OF, THE PROJECT OR ANY PART THEREOF;

(iii) Any lien (other than a Permitted Encumbrance) or charge upon payments by the Borrower to the Fiscal Agent 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, the Fiscal Agent or the Funding Lender in respect of any portion of the Project;

(iv) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project; provided, however, Borrower's liability under this provision shall not extend to cover the period of any violation that first arose, commenced or occurred solely and exclusively as a result of actions of the Indemnified Party, after the satisfaction, discharge, release, assignment, termination or cancellation of the Security Instrument following the payment in full of the Borrower Note and all other sums payable under the Borrower Loan Documents or after the actual dispossession from the entire Mortgaged Property of Borrower and all entities which control, are controlled by, or are under common control with Borrower following foreclosure of the Security Instrument or acquisition of the Mortgaged Property by a deed in lieu of foreclosure;

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

(vi) 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, the Funding Loan or the Governmental Lender Note or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(vii) Any Determination of Taxability;

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

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

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

(xi) the use of the proceeds of the Borrower Loan and the Governmental Lender Note,

EXCEPT IN THE CASE OF THE FOREGOING INDEMNIFICATION OF THE FUNDING LENDER, THE FISCAL AGENT OR THE SERVICER OR ANY RELATED INDEMNIFIED PARTY, TO THE EXTENT SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE FUNDING LENDER, THE FISCAL AGENT, THE SERVICER, OR SUCH INDEMNIFIED PARTY. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof 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 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all 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. IT IS THE INTENTION OF THE BORROWER THAT

THE INDEMNITY CONTAINED HEREIN SHALL EXTEND TO LOSSES THAT ARE THE RESULT OF THE NEGLIGENCE OF AN INDEMNIFIED PARTY, excluding, however, any loss caused by an Indemnified Party's gross negligence or willful misconduct as provided herein.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify the Governmental Lender, and 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, the Fiscal Agent, and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Governmental Lender Note 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.

Section 5.16. No Warranty of Condition or Suitability by the Governmental Lender. THE GOVERNMENTAL LENDER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MORTGAGED PROPERTY OR ANY PORTION THEREOF, INCLUDING WITHOUT LIMITATION, THE HABITABILITY THEREOF; THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSES; THE DESIGN OR CONDITION THEREOF; THE WORKMANSHIP, QUALITY, OR CAPACITY THEREOF; LATENT DEFECTS THEREIN; THE VALUE THEREOF; FUTURE PERFORMANCE OR THE COMPLIANCE THEREOF WITH ANY LEGAL REQUIREMENTS.

Section 5.17. Right of Access to the Project. The Borrower agrees that the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Construction 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, subject to the rights of tenants under tenant leases at the Project, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project 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 Fiscal Agent, 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 Project.

Section 5.18. Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

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

Section 5.20. Obligation of the Borrower to Construct or Rehabilitate the Project. The Borrower shall proceed with reasonable dispatch to construct or rehabilitate, as appropriate, and equip the

Project. If the proceeds of the Borrower Loan, together with the Other Borrower 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, the Fiscal Agent or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender, the Fiscal Agent and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender, the Fiscal Agent 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 Project.

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) Notice of Default. As soon as possible, and in any event not later than five (5) Business Days after Borrower has knowledge of the occurrence of any Event of Default or Potential Default, a statement of an Authorized Representative of Borrower describing the details of such Event of Default or Potential Default and any curative action Borrower proposes to take;

(b) Financial Statements; Rent Rolls. Prior to the Conversion Date, all financial statements, rent rolls, leasing reports, and other financial information required to be delivered under the Construction Disbursement Agreement, all at times and otherwise in compliance with the terms and conditions of the Construction Disbursement Agreement. From and after the Conversion Date, 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;

(c) 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;

(d) [intentionally omitted];

(e) 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;

(f) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project 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 the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) 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;

(h) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(b) hereof 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

(i) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender or Governmental Lender reasonably requests 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 Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

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

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or 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), or condition (financial or otherwise) of Borrower, General Partner or 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.

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 Project or construction and/or rehabilitation of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, rehabilitation, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the 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 Project or the terms of any other lease of all or any portion of the Project. Funding Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and Borrower 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, that prior to the occurrence of an Event of Default, Borrower shall have no obligation to bear the expense of more than one (1) such audit every three 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 Project.

Section 5.25. Completion and Maintenance of Project. Borrower shall cause the construction or rehabilitation, as the case may be, of the Improvements, to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Disbursement Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under Section 10.16 hereof), as evidenced by, without limitation, the filing with the Funding Lender and the Governmental Lender of a Completion Certificate for the Project, in the form attached hereto as Exhibit B, and receipt by the Funding Lender of copies of all permits and approvals of Governmental Authorities for the occupancy of all apartment units comprising the Improvements including, and not by way of limitation, the issuance of a Final Certificate of Occupancy for the Project (collectively, "Completion"), on or before the Completion Date. Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to ensure 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 Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents 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. 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 or as permitted by the terms of the Construction Disbursement Agreement.

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

(C) Upon and after the Conversion Date, the lease conforms to the Rent Roll (as defined in the Permanent Period 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) Landlord's Obligations. Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

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

Section 5.29. Project Agreements 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 Project 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 Project Agreements and Licenses, other than to Funding Lender and a Subordinate Lender.

Section 5.30. Payment of Debt Payments. In addition to its obligations under the Borrower Note, 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 Project, or any 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 Project, 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 Project, 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 Section 4.1.48 to become untrue and 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 Section 4.1.48 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 reasonable 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, anti-terrorism, 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 cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms and conditions of the Partnership Agreement.

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

(a) The Borrower represents, warrants and covenants that it shall not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the excludability of the interest on the Governmental Lender Note from gross income for federal income tax purposes under the Code. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Exemption Agreement, which is incorporated herein as if set forth fully herein.

(b) The Borrower will, on a timely basis, provide the Governmental Lender with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Exemption Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Governmental Lender to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Fiscal Agent as are required of it under the Tax Exemption Agreement. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Funding Loan Agreement and the Borrower Loan Agreement.

The Borrower covenants that, notwithstanding any other provision of this Borrower Loan Agreement or any other instrument, the Borrower will take no action, nor shall it direct the Fiscal Agent to take any action, to invest or use of proceeds of the Governmental Lender Note or the Borrower Note, or any other moneys which may arise out of or in connection with this Borrower Loan Agreement, the Funding Loan Agreement or the Project that would cause the Governmental Lender Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Code. In addition, the Borrower covenants and agrees to comply with the requirements of Section 148(f) of the Code as it may be applicable to the Governmental Lender Note or the proceeds derived from the sale of the Governmental Lender Note or any other moneys which may arise out of, or in connection with, this Borrower Loan Agreement, the Funding Loan Agreement or the Project throughout the term of the Governmental Lender Note. No provision of this Borrower Loan Agreement shall be construed to impose upon the Fiscal Agent any obligation or responsibility for compliance with Section 148 of the Code or the Regulations promulgated thereunder.

(c) Neither the Borrower nor any "related party" to the Borrower within the meaning of Section 1.150-1(b) of the Regulations is permitted to purchase the Governmental Lender Note in an amount related to the Borrower Loan.

(d) For purposes of complying with their respective obligations under this Section and the Tax Exemption Agreement, the Governmental Lender and the Borrower may rely upon the advice of Governmental Lender Counsel retained by the Governmental Lender or the Borrower.

Section 5.35. Covenants Regarding Project.

Eligible Tenants. Substantially all of the Restricted Units (as defined in the Regulatory Agreement) will be rented to Eligible Tenants and the Borrower will not rent or lease any Restricted Unit to a person not an Eligible Tenant.

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. Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer promptly in writing after Borrower has knowledge of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.38. Continuing Disclosure Agreement. In connection with the purchase of the Governmental Lender Note by Citibank on the Conversion Date, the Borrower and Citibank shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Governmental Lender Note, the Borrower and other matters as specifically provided for in such agreement.

Section 5.39. Compliance with Texas Government Code. The Borrower hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Borrower Loan Agreement is a contract for goods or services, will not boycott Israel during the term of this Borrower Loan Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Borrower understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

The Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Borrower and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Borrower understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

ARTICLE VI

NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect until this Agreement is terminated in accordance with the terms of Section 10.14 hereof. 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 or delayed) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the 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 Manager to terminate the Management Agreement (or such successor management agreement); provided, however, that Funding Lender's prior Written Consent shall not be required for any extension or renewal of the Management Agreement on substantially the same terms and conditions.

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 Project, 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 Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction or rehabilitation, as appropriate, of the Project).

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 Project.

Section 6.6. Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument or the Construction Disbursement Agreement, nor transfer any material License required for the operation of the Project; provided any such Transfer shall comply with Section 10 of the Regulatory Agreement.

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 Project 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) debt contemplated by the Partnership Agreement, which debt is subordinate to the Borrower Loan (and subject to the standstill of rights and remedies until the full and final payment of the Borrower Loan), provided that such debt is unsecured and subordinate.

Section 6.8. Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 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, the Governmental Lender, the Fiscal Agent and the Servicer.

Section 6.10. Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld 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; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument.

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 and Written Notice to the Governmental 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 permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

(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 Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or approved 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 Construction Disbursement Agreement.

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 Disbursement Agreement, Borrower shall not enter into or consent to any material 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 this 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, or installed at the expense of, a third-party vendor and commercial tenants.

Section 6.16. Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld or delayed, 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 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, or as otherwise required by applicable law). Borrower and General Partner agree that no sign shall be posted on the Project in connection with the construction or rehabilitation of the Improvements unless such sign identifies Amegy Bank, Zions Bancorporation, N.A, and/or Citibank, as applicable and their respective affiliates as the source of the financing provided for herein or Amegy Bank, Zions Bancorporation, N.A, and/or Citigroup, as applicable, consent to not being identified on any such sign.

Section 6.18. Other 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 in any material respect.

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 Note, 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 Note, 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 Note, the Security Instrument or any of the other Borrower Loan

Documents or Funding Loan Documents, 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) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined by the Borrower Note, 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 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; provided that any such item with respect to a Guarantor shall not constitute an Event of Default if 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;

(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, after the Conversion Date, 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 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 to Conversion or (iii) the operation of the Improvements, is not received in accordance with the Construction Disbursement Agreement;

(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 Borrower, any General Partner or 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 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[, in each case in any material respect], 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 hereof, 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 Borrower, any General Partner or Guarantor, or property of Borrower, any General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by Borrower, any General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against a 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 \$[250,000] or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower, any General Partner or Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, within [fifteen (15)] 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 or penalty against a 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 \$[250,000] or more shall be rendered against Borrower, any General Partner or Guarantor, or against any of their respective assets, that is not paid, superseded or stayed (i) prior to completion of the construction or rehabilitation, as the case may be, of the Improvements, within [fifteen (15)] 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 Borrower, any General Partner or Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of Borrower, any General Partner or 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, unhandred 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 a 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 construction or rehabilitation of the Improvements is abandoned or halted prior to completion for any period of 30 consecutive days, provided that such cessation of construction or rehabilitation, as the case may be, shall not constitute an Event of Default if (i) such cessation of construction or rehabilitation, as the case may be, shall have been caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping; (ii) Borrower shall have made adequate provision, acceptable to Funding Lender, for the protection of materials stored on-site or off-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (iii) Borrower shall furnish to Funding Lender satisfactory evidence that such cessation of construction or rehabilitation will not adversely affect or interfere with the rights of Borrower under labor and materials contracts or subcontracts relating to the construction or operation of the Improvements; and (iv) Borrower shall furnish to Funding Lender satisfactory evidence that the completion of the construction or rehabilitation of the Improvements can be accomplished by the Completion Date;

(p) intentionally omitted;

(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 Project 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, subject to Force Majeure Causes;

(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 Completion Date, subject to Force Majeure Causes;

(s) failure by the Borrower to satisfy the Conditions to Conversion on or before the Termination Date;

(t) failure by a Subordinate Lender to disburse the proceeds of its Subordinate Loan in approximately such amounts and at approximately such times as set forth in the Budget and in the Subordinate Loan Documents;

(u) an “Event of Default” or “Default” (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, and is continuing beyond the expiration of all applicable notice, grace, and cure periods;

(v) Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Governmental Authorities or third parties necessary for the completion of the construction or rehabilitation, as the case may be, of the Improvements, and the operation of, and access to, the Project; 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), as and when required, which continues for a period of thirty (30) days after written notice of such failure by Funding Lender or the Servicer on its behalf to the Borrower and the Equity Investor; 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 Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Section 8.2. Remedies.

Section 8.2.1 Acceleration. Upon the occurrence 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 (whether directly or by directing the actions of the Fiscal Agent), without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, 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 Note 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 hereby 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.

Section 8.2.2 Remedies Cumulative. Upon the occurrence and continuation of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender or the Fiscal Agent 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 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 Project 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 Project 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 Project 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 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 8.2.3 Delay. No delay or omission to exercise any remedy, right, or power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender or the Fiscal Agent 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 and the Fiscal Agent reserve 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 Project, the Rents, the funds or any other collateral.

Section 8.2.4 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 the Borrower to the Funding Lender or the Fiscal Agent 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 hereby 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.

Section 8.2.5 Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project 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 Note, the Regulatory Agreement, and any other Borrower Loan Documents and 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.

Section 8.2.6 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 Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

Section 8.2.7 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.

Section 8.2.8 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.

Section 8.2.9 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 Project and to perform any and all work and labor necessary for the completion of the Project 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.

Section 8.2.10 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 or the Fiscal Agent, provided that only the Governmental Lender may enforce the Reserved 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.

Section 8.2.11 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 hereby 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 Project and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the 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 Project 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 hereby;

(e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project 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 Project 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 Project 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.

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 Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

ARTICLE IX

SPECIAL PROVISIONS

Section 9.1. Sale of Governmental Lender Note and Secondary Market Transaction.

Section 9.1.1 Cooperation. Subject to the restrictions of Section 2.6 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 Note 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 Note and the Funding Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that the Borrower shall not incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender 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 Project, 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 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 Project, 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 economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 9.1.2 Use of Information. The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective

investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, 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 Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

Section 9.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender 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; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 9.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender and the underwriter group for any securities (the “Underwriter Group”) for any Liabilities to which Funding Lender, 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, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 9.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement,

to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 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 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties' and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE 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:

The Governmental Lender: Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Director of Multifamily Bonds
Telephone: (512) 475-3344
Facsimile: (512) 475-1895
Email: teresa.morales@tdhca.state.tx.us

The Fiscal Agent: Zions Bancorporation, National Association
1801 Main Street, Suite 1190
Houston, Texas 77002
Attention: Robert Lozano
Telephone: (713) 232-1919
Facsimile: (844) 527-2686

The Borrower: Caroline Lofts, LP
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380
Attention: David Mark Koogler
Telephone: 281.292.1968
E-mail: dkoogler@mark-dana.com

with a copy to: Locke Lord LLP
600 Congress Ave, Suite 2200
Austin, Texas 78701
Attention: Richard Morrow, Esq.
Telephone: (512) 305-4709
Facsimile: (512) 305-4800
Email : RMorrow@lockelord.com

Equity Investor: RBC Community Investments, LLC
600 Superior Avenue, Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel

with a copy to: Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett P. Applegate
E-mail: bapplegate@att-law.com

If to Funding Lender (prior to
the Conversion Date): Amegy Bank
4576 Research Forest Drive
The Woodlands, TX 77381
Attention: Don Hickey
Email: don.hickey@amegybank.com

If to Funding Lender (from and
after the Conversion Date): CITIBANK, N.A.
388 Greenwich Street, Trading 6th Floor
New York, New York 10013
Attention: Transaction and Asset Management Group
Deal ID# [_____]]
Facsimile: (212) 723-8209

and CITIBANK, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Deal ID# [_____]]
Facsimile: (805) 557-0924

and

CITIBANK, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Deal ID# [_____]]
Facsimile: (215) 328-0305

And a copy of any notices
of default send to:

CITIBANK, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# [_____]]
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 by written notice as provided herein.

Section 10.2. Brokers and Financial Advisors. The Borrower hereby 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 Note and the assignment of the Borrower Note to the Fiscal Agent, 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 this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Fiscal Agent, 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, the Fiscal Agent or the Servicer, or the Governmental Lender, the Fiscal Agent 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, the Fiscal Agent 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, the Fiscal Agent 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 hereby expressly waives the right to receive any notice from the Funding Lender, the Fiscal Agent 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, the Fiscal Agent or the Servicer to the Borrower.

Section 10.6. Offsets, Counterclaims and Defenses. The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender, the Fiscal Agent or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's or the Fiscal Agent'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 hereby 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 its 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.

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 Fiscal Agent, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, 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 Fiscal Agent, 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, including an assignment by Zions Bancorporation, N.A., dba Amegy Bank to Citibank on the Conversion Date, subject to the requirements of Section 2.6 and Article IV of the Funding Loan Agreement. 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 Borrower, General Partner, Guarantor or any Affiliate, or the Project, including information that Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement. 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 hereby and in the Funding Loan Documents.

Section 10.11. Usury. Borrower and Governmental Lender intend at all times to comply with the laws of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the Borrower Loan, including Chapter 1204 of the Texas Government Code (or applicable United States federal law to the extent that it permits Governmental Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under the Borrower Note, this Borrower Loan Agreement or any other Borrower Loan Document, or contracted for, charged, taken, reserved or received with respect to the Borrower Loan, or if acceleration of the maturity of the Borrower Loan, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Governmental Lender expressly intend that all excess amounts collected by Governmental Lender will be applied to reduce the unpaid principal balance of the Borrower Loan (or, if the Borrower Loan has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of the Borrower Note, this Borrower Loan Agreement and the other Borrower Loan Documents immediately will be deemed reformed and the amounts thereafter collectible under the Borrower Loan Documents reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under the Borrower Loan Documents. The right to accelerate the maturity of the Borrower Loan does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Governmental Lender does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Governmental Lender for the use, forbearance or detention of the Borrower Loan will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Borrower Loan until payment in full so that the rate or amount of interest on account of the Borrower Loan does not exceed the applicable usury ceiling. Notwithstanding any provision contained in the Borrower Note, this Borrower Loan Agreement or any other Borrower Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of the Borrower Loan, the total amount of interest that Borrower is obligated to pay and Governmental Lender is entitled to receive with respect to the Borrower Loan will not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Borrower Loan Agreement or any other Borrower Loan Document.

Section 10.12. Governmental Lender, Funding Lender, Fiscal Agent 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, the Fiscal Agent 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, the Fiscal Agent 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, the Fiscal Agent 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 Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer. Neither the Governmental Lender, the Funding Lender, the Fiscal Agent nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project 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, the Fiscal Agent 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, the Fiscal Agent and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender, the Fiscal Agent and the Servicer shall in no event be liable for any Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender, the Fiscal Agent 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 Fiscal Agent and 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, the Fiscal Agent and the Borrower, or to create an equity interest in the Project in the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13. Release. The Borrower hereby 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 Borrower Payment Obligations hereunder have been paid in full and the Borrower Loan and the Governmental Lender Note has been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11 (Governmental Lender's, Fiscal Agent's and Funding 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 7.03 of the Construction Disbursement 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, the Fiscal Agent 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, the Fiscal Agent 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.

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 Project, (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. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES EXCEPT THE GOVERNMENTAL LENDER (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 10.18. 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 Project 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 10.19. 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 10.20. 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 31st day of any 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 10.21. 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 10.22. 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 10.23. 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 10.24. 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 10.25. 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 10.26. 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 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 10.27. 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 10.28. 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 10.29. Servicer. Borrower hereby 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 Note, 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 10.30. 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 10.31. Reserved.

Section 10.32. Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

Section 10.33. Modifications. Modifications (if any) to this Borrower Loan Agreement (“Modifications”) are set forth on Exhibit A attached to this Borrower Loan Agreement. In the event of a Transfer under the terms of the Security Instrument, some or all of the Modifications to this Borrower Loan Agreement may be modified or rendered void by the Governmental Lender or the Funding Lender at its option by notice to Borrower or such transferee.

Section 10.34. Reference Date. This Borrower Loan Agreement is dated for reference purposes only as of the first day of [____], 2021, 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 Note.

Section 11.2. Limitation on Liability of Governmental Lender; Governmental Lender May Rely.

(a) All obligations of the Governmental Lender incurred under this Borrower Loan Agreement, the Regulatory Agreement and the Funding Loan Agreement shall be limited obligations of the Governmental Lender, payable solely and only from Funding Loan proceeds, revenues and other amounts derived by the Governmental Lender from the Security pledged therefor including Pledged Revenues. THE GOVERNMENTAL LENDER NOTE AND THE FUNDING LOAN SHALL BE PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND PROPERTY PLEDGED UNDER THE

FUNDING LOAN AGREEMENT FOR THE PAYMENT OF THE GOVERNMENTAL LENDER NOTE AND THE FUNDING LOAN, AND NO OWNER OF THE GOVERNMENTAL LENDER NOTE SHALL EVER HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE, OR TO ENFORCE THE PAYMENT OF THE FUNDING LOAN OR THE GOVERNMENTAL LENDER NOTE AGAINST ANY PROPERTY OF THE GOVERNMENTAL LENDER, THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR OTHER PUBLIC BODY, INCLUDING THE GOVERNMENTAL LENDER, EXCEPT AS PROVIDED IN THE FUNDING LOAN AGREEMENT. NO OFFICIAL, DIRECTOR, OFFICER, EMPLOYEE, AGENT OR ATTORNEY OF THE GOVERNMENTAL LENDER OR THE STATE, INCLUDING ANY PERSON EXECUTING THIS BORROWER LOAN AGREEMENT ON BEHALF OF THE GOVERNMENTAL LENDER, SHALL BE LIABLE PERSONALLY UNDER THIS BORROWER LOAN AGREEMENT OR FOR ANY REASON RELATING TO THE MAKING OF THE FUNDING LOAN OR ISSUANCE OF THE GOVERNMENTAL LENDER NOTE. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE GOVERNMENTAL LENDER NOTE OR THE FUNDING LOAN, OR FOR ANY CLAIM BASED ON THE GOVERNMENTAL LENDER NOTE OR THE FUNDING LOAN, OR OTHERWISE IN RESPECT OF THE GOVERNMENTAL LENDER NOTE OR THE FUNDING LOAN, OR BASED ON OR IN RESPECT OF THIS BORROWER LOAN AGREEMENT OR ANY AMENDMENT TO THIS BORROWER LOAN AGREEMENT, AGAINST ANY OFFICIAL, DIRECTOR, OFFICER, EMPLOYEE, AGENT OR ATTORNEY OF THE GOVERNMENTAL LENDER OR THE STATE, AS SUCH, OR ANY SUCCESSOR WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BORROWER LOAN AGREEMENT AND AS PART OF THE CONSIDERATION FOR THE MAKING OF THE FUNDING LOAN AND THE ISSUANCE OF THE GOVERNMENTAL LENDER NOTE, EXPRESSLY WAIVED AND RELEASED.

(b) It is expressly understood and agreed by the parties to this Borrower Loan Agreement that:

(i) the Governmental Lender may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Funding Lender, the Fiscal Agent, any Owner of the Governmental Lender Note or the Borrower as to the existence of a fact or state of affairs required under this Borrower Loan Agreement to be noticed by the Governmental Lender;

(ii) the Governmental Lender shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Borrower, the Funding Lender, or the Fiscal Agent; and

(iii) none of the provisions of this Borrower Loan Agreement shall require the Governmental Lender to expend or risk its own funds (apart from the proceeds of Governmental Lender Note issued under the Funding Loan Agreement) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Borrower Loan Agreement unless it first shall have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

(c) No provision, representation, covenant or agreement contained in this Borrower Loan Agreement or in the Funding Loan Agreement, the Governmental Lender Note, or any obligation herein or therein imposed upon the Governmental Lender, or the breach thereof, shall constitute or give rise to or impose upon the Governmental Lender a pecuniary liability (except to the extent of any Borrower Loan repayments, revenues and receipts derived by the Governmental Lender pursuant to this Borrower Loan

Agreement and other moneys held pursuant to the Funding Loan Agreement, other than in the Rebate Fund). No provision hereof shall be construed to impose a charge against the general credit of the Governmental Lender, the State or any other political subdivision of the State, the taxing powers of the foregoing, within the meaning of any Constitutional provision or statutory limitation, or any personal or pecuniary liability upon any official, director, officer, employee, agent or attorney of the Governmental Lender or the State.

(d) All covenants, obligations and agreements of the Governmental Lender contained in this Borrower Loan Agreement and the Funding Loan Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future official, director, officer, employee, agent or attorney of the Governmental Lender in other than his official capacity, and no official executing the Governmental Lender Note shall be liable personally on the Governmental Lender Note or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Governmental Lender contained in this Borrower Loan Agreement or in the Funding Loan Agreement. No provision, covenant or agreement contained in this Borrower Loan Agreement, the Funding Loan Agreement or the Governmental Lender Note, or any obligation herein or therein imposed upon the Governmental Lender, or the breach thereof, shall constitute or give rise to or impose upon the Governmental Lender a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Governmental Lender contained in this Borrower Loan Agreement or in the Governmental Lender Note or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Governmental Lender contained in any agreement, instrument, or certificate executed in connection with the Project or the making of the Funding Loan and issuance of the Governmental Lender Note, against any member of the governing body of the Governmental Lender, its officers, counsel, financial advisor, employees or agents, as such, in his or her individual capacity, past, present, or future, or of any successor thereto, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any member of the governing body, officers, counsel, financial advisors, employees or agents, as such, in his or her individual capacity, past, present, or future, of the Governmental Lender or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Governmental Lender and the Fiscal Agent, the Funding Lender or the Borrower to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such director, officer, counsel, financial advisor, employee or agent, is, by the execution of the Governmental Lender Note, this Borrower Loan Agreement, and the Funding Loan Agreement, and as a condition of, and as part of the consideration for, the execution of the Governmental Lender Note, this Borrower Loan Agreement, and the Funding Loan Agreement, expressly waived and released.

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 Note 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 at law or under any other agreement. 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 except that Funding Lender shall not be exculpated for its own gross negligence or willful misconduct; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the 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 Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

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

(SIGNATURE PAGES FOLLOW)

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.

CAROLINE LOFTS, LP,
a Texas limited partnership

By: Caroline Lofts Advisors, LLC,
its General Partner

By: Mark-Dana Corporation,
its Managing Member

By: _____
David Mark Koogler
President

(signatures follow on subsequent page)

GOVERNMENTAL LENDER:

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Name: James B. "Beau" Eccles
Title: Secretary to the Board

Agreed to and Acknowledged by:

FUNDING LENDER:

**ZIONS BANCORPORATION, N.A.,
dba Amegy Bank**

By: _____
Name: Sara Hale
Title: Senior Vice President

EXHIBIT A
MODIFICATIONS

NONE

EXHIBIT B
\$20,000,000
MULTIFAMILY HOUSING GOVERNMENTAL NOTE
(CAROLINE LOFTS)
SERIES 2021

COMPLETION CERTIFICATE

Pursuant to Section 5.25 of the Borrower Loan Agreement (the “Borrower Loan Agreement”) between the Texas Department of Housing and Community Affairs (the “Governmental Lender”) and Caroline Lofts, LP, a Texas limited partnership (the “Borrower”), dated as of [May] 1, 2021, relating to the captioned Multifamily Housing Governmental Note, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Borrower Loan Agreement or the Tax Exemption Agreement):

- (a) The construction of the Project was substantially completed and available and suitable for use as multifamily housing on _____.
- (b) The acquisition, construction, equipping and improvement of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.
- (c) The costs of the construction of the Project financed with the Borrower Loan were \$ _____.
- (d) The proceeds of the Governmental Lender Note were used in accordance with the Tax Exemption Agreement, including the requirement that at least 95% of the proceeds of the Governmental Lender Note be expended for Qualified Project Costs and no more than 2% of the proceeds of the Governmental Lender Note be expended for Costs of Issuance. The Project will be operated in accordance with the terms of the Tax Exemption Agreement and the Regulatory Agreement.
- (e) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the _____ day of _____, 20__.

Authorized Borrower Representative

By: _____

REGULATORY AND LAND USE RESTRICTION AGREEMENT

Among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender,

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
a national banking association,
as Fiscal Agent,

and

CAROLINE LOFTS, LP,
a Texas limited partnership,
as Owner

Dated as of [May] 1, 2021

Relating to

Caroline Lofts
Houston, Harris County, Texas 77004

Original Governmental Lender Note Principal Amount: \$20,000,000

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REGULATORY AND LAND USE RESTRICTION AGREEMENT

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (as amended, modified or supplemented from time to time, this “**Agreement**” or this “**Regulatory Agreement**”) dated as of [May] 1, 2021 is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “**Governmental Lender**” or “**Department**”), a public and official agency of the State of Texas (the “**State**”), **ZIONS BANCORPORATION, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Fiscal Agent under the hereinafter defined Funding Loan Agreement (together with any successor fiscal agent under the Funding Loan Agreement described below and their respective successors and assigns, the “**Fiscal Agent**”), and **CAROLINE LOFTS, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “**Owner**”).

RECITALS

WHEREAS, pursuant to the Act (as hereinafter defined), the Governmental Lender is authorized to issue the Governmental Lender Note (as hereinafter defined) and to use the proceeds thereof to provide monies to aid in financing the acquisition, construction and equipping of residential rental property for dwelling units in the State; and

WHEREAS, the Owner has requested the assistance of the Governmental Lender in financing a multifamily residential rental housing development located on the real property described in Exhibit A hereto (as defined herein, the “**Development Site**”) and described in Exhibit B-1 hereto (as defined herein, the “**Development Facilities**” and, together with the Development Site, the “**Development**”), and, as a condition to such assistance, the Owner has agreed to enter into this Regulatory Agreement, setting forth certain restrictions with respect to the Development; and

WHEREAS, the Governmental Lender has determined to provide funds in connection with the financing of the Restricted Units (as defined herein) in the Development by issuing its Multifamily Housing Governmental Note (Caroline Lofts), Series 2021 (the “**Governmental Lender Note**”), and loaning the proceeds of such Governmental Lender Note to the Owner, upon the terms and conditions set forth in the Borrower Loan Agreement (as hereinafter defined); and

WHEREAS, in order for interest on the Governmental Lender Note to be excludable from gross income for federal income tax purposes under the Code (as defined herein), and in order to comply with the Act, the use and operation of the Development must be restricted in certain respects; and

WHEREAS, the Governmental Lender, the Fiscal Agent and the Owner have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction, equipping and operation of the Development and in order to ensure that the Development will be acquired, constructed, equipped, used and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Governmental Lender, the Fiscal Agent and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation. In addition to terms defined above, capitalized terms have the respective meanings assigned to them in this Section 1 or as elsewhere defined in this

Regulatory Agreement, in the Funding Loan Agreement, in the Borrower Loan Agreement, or in the Tax Exemption Agreement, unless the context in which they are used clearly requires otherwise:

“Act” means Chapter 2306, Texas Government Code, as amended from time to time.

“Agreement” or “Regulatory Agreement” means this Regulatory and Land Use Restriction Agreement, as it may be amended from time to time.

“Annual Income” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by section 142(d) of the Code.

“Available Unit” means a Restricted Unit (except for any Unit reserved for a resident manager, security personnel or maintenance personnel that is reasonably required for the Development) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Development is acquired by the Owner or (ii) the Closing Date is not an “available unit” and does not become an “available unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “available unit” and does not become an “available unit” until it has been leased for the first time after the renovations are completed.

“Bond Counsel” means counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes and who is appointed by the Governmental Lender, and initially means Bracewell LLP.

“Borrower Loan” means the mortgage loan of the proceeds of the Governmental Lender Note made by the Governmental Lender to the Owner pursuant to the Borrower Loan Agreement.

“Borrower Note” has the meaning set forth in the Funding Loan Agreement.

“Borrower Loan Agreement” means the Borrower Loan Agreement of even date herewith between the Governmental Lender and the Owner, as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Funding Loan Agreement.

“Closing Date” means the date upon which the Governmental Lender Note is issued and delivered in exchange for the proceeds representing the purchase price of the Governmental Lender Note paid by the original purchaser thereof.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent and successor Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Commercial Space” has the meaning given to such term in the Borrower Loan Agreement.

“Compliance Monitoring Rules” means the rules published by the Governmental Lender in Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code.

“Development” means the Development Facilities and the Development Site.

“Development Amenities” means the amenities for which the Development was awarded points by the Governmental Lender, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process, as more fully set forth in Exhibit B-2 hereto.

“Development Facilities” means the multifamily housing structure and related buildings and other improvements to be constructed on the Development Site by the Owner as more fully set forth in Exhibit B-1 hereto, and all fixtures and other property owned by the Owner and located on, or used in connection with, such buildings, structures and other improvements constituting the Development, but specifically excluding the Commercial Space.

“Development Site” means the parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances appertaining thereunto.

“Eligible Tenants” means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined by the Governmental Lender under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the Federal Tax Status of the Governmental Lender Note (subject to the inclusion of customary exceptions acceptable to the recipient(s) thereof).

“Federal Tax Status” means, as to the Governmental Lender Note, the status under existing law of the interest on the Governmental Lender Note as excludable from gross income for federal income tax purposes (subject to any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Lender Note).

“Funding Lender” has the meaning set forth in the Funding Loan Agreement.

“Funding Loan Agreement” means the Funding Loan Agreement of even date herewith among the Governmental Lender, the Funding Lender and the Fiscal Agent, relating to the issuance of the Governmental Lender Note, and any funding loan agreement supplemental thereto.

“Housing Act” means the United States Housing Act of 1937, as amended, or a successor thereto.

“HUD” means the United States Department of Housing and Urban Development or its successors.

“Loan Documents” means the Security Instrument, the Borrower Note, the Borrower Loan Agreement, this Regulatory Agreement, the Tax Exemption Agreement and any and all other instruments and other documents evidencing, securing, or governing the Borrower Loan.

“Low-Income Tenant” means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under sections 142(d)(2)(B) and (D) of the Code and in accordance with this Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

“Low-Income Unit” means a Restricted Unit that is included as a Unit satisfying the requirements of the Set Aside.

“Minimum Occupancy Requirement” shall mean the requirement described in Section (e) of Exhibit B to the Forward Purchase Agreement.

“Multifamily Tax Subsidy Program Income Limit” (or successor term) means the income limits provided by HUD pursuant to section 142(d) of the Code.

“Nonhousing Facilities” means Development Facilities that constitute buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative, community, and recreational facilities.

“Partnership Agreement” shall mean that certain Amended and Restated Agreement of Limited Partnership of the Owner dated [May] 1, 2021, as the same may be amended, restated or modified in accordance with its terms.

“Persons with Special Needs” means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Governmental Lender as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Governmental Lender.

“Qualified Project Period” means, with respect to the Development, the period beginning on the first day on which 10% of the Units are occupied and ending on the latest of (a) the date that is 15 years after the date on which 50% of the Units are occupied, (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Development is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Development under Section 8 of the Housing Act terminates.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Reserve” means the Replacement Reserve Fund required to be established by the Replacement Reserve Agreement.

“Replacement Reserve Agreement” shall mean the Replacement Reserve Agreement, to be entered into as of the Conversion Date, between the Owner and Citibank, N.A., as the same may be amended, restated or supplemented from time to time.

“Restricted Unit” means any one of the 95 Units located in the Development, which are described as “affordable units” in Exhibit B-1 hereto.

“Security Instrument” means the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas) from the Owner, as the grantor, in favor of Governmental Lender, as the beneficiary, as the same may be supplemented, amended or modified.

“Set Aside” means the requirement that at least 40% of the Available Units be occupied or held vacant for occupancy at all times by Low-Income Tenants.

“State Conversion Date” has the meaning given to the term “Conversion Date” in the Funding Loan Agreement.

“State Reserve Period” means, with respect to the Development, the period beginning on the later of the State Conversion Date or the State Stabilization Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Development; (b) the date on which the Owner suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored; (c) the date on which the Development is demolished; (d) the date on which the Development ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

“State Restrictive Period” means, with respect to the Development, the period beginning on the first day on which the Owner takes legal possession of the Development, and ending on the latest of (a) the date that is 35 years (as a result of the Owner’s election to extend the affordability period) after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Development is outstanding for federal income tax purposes, and (c) the date on which any assistance provided with respect to the Development from the federal government terminates.

“State Stabilization Date” means the date the Development has achieved the Minimum Occupancy Requirement.

“Tax Exemption Agreement” means the Tax Exemption Certificate and Agreement of even date herewith, among the Governmental Lender, the Owner, and the Fiscal Agent, as in effect on the Closing Date and as it may be amended, supplemented or restated in accordance with its terms.

“Tenant Income Certification” means a certification form available on the Governmental Lender’s website at the time of submission used to certify income and other matters executed by the household members of each Restricted Unit in the Development.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Development; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“Unit Status Report” means the certified residential rental housing program compliance report with respect to the Development to be filed by the Owner with the Governmental Lender electronically through the filing system available on the Governmental Lender’s website in the form available on the Governmental Lender’s website at the time of submission of the report or in such other form as the Governmental Lender may reasonably prescribe in writing to the Owner pursuant to Section 4(e) hereof.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender include each other gender, and words of the singular number include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof are to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms are to be determined by reference to this Section 1, notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and do not in any way modify or restrict any of the terms or provisions hereof and are not to be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

Section 1A. Acquisition, Construction and Equipping of the Development. The Owner hereby represents, covenants and agrees as follows:

(a) The statements made in the various certificates delivered by the Owner to the Governmental Lender or the Fiscal Agent or both, including specifically the representations and expectations set forth in the Tax Exemption Agreement, are true and correct in all material respects.

(b) The Owner will submit to the Governmental Lender and the Fiscal Agent evidence of construction completion as required in the Borrower Loan Agreement, and attached as Exhibit B thereto, within 30 days of completion. The Owner will also submit a request for final construction inspection to the Governmental Lender, in the format prescribed by the Governmental Lender as required pursuant to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code. The Owner further agrees to cause the architect of record to submit a certification that the Development was built in compliance with all applicable laws and the engineer of record (if applicable) must submit a certification that the Development was built in compliance with design requirements.

(c) The Owner will take or not fail to take, as is applicable, all actions necessary to cause the proceeds of the Governmental Lender Note to be applied in a manner consistent with the requirements of the Funding Loan Agreement, the Borrower Loan Agreement, the Tax Exemption Agreement and this Regulatory Agreement. The Owner acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Owner and the Development.

(d) The Owner is a qualified "housing sponsor" as defined in the Act.

(e) The Owner will not seek an exemption from ad valorem taxation for the Development without prior written notice to the Governmental Lender.

Section 2. Tax-Exempt Status of the Governmental Lender Note. The Owner will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the Federal Tax Status of the Governmental Lender Note. With the intent not to limit the generality of the foregoing, the Owner covenants and agrees:

(a) That the Development will be owned, managed and operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Owner covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Development will be comprised of residential Units and facilities functionally related and subordinate thereto, in accordance with section 142(d) of the Code;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Development will be functionally related and subordinate to the Units comprising the Development and will be of a character and size that is commensurate with the character and size of the Development;

(iv) that at no time will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than six months (unless the Unit serves as a single room occupancy unit or transitional housing for the homeless (as described in Section 42(i)(3)(B) of the Code), in which case such lease may be on a month-to-month basis) or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Development will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Development will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Development tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Development, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time will any Unit in any building or structure in the Development that contains fewer than five Units be occupied by the Owner;

(viii) that each Restricted Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in this Regulatory Agreement, the Tax Exemption Agreement and the Borrower Loan Agreement) at all times during the longer of (A) the term of the Governmental Lender Note or (B) the Qualified Project Period, that the Owner will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low-Income Tenants, and other Eligible Tenants as provided herein, and that at no time will any portion of the Development be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Development will meet the Set Aside. For the purposes of this Section 2(a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income

Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low-Income Tenant of the same family size and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Owner will obtain, complete and maintain on file Tenant Income Certifications and supporting documentation from each Low Income Tenant, including (A) a Tenant Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Development and (B) thereafter, annual Tenant Income Certifications obtained on or before the anniversary of such Low Income Tenant's occupancy of the Unit, and in no event less than once in every 12-month period following each Low Income Tenant's occupancy of a Unit; provided that the requirement for annual recertification will not apply for any year in which no Unit in the Development is occupied by a new resident whose income exceeds the applicable income limit. The Owner will obtain such additional information as may be required in the future by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Owner will make a diligent and good-faith effort to determine that the income information provided by an applicant in a Tenant Income Certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Owner will document income and assets in accordance with HUD Handbook 4350.3 and the Governmental Lender's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Owner will submit to the Secretary of the Treasury, with a copy provided to the Governmental Lender, the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Owner will prepare and submit the Unit Status Report in the form available on the Governmental Lender's website at the time of such submission to the Governmental Lender (via the electronic filing system available on the Governmental Lender's website) in accordance with Section 4(e) hereof. The Owner will retain all documentation required by this Section 2(a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Owner will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable prior written notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Governmental Lender, the Fiscal Agent, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect and photocopy the books and records of the Owner

pertaining to the Development, including those records pertaining to the occupancy of the Low-Income Units. The Owner will retain all records maintained in accordance with this Section 2(b) until the date that is three years after the end of the Qualified Project Period.

(c) That the Owner will provide to the Fiscal Agent and the Governmental Lender a certificate in the form attached hereto as Exhibit D certifying (i) within 90 days thereof, the date on which 10% of the Units are occupied; and (ii) within 90 days thereof, the date on which 50% of the Units are occupied.

(d) That the Owner will prepare and submit to the Governmental Lender and the Fiscal Agent, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form; however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in this Regulatory Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Governmental Lender and the Fiscal Agent may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Owner in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Owner, and which is required to be noticed, represented or certified by the Owner hereunder or in connection with any filings, representations or certifications required to be made by the Owner in connection with the issuance and delivery of the Governmental Lender Note.

Section 3. Modification of Tax and Other Restrictive Covenants. The Owner, the Fiscal Agent and the Governmental Lender hereby agree as follows:

(a) During the Qualified Project Period and the State Restrictive Period, to the extent any amendments to the Act or the Code, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Owner, impose requirements upon the ownership or operation of the Development more restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as is necessary to document such automatic amendment hereof to be effective for the duration of such more restrictive requirements. In addition, this Regulatory Agreement will be amended to the extent required by, and in accordance with, the Borrower Loan Agreement.

(b) During the Qualified Project Period and the State Restrictive Period, to the extent that the Act, the Code, or any amendments thereto, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Owner, impose requirements upon the ownership or operation of the Development less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, the Fiscal Agent and the Owner and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All costs, including fees and out-of-pocket expenses actually incurred by the Governmental Lender and the Fiscal Agent, in connection with compliance with the requirements of this Section will be paid by the Owner and its successors in interest.

Section 4. Housing Development During the State Restrictive Period. The Governmental Lender and the Owner hereby recognize and declare their understanding and intent that the Development is to be owned, managed and operated as a "housing development," as such term is defined in Section

2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Governmental Lender until the expiration of the State Restrictive Period.

To the same end, the Owner hereby represents, covenants and agrees as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Development, to assure that 100% of the Restricted Units are reserved for Eligible Tenants;

(b) to assure that the provisions of Sections 2(a)(viii) and 2(a)(ix) hereof continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant of a Restricted Unit in the Development (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant's initial occupancy of a Restricted Unit in the Development, and, if required as described in Section 2(a)(x) hereof, at least annually thereafter in the manner as described in Section 2(a)(x) hereof, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant of a Restricted Unit in the Development (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Restricted Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Governmental Lender to the Owner from time to time that (i) such lease is subordinate to the Security Instrument and this Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of this Regulatory Agreement and the Borrower Loan Agreement are substantial and material obligations of tenancy in the Development, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Owner, the Fiscal Agent and the Governmental Lender, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;

(e) to cause to be prepared and submitted to the Governmental Lender (via the electronic filing system available on the Governmental Lender's website) by the tenth calendar day of each January, April, July and October or other schedule as determined by the Governmental Lender with written notice to the Owner, a certified quarterly Unit Status Report in a form available on the Governmental Lender's website at the time of submission or in such other form as the Governmental Lender may reasonably prescribe in writing to the Owner with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable prior written notice to permit any duly authorized representative of the Governmental Lender or the Fiscal Agent to inspect the books and records of the Owner pertaining to the Development or the incomes of Development tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Governmental Lender's requirements;

(g) that the Owner is qualified to be a “housing sponsor” as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Governmental Lender’s website) the Annual Owner’s Compliance Report to the Governmental Lender in the form available on the Governmental Lender’s website at the time of submission by April 30 of each year, commencing April 30, 2023;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached hereto as Exhibit C in the manner provided in such Exhibit or from any additional supportive services added to the Governmental Lender’s rules at any future date that are of similar value to the service it is intending to replace as agreed to in writing by the Governmental Lender. The Owner must maintain documentation satisfactory to the Governmental Lender of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Governmental Lender upon request. The Owner must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code and other Governmental Lender rules regarding affirmative marketing and written policies and procedures, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD’s Uniform Physical Condition Standards and to provide regular maintenance to keep the Development sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Governmental Lender must first provide notice of any default or breach to the Owner and the Funding Lender, and the Owner will have 30 days following receipt of such notice to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Development pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Owner is not a party to and will not enter into a contract for the Development with, a housing developer that (i) is on the Governmental Lender’s debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Owner has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Owner’s participation in contracts with the agency and the amount of financial assistance awarded to the Owner by the agency;

(m) to cooperate fully with the Governmental Lender with respect to its compliance and oversight requirements and to cause the manager of the Development to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under Section 2(a)(ix) hereof will be distributed evenly throughout the Development and will include a reasonably proportionate amount of each type of Unit available in the Development;

(o) to ensure that the Development conforms to the federal Fair Housing Act;

(p) the Nonhousing Facilities are necessary, convenient, or desirable appurtenances for the Restricted Units; and

(q) to pay to the Governmental Lender the Governmental Lender Compliance Fee (as defined in the Funding Loan Agreement).

Section 4.A. Repairs and Maintenance Required by State Law. The Owner will maintain the Replacement Reserve required by and created pursuant to the Replacement Reserve Agreement or a similar account for the longer of: (a) the period of time required pursuant to the Replacement Reserve Agreement, or (b) the State Reserve Period as required by Section 2306.186 of the Texas Government Code.

Section 4.B. Development Amenities. The Owner hereby represents, covenants and agrees that the Development will include the Development Amenities as described in Exhibit B-2 attached hereto.

Section 5. [Reserved]

Section 6. Persons With Special Needs. The Owner represents, covenants and warrants that during the State Restrictive Period, it will make at least 5% of the Restricted Units within the Development available for occupancy by Persons with Special Needs.

Section 7. Consideration. The Governmental Lender has issued the Governmental Lender Note to provide funds to make the Borrower Loan to finance the portion of the Development constituting the Restricted Units, all for the purpose, among others, of inducing the Owner to acquire, construct, equip and operate the Development. In consideration of the issuance of the Governmental Lender Note by the Governmental Lender, the Owner has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Development can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Governmental Lender, the Fiscal Agent and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality and validity of the Governmental Lender Note, and in the excludability of interest on the Governmental Lender Note from gross income for federal income tax purposes under existing law. In performing their duties and obligations hereunder, the Owner, the Governmental Lender and the Fiscal Agent may rely upon statements and certificates of the Low-Income Tenants or Eligible Tenants and the Governmental Lender and the Fiscal Agent may rely upon (i) statements and certifications by the Owner; (ii) audits of the books and records of the Owner pertaining to the Development; and (iii) with respect to the Fiscal Agent, any other information provided to the Fiscal Agent, pursuant to this Regulatory Agreement. In addition, the Governmental Lender, the Owner and the Fiscal Agent may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender, the Owner or the Fiscal Agent hereunder in good faith and in conformity with such opinion. In determining whether any default by the Owner exists under this Regulatory Agreement, the Fiscal Agent is not required to conduct any investigation into or review of the operations or records of the Owner and may rely on any written report, notice or certificate or other information delivered to the Fiscal Agent, as required by this Regulatory Agreement, by any Person retained to review the Owner's compliance with this Regulatory Agreement or by the Owner or the Governmental Lender with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice or certificate is erroneous or misleading.

Section 9. Development in Harris County. The Owner hereby represents that the Development is located entirely within Harris County, Texas.

Section 10. Sale or Transfer of the Development or Change in General Partner.

(a) The Owner covenants and agrees not to sell, transfer or otherwise dispose of the Development (other than pursuant to the lease of Units to tenants), without (i) providing 30 days

prior written notice to the Governmental Lender, (ii) complying with any applicable provisions of this Regulatory Agreement, the Borrower Loan Agreement, the Tax Exemption Agreement and other Loan Documents and (iii) obtaining the prior written consent of the Governmental Lender. Such consent of the Governmental Lender will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by the Governmental Lender: (A) there is delivered to the Fiscal Agent and the Governmental Lender a written opinion of independent legal counsel reasonably satisfactory to the Fiscal Agent and the Governmental Lender, addressed to the Fiscal Agent and the Governmental Lender, concluding that the proposed purchaser or transferee has duly assumed all of the rights and obligations of the Owner under this Regulatory Agreement, the Borrower Loan Agreement, the Tax Exemption Agreement and the other Loan Documents and that each of the documents executed by such proposed purchaser or transferee in connection therewith has been duly authorized, executed and delivered by such proposed purchaser or transferee and is a valid and enforceable obligation of such proposed purchaser or transferee, subject to customary qualifications, (B) if the proposed transfer of the Development occurs prior to the expiration of the Qualified Project Period, the Governmental Lender receives a Favorable Opinion of Bond Counsel, with a copy to the Fiscal Agent, which opinion will be furnished at the expense of the Owner or the proposed purchaser or transferee, (C) the Governmental Lender receives a transfer fee equal to \$1,000, (D) the proposed purchaser or transferee executes any document requested by the Governmental Lender with respect to assuming the obligations of the Owner under this Regulatory Agreement, the Borrower Loan Agreement, the Tax Exemption Agreement and the other Loan Documents, (E) the Governmental Lender has performed a previous participation review on the proposed purchaser or transferee or any affiliated party, the results of which are satisfactory to the Governmental Lender in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Governmental Lender does not further have any reason to believe the proposed purchaser or transferee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or transferee relating to the Development, including but not limited to this Regulatory Agreement, the Borrower Loan Agreement, the Tax Exemption Agreement, the Security Instrument and other Loan Documents, (F) the proposed purchaser or transferee has met the requirements in Title 10, Part 1, Chapter 10, Subchapter E, Section 10.406, Texas Administrative Code, and (G) the Owner or proposed purchaser or transferee have paid any and all fees or expenses of Bond Counsel incurred in association with its review and drafting of documents relating to the transfer. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Governmental Lender or Fiscal Agent, provided that written notice thereof has been provided to the Governmental Lender, (a) the transfer by Equity Investor of its non-Controlling interest in Owner in accordance with the terms of Owner's Partnership Agreement, (b) the removal of the general partner of Owner in accordance with the Partnership Agreement and the temporary replacement thereof with Equity Investor or any of its affiliates, (c) the transfer of ownership interests in Equity Investor, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of Equity Investor in Owner to Owner's general partner or any of its affiliates, and (e) any amendment to the Partnership Agreement to memorialize the transfers or removal described above. For the purposes of the preceding sentence, "Control" or "Controlling" has the meaning given to such term in Title 10, Part 1, Subchapter A, Section 11.1, Texas Administrative Code. The Owner hereby expressly stipulates and agrees that any sale, transfer or other disposition of the Development in violation of this subsection will be ineffective to relieve the Owner of its obligations under this Regulatory Agreement. Upon any sale, transfer or other disposition of the Development in compliance with this Regulatory

Agreement, the Owner so selling, transferring or otherwise disposing of the Development will have no further liability for obligations under the Borrower Loan Agreement, this Regulatory Agreement or any Loan Document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Owner as set forth in the Borrower Loan Agreement, this Regulatory Agreement or any Loan Document with respect to matters arising prior to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Development.

(b) No transfer of the Development will release the Owner from its obligations under this Regulatory Agreement arising prior to the date of such transfer, but any such transfer in accordance with this Regulatory Agreement will relieve the Owner of further liability for obligations under this Regulatory Agreement arising after the date of such transfer.

(c) Except as set forth in Section 10(a) above, the Owner will not change its general partner by transfer, sale or otherwise without the prior written consent of the Governmental Lender, in accordance with Title 10, Part 1, Chapter 10, Subchapter E, Section 10.406, Texas Administrative Code. A change in the Owner's general partner includes any transfer of any controlling ownership interest in the general partner other than by death or incapacity.

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Lender Note, discharge of the Borrower Loan, termination of the Borrower Loan Agreement and defeasance or termination of the Funding Loan Agreement; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein will terminate, without the requirement of any consent by the Governmental Lender or the Fiscal Agent, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Governmental Lender or the Fiscal Agent from enforcing the provisions hereof, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Governmental Lender Note is retired in full or amounts received as a consequence of such event are used to provide a "qualified residential rental project" that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in Sections 1A through 6, 10, 11 and 12 of this Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Owner or any Related Person obtains an ownership interest in the Development for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Governmental Lender, the Fiscal Agent and the Owner upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however,

that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Governmental Lender and the Fiscal Agent incurred in connection with the termination of this Regulatory Agreement will be paid by the Owner and its successors in interest.

Section 12. Covenants To Run With the Land. The Owner hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender, the Fiscal Agent and the Owner hereby declare that the covenants, reservations and restrictions set forth herein are covenants running with the land and will pass to and be binding upon the Owner's successors in title to the Development; provided, however, that upon the termination of this Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof prior to the termination of this Regulatory Agreement will conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

No breach of any of the provisions of this Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Development or any portion thereof.

Section 13. Burden and Benefit. The Governmental Lender, the Fiscal Agent and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Development is rendered less valuable thereby. The Governmental Lender, the Fiscal Agent and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Low-Income Tenants and Eligible Tenants and by furthering the public purposes for which the Governmental Lender Note was issued.

Section 14. Uniformity; Common Plan. The covenants, reservations and restrictions hereof will apply uniformly to the Restricted Units in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 15. Default; Enforcement by the Fiscal Agent and Governmental Lender. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured by the Owner for a period of 60 days after written notice thereof has been given by the Governmental Lender or the Fiscal Agent to the Owner and the Equity Investor at the Notice Addresses set forth in the Funding Loan Agreement, then the Fiscal Agent, acting on its own behalf or on behalf of the Governmental Lender, will declare an "Event of Default" to have occurred hereunder; provided, however, that, if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default will not constitute an Event of Default hereunder and will not be declared an Event of Default so long as (i) the Owner institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) the Owner delivers to the Governmental Lender and the Fiscal Agent a Favorable Opinion of Bond Counsel. The Governmental Lender hereby agrees that any cure of any Event of Default hereunder made or tendered by the Equity Investor shall be deemed to be cure by the Owner, and shall be accepted or rejected by the Governmental Lender on the same basis as if made or tendered by the Owner.

During the existence of an Event of Default hereunder, the Fiscal Agent or the Governmental Lender, each subject to being indemnified to its satisfaction with respect to the costs and expenses of any proceeding may, at its option, take any one or more of the following steps:

(a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender or the Fiscal Agent hereunder;

(b) have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the Development during regular business hours following reasonable prior written notice; and

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder;

The Owner hereby agrees that specific enforcement of the Owner's agreements contained herein is the only means by which the Governmental Lender and the Fiscal Agent may obtain the benefits of such agreements made by the Owner herein, and the Owner therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Owner hereunder. In addition, if the Governmental Lender succeeds in an action for specific performance of an obligation, covenant or agreement of the Owner contained herein, it is entitled to the relief provided in Section 16(b) hereof to the extent provided in that provision.

All rights and remedies herein given or granted are cumulative, nonexclusive and in addition to any and all rights and remedies that the parties may have or may be given by reason of any law, statute, ordinance, document or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Governmental Lender will to the extent that it has actual knowledge thereof, by notice in writing, use its best efforts to inform the Fiscal Agent and the Owner (provided that the failure to notify will not adversely affect the Governmental Lender's or the Fiscal Agent's rights under this Regulatory Agreement) that a violation of this Regulatory Agreement has occurred.

It is specifically declared that this Regulatory Agreement or obligations hereunder may not be enforced by tenants or prospective tenants of the Development (except as described in Section 16 below) or, except as specifically provided in the Funding Loan Agreement, by the owner of the Governmental Lender Note.

Section 16. Enforcement of Certain Provisions by Tenants and other Private Parties.

(a) During the existence of an Event of Default hereunder with respect to Sections 4(i) and 4(j) hereof only, a tenant of the Development or any private party may, at its option by mandamus or other suit, including injunctive relief, require the Owner to perform its obligations and covenants under Sections 4(i) and 4(j) hereof.

(b) If the Governmental Lender, a tenant of the Development, or any private party brings an action to enforce the obligations and covenants of the Owner under Sections 4(i) and 4(j) hereof, such party has the right to recover attorney's fees directly from the Owner, without recourse to the Development, if such party is successful in an action seeking enforcement of the obligations and covenants of the Owner hereunder. This is the only monetary relief a tenant of the

Development or other private parties may receive under this Regulatory Agreement and any such recovery is subject to the provisions set forth in Section 15 above.

Section 17. The Fiscal Agent. The Fiscal Agent will act only as specifically provided herein in the Funding Loan Agreement and in the Tax Exemption Agreement. Subject to the right of the Fiscal Agent to be indemnified as provided in the Funding Loan Agreement and the Borrower Loan Agreement, the Fiscal Agent agrees to act as the agent of and on behalf of the Governmental Lender when requested in writing by the Governmental Lender to do so, and any act required to be performed by the Governmental Lender as herein provided will be deemed taken if such act is performed by the Fiscal Agent. The Fiscal Agent is entering into this Regulatory Agreement solely in its capacity as Fiscal Agent under the Funding Loan Agreement, and the duties, powers, rights and obligations of the Fiscal Agent in acting hereunder will be subject to the provisions of the Funding Loan Agreement and the Tax Exemption Agreement, all of which are incorporated by reference herein. The incorporated provisions of the Funding Loan Agreement and the Tax Exemption Agreement are intended to survive the retirement of the Governmental Lender Note, discharge of the Borrower Loan, termination of the Borrower Loan Agreement and defeasance or termination of the Funding Loan Agreement and the Tax Exemption Agreement.

Subject to the Fiscal Agent's rights under the Funding Loan Agreement, the Fiscal Agent will, at the direction of the Governmental Lender, take reasonable actions to enforce compliance by the Owner with the terms of this Regulatory Agreement. The Fiscal Agent may rely on certificates, reports or other information delivered to the Fiscal Agent, in accordance with this Regulatory Agreement, without independent investigation and the Fiscal Agent's responsibility to review and monitor compliance hereunder will not extend beyond the Fiscal Agent's receipt of the certificates, reports, and other documents required to be submitted to the Fiscal Agent pursuant to this Regulatory Agreement.

The Fiscal Agent may resign or be removed only as provided in Section 11.10 of the Funding Loan Agreement. Such resignation or removal will not be effective until a successor Fiscal Agent satisfying the requirements of the Funding Loan Agreement is appointed and has accepted its appointment. The Fiscal Agent's right to indemnification provided in the Funding Loan Agreement and the Borrower Loan Agreement will survive the resignation or removal of the Fiscal Agent and the termination of this Regulatory Agreement.

Upon discharge of the Funding Loan Agreement, the Owner will pay to the Fiscal Agent a fee, in an amount mutually agreed upon by the Owner and the Fiscal Agent at the time of such discharge, for the performance of the Fiscal Agent's duties under this Regulatory Agreement through the date upon which the Governmental Lender Note is to be paid in full. After the date upon which the Governmental Lender Note has been paid in full, the Fiscal Agent shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Fiscal Agent in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 18. Recording and Filing. The Owner will cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Harris County, Texas and in such other places as the Governmental Lender or the Fiscal Agent may reasonably request. A file-stamped copy of this Regulatory Agreement and all amendments and supplements thereto will be delivered to the Fiscal Agent. The Owner will pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 19. Reimbursement of Expenses. Notwithstanding any prepayment of the Borrower Loan and notwithstanding a discharge of the Funding Loan Agreement or the Tax Exemption Agreement,

throughout the term of this Regulatory Agreement, the Owner will continue to pay to the Governmental Lender and the Fiscal Agent all fees and reimbursement for all expenses actually incurred thereby required to be paid to the Governmental Lender and the Fiscal Agent by the Owner pursuant to the Borrower Loan Agreement or the Tax Exemption Agreement, as applicable.

Section 20. Governing Law. This Regulatory Agreement is governed by the laws of the State of Texas. The Fiscal Agent's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement, the Borrower Loan Agreement, the Funding Loan Agreement and the Tax Exemption Agreement.

Section 21. Amendments. Subject to the provisions of Section 3 hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto and the Funding Lender, or their successors in title, and duly recorded in the real property records of Harris County, Texas, and only upon receipt by the Governmental Lender (with a copy to the Fiscal Agent and the Funding Lender) of a Favorable Opinion of Bond Counsel and an opinion of Bond Counsel that such action is not contrary to the provisions of the Act.

Section 22. Notices. Any notice required to be given hereunder to the Governmental Lender, the Fiscal Agent, the Equity Investor or the Owner will be given in the manner and to the address (or facsimile numbers) set forth in the Funding Loan Agreement.

Section 23. Severability. If any provision of this Regulatory Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof will not in any way be affected or impaired thereby.

Section 24. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which constitute one and the same instrument, and each of which is deemed to be an original.

Section 25. Authorization to Act for Governmental Lender. To the extent allowed by law, the Governmental Lender hereby authorizes the Owner to take on behalf of the Governmental Lender all actions required or permitted to be taken by it hereunder, or under the Funding Loan Agreement and the Borrower Loan Agreement and to make on behalf of the Governmental Lender all elections and determinations required or permitted to be made by the Governmental Lender hereunder or under the Funding Loan Agreement and the Borrower Loan Agreement. In addition, the Governmental Lender hereby authorizes the Owner to exercise, on behalf of the Governmental Lender, any election with respect to the Governmental Lender Note pursuant to the Code or the Regulations, and the Governmental Lender agrees to cooperate with the Owner and execute any form of statement required by the Code or the Regulations to perfect any such election.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Governmental Lender, the Fiscal Agent and the Owner have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**, as Governmental Lender

By: _____
Name: James B. "Beau" Eccles
Title: Secretary to the Board

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2021 by James B. "Beau" Eccles, Secretary to the Governing Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

EXHIBIT "A"

[TO COME FROM BORROWER].

EXHIBIT B-1

DESCRIPTION OF DEVELOPMENT

Owner: Caroline Lofts, LP, a Texas limited partnership

Development: The Development is a 119-unit multifamily community (consisting of 95 affordable units and 24 market rate units as noted below) to be known as Caroline Lofts, and to be located at 2403 Caroline Street, Houston, Harris County, TX 77004. It will consist of two (2) residential buildings with approximately 103,221 net rentable square feet. The unit mix will consist of:

65	one-bedroom/one-bath units
54	two-bedroom/two-bath units
<hr/>	
119	Total Units

NOTE – The 119 total units are comprised of:

- 95 affordable units (51 1B/1BA and 44 2B/2BA); and
- 24 market rate units (14 1B/1BA and 10 2B/2BA).

Unit sizes will range from approximately 716 square feet to approximately 1,029 square feet.

EXHIBIT B-2

DEVELOPMENT AMENITIES

“Development Amenities” means the amenities for which the Development was awarded points by the Governmental Lender, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program pre-application scoring process.

Development Common Amenities must include at least fourteen (14) points selected from the following list which are grouped primarily for organizational purposes. The Owner is not required to select a specific number of amenities from each section. The Owner may change, from time to time, the amenities offered; however, the overall points must remain the same. The tenant must be provided written notice of the elections made by the Owner.

(i) Community Space for Resident Supportive Services

(I) Except in Applications where more than 10% of the units in the proposed Development are Supportive Housing SRO Units, an Application may qualify to receive half of the points required under 10 TAC §11.101(b)(5)(A)(i)-(vi) by electing to provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site. To receive the points the Applicant must commit to all of items (-a-) - (-c-) of this subclause.

(-a-) Space and Design. The educational space for the HQ Pre-K program must be provided on the Development Site and must be a suitable and appropriately designed space for educating children that an independent school district or open-enrollment charter school can utilize to establish and operate a HQ Pre-K program. This space includes at a minimum a bathroom and large closet in the classroom space; appropriate design considerations made for the safety and security of the students; including limited and secure ingress and egress to the classroom space; and satisfaction of the requirements of all applicable building codes for school facilities. The Applicant must provide in the Application a copy of the current school facility code requirements applicable to the Development Site and Owner and Architect certifications that they understand the associated space and design requirements reflected in those code requirements. The Application must also include acknowledgement by all lenders, equity providers and partners that the Application includes election of these points.

(-b-) Educational Provider. The Applicant must enter into an agreement, addressing all items as described in subitems (-1-) - (-5-) below, and provide evidence of such agreement to the Department on or before submission of the Cost Certification. Lack of evidence of such agreement by the deadline will be cause for rescission of the Carryover Agreement or Determination Notice, as applicable.

(-1-) The agreement must be between the Owner and any one of the following: a school district; open- enrollment charter school; or Education Service Center. Private schools and private childcare providers, whether nonprofit or for profit, are not eligible parties, unless the private school or private childcare provider has entered into a partnership with a school district or open-enrollment charter school

to provide a HQ Pre-K program in accordance with Texas Education Code Chapter 29, Subchapter E-1.

(-2-) The agreement must reflect that at the Development Site the educational provider will provide a HQ Pre-K program, in accordance with Texas Education Code Chapter 29, Subchapter E-1, at no cost to residents of the proposed Development and that is available for general public use, meaning students other than those residing at the Development may attend.

(-3-) Such agreement must reflect a provision that the option to operate the HQ Pre-K program in the space at the Development Site will continue to be made available to the school or provider until such time as the school or provider wishes to withdraw from the location. This provision will not limit the Owner's right to terminate the agreement for good cause.

(-4-) Such agreement must set forth the responsibility of each party regarding payment of costs to use the space, utility charges, insurance costs, damage to the space or any other part of the Development, and any other costs that may arise as the result of the operation of the HQ Pre-K program.

(-5-) The agreement must include provision for annual renewal, unless terminated under the provisions of item (-c-).

(-c-) If an education provider who has entered into an agreement becomes defunct or elects to withdraw from the agreement and provision of services at the location, as provided for in subitem (-b-)(-3-) of this subclause, the Owner must notify the Texas Commissioner of Education at least 30 days prior to ending the agreement to seek out any other eligible parties listed in subitem (-b-)(-1-) of this subclause above. If another interested open-enrollment charter school or school district is identified by the Texas Commissioner of Education or the Owner, the Owner must enter into a subsequent agreement with the interested open-enrollment charter school or school district and continue to offer HQ Pre-K services. If another interested provider cannot be identified, and the withdrawing provider certifies to the Department that their reason for ending the agreement is not due to actions of the Owner, the Owner will not be considered to be in violation of its commitment to the Department. If the Owner is not able to find a provider, they must notify the Commissioner annually of the availability of the space.

(II) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for children and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 15 square feet times the total number of Units, but need not exceed 2,000 square feet in total. This space must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets or cabinetry (4 points);

(III) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for adults and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 10 square feet times the total number of Units, but need not exceed 1,000 square feet in total. This space must be separate from any other community space

but may include a full kitchen. The room(s) must include storage space, such as closets or cabinetry (2 points);

(IV) Service provider office in addition to leasing offices (1 point);

(ii) Safety

(I) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point);

(II) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);

(III) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site (2 points);

(IV) Twenty-four hour, seven days a week recorded camera / security system in each building (1 point);

(V) The provision of a courtesy patrol service that, at a minimum, answers after-hour resident phone calls regarding noise and crime concerns or apartment rules violations and that can dispatch to the apartment community a courtesy patrol officer in a timely manner (3 points);

(iii) Health/ Fitness / Play

(I) Accessible walking/jogging path, equivalent to the perimeter of the Development or a length that reasonably achieves the same result, separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);

(II) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 40 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (1 point);

(III) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 20 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (2 points);

(IV) One Children's Playscape Equipped for five to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (V) of this subparagraph is not selected; or

(V) Two Children's Playscapes Equipped for five to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep

equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (IV) of this subparagraph is not selected;

(VI) Horseshoe pit; putting green; shuffleboard court; pool table; ping pong table; or similar equipment in a dedicated location accessible to all residents to play such games (1 point);

(VII) Swimming pool (3 points);

(VIII) Splash pad/water feature play area (1 point);

(IX) Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points);

(iv) Design / Landscaping

(I) Full perimeter fencing that contains the parking areas and all amenities (excludes guest or general public parking areas) (2 points);

(II) Enclosed community sun porch or covered community porch/patio (1 point);

(III) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash (requires that the Development allow dogs) (1 point);

(IV) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);

(V) Porte-cochere (1 point);

(VI) Lighted pathways along all accessible routes (1 point);

(VII) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (which may be subject to local water usage restrictions) (1 point);

(v) Community Resources

(I) Gazebo, covered pavilion, or pergola with sitting area (seating must be provided) (1 point);

(II) Community laundry room with at least one washer and dryer for every 40 Units (2 points);

(III) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);

(IV) Business center with workstations and seating internet access, 1 printer and at least one scanner which may be integrated with the printer, and either 2 desktop computers or laptops available to check-out upon request (2 points);

(V) Furnished Community room (2 points);

- (VI) Library with an accessible sitting area (separate from the community room) (1 point);
- (VII) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- (VIII) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- (IX) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to residents; and seating (3 points);
- (X) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the clubhouse or community building (1 point);
- (XI) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the Development (2 points);
- (XII) Bicycle parking that allows for, at a minimum, one bicycle for every five Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);
- (XIII) Package Lockers. Automated Package Lockers provided at a location within the complex that can be accessed by residents 24/7 and at no charge to the resident. To qualify, there would need to be at least one locker for every eight residential units (2 points);
- (XIV) Recycling Service (includes providing a storage location and service for pick-up) (1 point);
- (XV) Community car vacuum station (1 point).

Unit, Development Construction and Energy and Water Efficiency Features. The Development must include at least nine (9) points selected from the following list. At least two (2) points must be selected from clause (iii) Energy and Water Efficiency Features. The development must maintain the points associated with those amenities by maintaining the amenity selected or providing substitute amenities with equal or higher point values.

(i) Unit Features

- (I) Covered entries (0.5 point);
- (II) Nine foot ceilings in living room and all Bedrooms (at minimum) (1 point);
- (III) Microwave ovens (0.5 point);
- (IV) Self-cleaning or continuous cleaning ovens (0.5 point);
- (V) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to Bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the Property site (0.5 point);

(VI) Covered patios or covered balconies (0.5 point);

(VII) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);

(VIII) Built-in (recessed into the wall) shelving unit (0.5 point);

(IX) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area for seating although actual seating such as bar stools does not have to be provided) (0.5 point);

(X) Walk-in closet in at least one Bedroom (0.5 point);

(XI) 48" upper kitchen cabinets (1 point);

(XII) Kitchen island (0.5 points);

(XIII) Kitchen pantry with shelving (may include the washer/dryer unit for Rehabilitation Developments only) (0.5 point);

(XIV) Natural stone or quartz countertops in kitchen and bath (1 point);

(XV) Double vanity in at least one bathroom (0.5 point); and

(XVI) Hard floor surfaces in over 50% of unit NRA (0.5 point).

(ii) Development Construction Features

(I) Covered parking (may be garages or carports, attached or freestanding) and include at least one covered space per Unit (1.5 points);

(II) Thirty year roof (0.5 point);

(III) Greater than 30% stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);

(IV) Electric Vehicle Charging Station (0.5 points);

(V) An Impact Isolation Class (IIC) rating of at least 55 and a Sound Transmission Class (STC) rating of 60 or higher in all Units, as certified by the architect or engineer of record (3 points); and

(VI) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Four (4) points may be selected from only one of the categories described in items (-a-)-(-d-) of this subclause. If the Development involves scattered sites, there must be green building features incorporated into each site in order to qualify for these points.

(-a-) Enterprise Green Communities. The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New

Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(-b-) Leadership in Energy and Environmental Design (LEED). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(-c-) ICC/ASHRAE - 700 National Green Building Standard (NGBS). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NGBS Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(-d-) 2018 International Green Construction Code.

(iii) Energy and Water Efficiency Features

(I) Energy-Star or equivalently rated refrigerator with icemaker (0.5 point);

(II) Energy-Star or equivalently rated laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);

(III) Recessed LED lighting or LED lighting fixtures in kitchen and living areas (1 point);

(IV) Energy-Star or equivalently rated ceiling fans in all Bedrooms (0.5 point);

(V) EPA WaterSense or equivalent qualified toilets in all bathrooms (0.5 point);

(VI) EPA WaterSense or equivalent qualified showerheads and faucets in all bathrooms (0.5 point);

(VII) 15 SEER HVAC, or in Region 13, an efficient evaporative cooling system. For Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided, (1 point);

(VIII) 16 SEER HVAC, for New Construction or Rehabilitation (1.5 points); and

(IX) A rainwater harvesting/collection system or locally approved greywater collection system (0.5 points).

EXHIBIT C

TENANT SUPPORTIVE SERVICES

The tenant supportive services to be provided must include at least eight (8) points selected from the following list which are grouped primarily for organizational purposes. The Owner is not required to select a specific number of services from each section. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. Should the Governmental Lender's rules in subsequent years provide different services than those listed below, the Owner may be allowed to select services listed therein upon written consent from the Governmental Lender, and any services selected must be of similar value to the service the Owner is intending to replace. The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Owner.

(A) Transportation Supportive Services

- (i) shuttle, at least three days a week, to a grocery store and pharmacy or a major, big-box retailer that includes a grocery store and pharmacy, OR a daily shuttle, during the school year, to and from nearby schools not served by a school bus system for children who live at the Development (3.5 points);
- (ii) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);

(B) Children Supportive Services

- (i) provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site meeting the requirements of 10 TAC §11.101(b)(5)(C)(i)(I). (Half of the points required under 10 TAC §11.101(b)(7));
- (ii) Twelve hours of weekly, organized, on-site services provided to K-12 children by a dedicated service coordinator or third-party entity. Services include after-school and summer care and tutoring, recreational activities, character building programs, mentee opportunities, test preparation, and similar activities that promote the betterment and growth of children and young adults (3.5 points);

(C) Adult Supportive Services

- (i) Four hours of weekly, organized, on-site classes provided to an adult audience by persons skilled or trained in the subject matter being presented, such as English as a second language classes, computer training, financial literacy courses, health education courses, certification courses, GED preparation classes, resume and interview preparatory classes, general presentations about community services and resources, and any other course, class, or presentation that may equip residents with new skills that they may wish to develop (3.5 points);
- (ii) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) that also emphasizes how to claim the Earned Income Tax Credit (1 point);
- (iii) contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; may include resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);

(iv) external partnerships for provision of weekly substance abuse meetings at the Development Site (1 point);

(D) Health Supportive Services

(i) food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank (2 points);

(ii) annual health fair provided by a health care professional (1 point);

(iii) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);

(iv) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(E) Community Supportive Services

(i) partnership with local law enforcement or local first responders to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (2 points);

(ii) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);

(iii) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (1 point);

(iv) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.) (1 point);

(v) specific service coordination services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (3 points);

(vi) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(vii) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);

(viii) a part-time resident services coordinator with a dedicated office space at the Development or a contract with a third-party to provide the equivalent of 15 hours or more of weekly resident supportive services at the Development (2 points);

(ix) provision, by either the Development Owner or a community partner, of an education tuition- or savings-match program or scholarships to residents who may attend college (2 points).

EXHIBIT D

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• **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
 Leo Vasquez, *Chair*
 Leslie Bingham, *Vice Chair*
 Brandon Batch, Member
 Paul A. Braden, Member
 Ajay Thomas, Member
 Sharon Thomason, Member

**Multi Family Mortgage Revenue Bond
 Qualified Project Period**

The Texas Department of Housing and Community Affairs require the information in Sections A and B below to compute the Qualified Project Period for Mortgage Revenue Bond properties. Please complete the form as the appropriate dates are identified. Upload this form in TDHCA's Compliance Monitoring Tracking System (CMTS) to the attention of Sussette Kenney immediately after the property reaches the 50% Occupancy Date.

Section A

Property Name	
Address	
Contact Name	
Contact Phone #	

Section B

Initial Bond Closing Date	
Date First Unit Occupied	
10% Occupancy Date	
50% Occupancy Date	
50% Occupancy Date + 15 years	

Signature _____ Date _____

Printed Name _____ Title _____



PROMISSORY NOTE

\$20,000,000

May ____, 2021

FOR VALUE RECEIVED, CAROLINE LOFTS, LP, a Texas limited partnership (the “**Borrower**”), promises to pay to TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Governmental Lender**”; the Governmental Lender and each subsequent transferee and/or owner of this Note whether taken by endorsement or otherwise, being successively called the “**Holder**”), or order, at such place as may be designated in writing by the Holder, the principal sum of Twenty Million Dollars and No/100 (\$20,000,000.00), or so much as may be advanced pursuant to the Borrower Loan Agreement and outstanding, which sum shall be payable in lawful money of the United States of America, together with interest on the unpaid Principal Balance computed from the date of the advance made hereunder until paid, calculated and paid in the manner set forth below:

1. Definitions. The following terms as used in this Note shall have the following meanings:

“**AMERIBOR 30 Day Index**” means, as used herein, the rates per annum quoted by Lender as Lender’s 30 Day Average AMERIBOR Rate (American Interbank Offered Rate 30) based upon quotes from the 30 Day Average AMERIBOR Rate from the American Financial Exchange, as quoted for U.S. Dollars by Bloomberg, or other comparable services selected by the Lender. This AMERIBOR 30 Day Index is not necessarily the lowest rate charged by Lender on its loans. Except as otherwise specifically provided herein, if this AMERIBOR 30 Day Index becomes unavailable during the term of this loan, Lender may designate a substitute index as provided in the definition of LIBOR Index Rate. Lender will tell Borrower the current index rate upon Borrower’s request. Lender’s AMERIBOR 30 Day Index is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the interest rate used herein. Lender’s AMERIBOR 30 Day Index may not necessarily be the same as the quoted offer side in any time deposit market by any particular institution or service applicable to any interest period.

“**Applicable Margin**” means (a) 2.00% until a Determination of Taxability, and (b) on and after a Determination of Taxability, 2.50%.

“**Borrower Loan Agreement**” means the Borrower Loan Agreement dated as of May 1, 2021, between the Governmental Lender and the Borrower as may be amended, modified or replaced from time to time.

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Houston, Texas, or the state in which

the principal corporate office of the Fiscal Agent where the registration and payment function is located, are authorized or required by law to remain closed; and when used in connection with determining the LIBOR Index Rate, the term “Business Day” shall also exclude any day on which banks are not open for general business in London.

“**Closing Date**” has the meaning assigned to that term in the Borrower Loan Agreement.

“**Collateral**” has the meaning given to such term in Section 9 of this Note.

“**Conditions to Conversion**” has the meaning given to such term in the Forward Purchase Agreement.

“**Construction Interest Rate**” means the per annum rate equal to the LIBOR Index Rate plus the Applicable Margin.

“**Construction Term Maturity Date**” means November 1, 2023, as the same may be extended pursuant to the terms of Section 4 hereof, as subject to amendment, extension, and restatement as provided in Section 26.

“**Conversion Date**” has the meaning assigned to such term in the Forward Purchase Agreement.

“**Debt**” means all principal, interest, additional interest and other sums which become due to the Holder in accordance with the provisions of the Facility Documents.

“**Debtor Relief Laws**” means any applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, fraudulent conveyance, reorganization, or similar laws affecting the rights, remedies or recourse of creditors generally, including without limitation in the United States Bankruptcy Code and all amendments thereto, as are in effect from time to time during the term of the Loan.

“**Default**” means any default or events of default described in Section 13 of this Note.

“**Default Rate**” has the meaning giving such term in Section 7 of this Note.

“**Determination of Taxability**” has the meaning given to such term in the Borrower Loan Agreement.

“**Disbursement Agreement**” means the Construction Disbursement Agreement dated as of May 1, 2021, entered into between the Funding Lender and the Borrower.

“Extended Maturity Date” has the meaning given to such terms in Section 4 of this Note.

“Facility Documents” means this Note, the Security Instrument, the Funding Loan Agreement, the Borrower Loan Agreement, the Disbursement Agreement and the Other Facility Documents, as the same may be modified, amended or replaced from time to time.

“Fiscal Agent” means Zions Bancorporation, National Association, acting in that capacity.

“Forward Purchase Agreement” means the Forward Purchase Agreement dated as of May 1, 2021, between the Funding Lender and Citibank, N.A., a national banking association (**“Citibank”**), pursuant to which the Funding Lender has agreed to sell and Citibank has agreed to purchase up to \$10,300,000 of the principal amount of the Funding Loan on the Conversion Date.

“Funding Lender” means Zions Bancorporation, N.A., dba Amegy Bank, together with its successors and assigns.

“Funding Loan” means the Loan in the original principal amount of \$20,000,000 made by the Funding Lender to the Governmental Lender pursuant to the terms of the Funding Loan Agreement, the proceeds of which are to be used by the Governmental Lender to make the Loan, as the same may be modified, amended or replaced from time to time.

“Funding Loan Agreement” means the Funding Loan Agreement dated as of May 1, 2021, between the Funding Lender, Fiscal Agent and Governmental Lender, as may be modified, amended or replaced from time to time.

“Governmental Authority” means the Government of the United States of America, any other nation or any other political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Governmental Lender Note” means that certain Multifamily Housing Governmental Note (Caroline Lofts) Series 2021, in an original principal amount equal to the Funding Loan, issued by the Governmental Lender pursuant to the Funding Loan Agreement. The Governmental Lender Note will accrue interest at the same rate or rates as provided for in this Note.

“Liabilities” means all liabilities and obligations now or hereafter owed by the Borrower pursuant to the Borrower Loan Agreement, including all payments then due and payable under the Note and all Additional Borrower Payments (as defined in the Borrower Loan Agreement), whether joint, several, direct, indirect, absolute, contingent, secured, matured or unmatured.

“LIBOR Index Rate” means, subject to the last sentence of this definition, for each period of one month, the rate per annum offered for Dollar deposits in an amount comparable to the outstanding principal amount of the Note for a thirty (30) day period as of 11:45 a.m., City of London, England time on the first (1st) day of such month as quoted from the London Interbank Offered Rate from ICE Benchmark Administration Interest Settlement Rates, as quoted in U.S. Dollars by Bloomberg, or other comparable service selected by Funding Lender; provided that for the period from the initial delivery of this Note until the last day of the month in which the initial delivery of this Note occurred, such rate shall be determined prior to such initial delivery; and reset on the first (1st) day of the next month; and provided, however, that if such rate is not available on Bloomberg then such offered rate shall be otherwise independently determined by Funding Lender from an alternate, substantially similar independent source available to Lender and recognized in the banking industry. The LIBOR Index Rate shall be set on the (1st) day of each month as provided above and shall remain in effect until reset on the first (1st) day of the following month (the LIBOR Index Rate shall initially be set as of May 1, 2021). Notwithstanding the foregoing, in no event shall the LIBOR Index Rate (or the Substitute Index Rate, if then applicable) be less than 1.00% for purposes of this Note (the LIBOR Index Rate shall have a floor of 1.00%). The LIBOR Index Rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. If Funding Lender determines, in its sole discretion, that the LIBOR Index Rate (i) has been or imminently will be discontinued, (ii) is no longer an industry-accepted reference rate for loans of a similar type to the Loan and/or has been superseded by an alternative reference rate, or (iii) is no longer representative or may not be used pursuant to a public statement by the administrator of the Index or other regulatory authority (e.g., the Federal Reserve), in each case with respect to any type of loan or transaction, then Funding Lender will then use the Substitute Index Rate in lieu of the LIBOR-based interest rate set forth in this Note (the **“Pre-Substitute Rate”**). Funding Lender and Borrower acknowledge that the discontinuation of the LIBOR Index Rate is a future event over which neither Funding Lender nor Borrower has influence but which will necessarily affect the Pre-Substitute Rate. The Substitute Index Rate shall be used in lieu of the Pre-Substitute Rate, and all references in this Note to the Pre-Substitute Rate shall be deemed to refer to the Substitute Index Rate, effective as of the date specified by Funding Lender in a written notice given by Funding Lender to Borrower, Fiscal Agent and Governmental Lender. To the extent practicable, such notice shall be given at least 30 days prior to the effective date. The Substitute Index Rate shall remain in effect from the effective date set forth in such notice until the earlier to occur of (1) Conversion Date, or (2) the Construction Term Maturity Date, unless such an instance occurs where the

Substitute Index Rate is no longer available, in which case the Funding Lender shall select an alternative reference rate for purposes of replacing the Substitute Index Rate after notifying Borrower, Governmental Lender, and Fiscal Agent. In any event, the adoption of a Substitute Index Rate or any other substitute index will be conditioned upon the receipt of a Governmental Lender Counsel No Adverse Effect Opinion (as defined in the Funding Loan Agreement), which Governmental Lender Counsel No Adverse Effect Opinion shall be at Borrower's expense. Funding Lender shall notify Borrower, Fiscal Agent and Governmental Lender of the current index rate upon Borrower's written request.

“Loan” means the loan made by the Governmental Lender to the Borrower in the original principal amount of Twenty Million Dollars (\$20,000,000) to be funded as single advance into the Project Fund as and to the extent provided for in the Funding Loan Agreement and then disbursed by the Fiscal Agent to Borrower in accordance with the provisions of the Borrower Loan Agreement and the Disbursement Agreement, which Loan is evidenced by this Note and is secured by the Security Instrument and the Other Facility Documents.

“Maturity Date” means the Construction Term Maturity Date, provided, however, if the Conditions to Conversion have been satisfied, the term “Maturity Date” shall mean May 1, 2054.

“Maximum Rate” has the meaning given to such term in the Funding Loan Agreement.

“Note” means this Promissory Note.

“Other Facility Documents” means all and any of the documents other than this Note, the Security Instrument or the Disbursement Agreement now or later executed by the Borrower or others, and by or in favor of the Holder, which wholly or partially secure or guarantee payment of this Note, or which otherwise evidence or govern the Loan.

“Payment Date” means the first (1st) day of each month.

“Permanent Loan” has the meaning assigned to that term in the Forward Purchase Agreement.

“Principal Balance” means the outstanding principal balance of this Note from time to time.

“Project” has the meaning assigned to that term in the Borrower Loan Agreement.

“Security Instrument” means that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing dated May 1, 2021 given by the Borrower to Governmental Lender to secure payment of this Note.

“State” means the State of Texas.

“Substitute Index Rate” means the AMERIBOR 30 Day Index.

Any capitalized term not otherwise defined in this Note shall have the meaning ascribed to such term in the Disbursement Agreement.

2. Note Advance and Construction Interest Rate.

(a) On the Closing Date, this Note will be fully funded in a single advance as provided for in the Borrower Loan Agreement and the Funding Loan Agreement,

(b) Prior to the Conversion Date, interest shall accrue on the Principal Balance at the Construction Interest Rate,

(c) The Construction Interest Rate shall be determined initially on the Closing Date and then and shall be reset monthly as provided for in the definition of LIBOR Index Rate.

(d) If Funding Lender at any time determines, in its sole but reasonable discretion, that it has miscalculated the amount of the Construction Interest Rate (whether because of a miscalculation of the LIBOR Index Rate or otherwise), then Funding Lender shall notify Borrower, Fiscal Agent and Governmental Lender of the corrected amount of the monthly payment and Construction Interest Rate, and (i) if the corrected Construction Interest Rate represents an increase in the applicable monthly payment, Borrower shall, within fifteen (15) days thereafter, pay any sums that Borrower would have otherwise been obligated under this Note to pay, had the amount of the Construction Interest Rate not been miscalculated, or (ii) if the corrected amount of the Construction Interest Rate results in an overpayment by Borrower, and no Event of Default (as hereafter defined) has occurred and remains outstanding, Funding Lender shall, as soon as reasonably practical, thereafter pay to Borrower the sums that Borrower would not have otherwise been obligated to pay to Funding Lender, had the amount of the Construction Interest Rate not been miscalculated or, at Borrower’s option, Fiscal Agent, at the written direction of Funding Lender, may credit such amounts against Borrower’s outstanding or ensuing payment obligations hereunder, and the application of such payment shall be without premium.

(e) Computation of Interest. All interest hereunder shall be computed on the basis of a year of 360 days, and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable interest rate shall be determined by Funding Lender on behalf of Holder.

3. Payment and Repayment of Loan.

(a) Payments Generally. Borrower shall make each payment required to be made by it under this Note to the Fiscal Agent prior to 11:00 a.m., central (Houston, Texas) time, on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date may, in the discretion of Holder, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. If any payment under this Note shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest shall be payable for the period of such extension. All payments shall be made in U.S. dollars.

(b) Payment of Accrued Interest. Borrower hereby unconditionally promises to pay to Holder accrued interest on the Principal Balance calculated through the last day of the prior month, payable in arrears on each Payment Date commencing on July 1, 2021, and continuing on each Payment Date until the Principal Balance shall be paid in full; provided (i) interest accrued pursuant to paragraph 7 shall be payable on demand, and (ii) in the event of any repayment or prepayment of any principal of the Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.

(c) Repayment at Maturity. Borrower hereby unconditionally promises to pay to Holder the then entire Principal Balance and all unpaid accrued interest thereon and all other sums due under this Note on the Maturity Date.

(d) Application of Funds. Funding Lender shall have the right to direct the application of payments, repayments and proceeds of Collateral to the Liabilities that are then due and payable in any order, in its sole and reasonable discretion. The amount of the Principal Balance as shown on the records of the Holder shall be conclusive absent manifest error as to such amount.

(e) Statements. Funding Lender (or Fiscal Agent, as the case may be) may from time to time provide Borrower with account statements or invoices with respect to any of the Debt, which if provided, will be solely for Borrower's convenience (the "**Statements**"). Statements may contain estimates of the amounts owed during the relevant billing period, whether of principal, interest, fees or other debts. If Borrower pays the full amount indicated on a Statement on or before the due date indicated on such Statement, Borrower shall not be in default of payment with respect to the billing period indicated on such Statement; provided, acceptance by Holder of any payment that is less than the total amount actually due at that time (including any past due amounts) shall not constitute a waiver of Funding Lender's or Holder's right to receive payment in full as provided by the terms of this Note and the other Facility Documents.

4. Extension Option. Borrower shall have the option to extend the Construction Term Maturity Date from November 1, 2023 to May 1, 2024 (the “**Extended Maturity Date**”) provided the following conditions are satisfied:

(a) Borrower shall provide Funding Lender with written notice of Borrower’s request to exercise an extension option at least thirty (30) days but not more than ninety (90) days prior to November 1, 2023 in effect prior to such extension;

(b) An extension fee of 0.25% of the sum of the then Principal Balance of the Project Loan and the then remaining unfunded amount of the original commitment is paid, together with the Funding Lender’s legal expenses;

(c) The required improvements have been substantially completed as evidenced by a temporary certificate of occupancy, and receipt of an Affidavit and Certificate of Completion from the Architect, as such term is defined in the Disbursement Agreement, and concurrence from Funding Lender’s inspecting professional;

(d) The Loan shall be in balance for purposes of the Disbursement Agreement;

(e) No Default has occurred and is continuing under any of the Facility Documents that would not be cured by the extension;

(f) There shall be sufficient sources available in the interest reserve or otherwise to pay interest during the requested extension period

(g) All loan or other commitments related to the Project remain in full force and effect without default thereunder through any extension period;

(h) All equity and subordinate loan fundings required as of the date of such extension have been contributed and remains in the Project;

(i) All representations and warranties made under this Note or under any other Facility Documents shall be true and correct in all material respects as of the Construction Term Maturity Date, except to the extent any such representation and warranty is made as of a specified date, in which case such representation and warranty shall have been true and correct as of such specified date;

(j) Execution of such documentation and such guarantors’ and investors’ reaffirmations as Funding Lender may reasonably require;

(k) No material adverse change has occurred in the financial or other condition of Borrower, any guarantor or the Project; and

- (l) Any other required conditions set forth in the Facility Documents.

5. Voluntary and Involuntary Prepayments During the Prepayment Premium Period; Prepayment Premium.

(a) Any receipt by Holder of principal due under this Note prior to the Construction Term Maturity Date constitutes a prepayment of principal under this Note. Without limiting the foregoing, any application by Holder, prior to the Construction Term Maturity Date, of any proceeds of Collateral or other security to the repayment of any portion of the unpaid Principal Balance of this Note constitutes a prepayment under this Note. Any prepayment made on this Note shall be without penalty or premium (except for any pre-conversion equalization payment as may be due under, and subject to the terms of, the terms of the Funding Loan Agreement).

(b) This Note, together with accrued interest hereon, and together with any prepayment premium, is subject to mandatory prepayment on any Business Day, in whole or in part as indicated below, at the earliest practicable date upon the occurrence of any of the following:

(i) the application of any insurance proceeds or condemnation award to the prepayment of the Project Loan as required under the Security Instrument and the Disbursement Agreement; or

(ii) in part, on the Payment Date next following the completion of the construction of the Project, to the extent amounts remaining in the Project Account, as such term is defined in the Funding Loan Agreement, are transferred to the Governmental Lender Note Payment Fund pursuant to the Funding Loan Agreement to prepay the Governmental Lender Note.

6. Late Charge. If any monthly amount payable under this Note or under the Security Instrument or any Other Facility Document is not received by Funding Lender (i) within fifteen (15) days after the scheduled due date, Borrower shall pay to Funding Lender, promptly and without demand by Funding Lender, a late charge equal to five percent (5%) of such amount. Borrower acknowledges that its failure to make timely payments will cause Funding Lender to incur additional expenses in servicing and processing the Debt and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Funding Lender will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 7.

7. Default Rate. During the continuance of any Default, at the option of Funding Lender, interest under this Note shall accrue on the unpaid Principal Balance from the earlier of the due date of the first unpaid monthly installment or other payment

due, as applicable, at a rate (the “**Default Rate**”) equal to the lesser of (1) 5 percentage points above the Construction Interest Rate or (2) the Maximum Rate. If (a) the unpaid Principal Balance and all accrued interest are not paid in full on the Construction Term Maturity Date or (b) the conversion to the permanent phase shall have then occurred under the Forward Purchase Agreement, the unpaid Principal Balance and all accrued interest shall bear interest from the Construction Term Maturity Date at the Default Rate. Borrower also acknowledges that a Default will materially increase Funding Lender’s risk and/or cause Funding Lender to incur additional expenses in servicing and processing the Debt arising from its loss of the use of the money due, and that it is extremely difficult and impractical to determine those additional risks, costs and expenses. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Funding Lender will incur by reason of a Default and the additional compensation Funding Lender is entitled to receive for the increased risks of any nonpayment associated therewith.

8. Indemnity. Anything in the other Facility Documents to the contrary notwithstanding, the Borrower shall indemnify and hold the Holder and Funding Lender harmless and defend the Holder and Funding Lender at the Borrower’s sole cost and expense against any loss or liability, cost or expense (including, reasonable attorneys’ fees and disbursements of the Holder’s and Funding Lender’s counsel), and all claims, actions, procedures and suits arising out of or in connection with:

(a) any ongoing matters arising out of the Facility Documents or the transaction contemplated hereby or thereby, including all reasonable costs of appraisal or reappraisal of all or any portion of any Collateral for the Debt (that are carried out in accordance with the terms of the Facility Documents), or of the granting by the Holder, in its sole and absolute discretion, of any lease non-disturbance agreements,

(b) any amendment to, or restructuring of, the Debt, or any of the Facility Documents requested by Borrower,

(c) any and all lawful action that may be taken by the Holder in accordance with the terms of the Facility Documents in connection with the enforcement of the provisions of the Facility Documents, whether or not suit is filed in connection with the same, or in connection with the Borrower, any Guarantor of all or any portion of the Debt and/or any partner, joint venturer or shareholder thereof becoming a subject of a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding, and

(d) any liability to brokers, finders or similar persons and/or under any applicable securities or blue sky laws.

All sums expended by the Holder and/or Funding Lender on account of any of the foregoing shall be reimbursable on demand, and until reimbursed by the Borrower shall be deemed additional principal evidenced hereby and shall bear interest at the Default Rate. The obligations of the Borrower under this Section shall, notwithstanding any exculpatory or other provisions of any nature in the Facility Documents, constitute the personal recourse undertakings, obligations and liabilities of the Borrower and shall be secured by the Security Instrument.

The indemnity provided in this Section shall be in addition to, and not in lieu of, any indemnification provisions in any of the other Facility Documents.

9. Secured Note. This Note is secured by the Security Instrument and the Other Facility Documents and the collateral mortgaged, pledged, encumbered or assigned pursuant thereto (the “**Collateral**”). The Borrower agrees to perform and comply with each of the terms, covenants and provisions contained in the Facility Documents on the part of the Borrower to be observed or performed. All sums which shall or may become payable by the Borrower in accordance with the provisions of this Note shall be secured by the Security Instrument and the Other Facility Documents and shall constitute part of the Debt.

10. Transfer. Upon the transfer of this Note, the Holder may convey its interest in and deliver all the Collateral, or any part thereof, to the transferee who shall thereupon become bound by the terms of this Note (as may be restated and amended) and become vested with all the rights in this Note or under applicable law given to the Holder and the Holder shall after that forever be relieved and fully discharged from any liability or responsibility in the matter; but the Holder shall retain all rights given to it with respect to any Liabilities and such collateral not so transferred. The Holder will provide the Borrower with notice of any such transfer.

11. Maximum Permissible Rate. This Note is subject to the express condition that at no time shall the Borrower be obligated or be required to pay interest on the Principal Balance at a rate which could subject the Holder to liability as a result of being in excess of the maximum rate which the Borrower is permitted by law to contract or agree to pay. If by the terms of this Note the Borrower is at any time required or obligated to pay interest on the Principal Balance at a rate in excess of such maximum rate, then the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate, interest payable under this Note shall be computed at such maximum rate and any prior interest payments made in excess of such maximum rate shall be applied and shall be deemed to have been payments made in reduction of the Principal Balance.

12. Set Off. If a Default shall have occurred and be continuing, the Holder is authorized at any time and from time to time, to the full extent permitted by law, to set off and apply any deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by the Holder to or for the credit or account of the Borrower against any of the Liabilities, irrespective of whether or not Holder

shall have made any demand under the Facility Documents and although such obligations may be unmatured. The rights of the Holder under this Section are in addition to other rights and remedies (including other rights of setoff) which the Holder may have.

13. Default. It is hereby expressly agreed that the entire Debt shall become immediately due and payable at the direction of the Funding Lender in the event any portion of the Debt is not paid within ten (10) days after the same is due and payable or on the happening of any Default (as such term is defined in the Disbursement Agreement) or any event by which, under the terms of the Facility Documents, after the expiration of all applicable notice or grace periods specifically set forth therein, the Debt may or shall become due and payable.

14. Authority. The Borrower (and the undersigned representative(s) of the Borrower, if any) represents that the Borrower has full power, authority and legal right to execute and deliver this Note and that this Note constitutes a valid and binding obligation of the Borrower.

15. Joint and Several Obligations. If the Borrower consists of more than one party, the obligations and liabilities of each such party hereunder shall be joint and several.

16. Defined Terms. Whenever used, the singular number shall include the plural, the plural the singular, and the words “**Holder**” and “**Borrower**” shall include their respective successors and assigns, provided, however, that the Borrower shall not have the right, without obtaining the prior written consent of the Holder, to assign or transfer its obligations under any of the Facility Documents, in whole or in part, to any other person, party or entity.

17. Headings. The headings and captions of the numbered paragraphs of this Note are for convenience of reference only and are not to be construed as defining or limiting the scope or intent of this Note.

18. Enforceability. Each Facility Document executed by the Borrower constitutes a legal and binding obligation of, and is valid and enforceable against, the Borrower, in accordance with the terms of such Facility Document (subject to Debtor Relief Laws and general equitable principles) and is not subject to any right of rescission, set-off, counterclaim or defense.

19. Waiver. The Borrower waives presentment, demand for payment, notice of dishonor and any or all notices or demands in connection with the delivery, acceptance, performance, default or enforcement of this Note (other than notice that the Holder has specifically agreed to provide pursuant to the terms of the Facility Documents) and consents to any or all delays, extensions of time, renewals, release of any party to any of the Facility Documents and of any available security therefor, to any party to the Facility Documents or to the actual holder thereof and any and all waivers or modifications that may be granted or consented to by the Holder with regard to the time of payment or with

respect to any other provisions of the Facility Documents (provided that Borrower has agreed in writing as to any modifications to the Facility Documents to which it is a party) and agrees that no such action, delay or failure to act on the part of the Holder shall be construed as a waiver by the Holder of, or otherwise affect, in whole or in part, its right to avail itself of any remedy. No notice to or demand on the Borrower shall be deemed to be a waiver of the obligation of the Borrower or of the right of the Holder to take further action without further notice or demand as provided in any of the Facility Documents. If the Borrower is a partnership, the agreements contained in this Note shall remain in force and applicable, notwithstanding any changes in the individuals comprising the partnership, and the term "Borrower", as used herein, shall include any alternate or successor partnerships, but any predecessor partnership and their partners shall not thereby be released from any liability. (Nothing in the foregoing sentence shall be construed as a consent to, or a waiver of, any prohibition or restriction on transfers of interests in such partnership which may be set forth in the Facility Documents.)

20. Amendments. This Note may not be modified, amended, changed or terminated except by an agreement in writing signed by the Borrower and the Holder. No waiver of any term, covenant or provision of this Note shall be effective unless given in writing by the Holder and, if so given by the Holder, shall only be effective in the specific instance in which given.

21. Governing Law. This Note is and shall be deemed entered into in the State and shall be governed by and construed in accordance with the laws of the State without regard to principles of conflicts of laws, and no defense given or allowed by the laws of any state or country shall be interposed in any action or proceeding hereon unless such defense is either given or allowed by the laws of the State.

22. Jurisdiction and Venue.

(a) Consent to Jurisdiction. Each of Holder and Borrower hereby submits, for itself and its property, to the nonexclusive jurisdiction of any United States Federal or State court sitting in Harris County, and any appellate court in such jurisdiction, in any action or proceeding arising out of or relating to this Note, or for recognition or enforcement of any judgment, and each of the parties agrees that all claims in respect of any such action or proceeding may be heard and determined in such State or, to the extent permitted by law, in such Federal court. Borrower agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Waiver of Objection to Venue. Each of Holder and Borrower waives, to the full extent it may legally and effectively do so, any objection which it may now or hereafter have to the venue of any suit, action or proceeding arising out of or relating to this Note in any court referred to in Section 21(a). Each of Holder and Borrower hereby waives, to the full extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Borrower consents to service of process in the manner provided for notices in the Disbursement Agreement. Nothing in this Note will affect the right of Holder to serve process in any other manner permitted by law.

23. **Waiver of Special Damages**. To the extent permitted by applicable law, neither the Holder nor the Borrower shall not assert, and each hereby waives, any claim against the other, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Note or any agreement or instrument contemplated hereby, the transactions, the Loan or the use of the proceeds thereof.

24. **NOTICE OF FINAL AGREEMENT**. THIS NOTE AND THE OTHER DOCUMENTS EXECUTED SUBSTANTIALLY CONTEMPORANEOUSLY HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS OF THE PARTIES.

25. **ARBITRATION AGREEMENT; WAIVER OF JURY TRIAL**. THIS NOTE AND ALL DISPUTES ARISING HEREUNDER SHALL THEN BE SUBJECT TO THE (i) ARBITRATION AGREEMENT (AS SUCH TERM IS SET FORTH IN THE LOAN AGREEMENT) AND (ii) JURY TRIAL WAIVER PROVISION SET FORTH IN THE ARBITRATION AGREEMENT, THE TERMS OF EACH BEING INCORPORATED HEREIN BY REFERENCE.

26. Amendment and Restatement. Borrower and Holder acknowledge that this Project Note will be amended, extended and restated at the Conversion Date, pursuant to the terms of the Forward Purchase Agreement.

27. On-Line Banking Loan Payments. From time to time, Funding Lender may (but shall not be required to) permit loan payments to be made through its online banking website. Funding Lender may impose and change limitations on making online loan payments, such as minimum or maximum payment amounts, the types of accounts from which loan payments may be made, and the types of payments that may be made online (i.e., ordinary installment payments, principal only payments, or other types of payments). Whether online payments are permitted, and Funding Lender's applicable terms and restrictions if such payments are permitted, will be reflected in the features available online when a user logs into the online banking website.

28. Imaging. Funding Lender shall be entitled, in its sole discretion, to image or make copies of all or any selection of the agreements, instruments, documents, and items and records governing, arising from or relating to the Loan, including, without limitation this Note and the Other Security Documents, and Funding Lender may destroy (other than this Note) or archive the paper originals. The parties hereto (i) waive any right

to insist or require that Funding Lender produce paper originals, (ii) agree that such images shall be accorded the same force and effect as the paper originals, (iii) agree that Funding Lender is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or other proceedings, and (iv) further agree that any executed facsimile (faxed), scanned, or other imaged copy of this Note or the Other Security Documents shall be deemed to be of the same force and effect as the original manually executed document.

29. Facsimile and Electronic Mail. All parties agree that any executed facsimile (faxed) or electronically mailed copy of this manually executed document shall be deemed to be of the same force and effect as the originals, manually executed documents.

30. Electronic Delivery of Documents. The provisions of this Section shall be applicable in the event that Borrower delivers any (i) financial statements of Borrower or any other Person ("**Financial Statement**"), (ii) no default or compliance certificates ("**No Default Certificates**"), or (iii) borrowing base certificates (Borrowing Base Certificates", and together with the Financial Statements, the No Default Certificates, and any other documents or information regarding Borrower or any other Person delivered to Funding Lender pursuant to this Agreement, collectively, the "**Financial Information**") in electronic form (by "**email**").

The Financial Information delivered in electronic form shall, for all purposes, be the same as if, and shall have the same validity, force and effect as if, such Financial Information had been delivered in paper or other tangible form. Each item of Borrower's Financial Information delivered by Borrower in electronic form shall be deemed to have been originally signed by Borrower (to the extent a signature is otherwise required) for all purposes (including all purposes and interpretations of federal and state law), whether or not there is an electronic name or signature of Borrower thereon, and Borrower waives any right it may have to claim that such electronic documents are not original documents or valid documents.

Borrower shall deliver Financial Information to Funding Lender in, and only in, a format that Funding Lender may both retain in its own records (i.e. save as a file on its own system) and print. In the event that at any time, under the electronic format then currently used by Funding Lender, Funding Lender is unable to save or print Financial Information delivered in electronic form, Borrower shall no longer be permitted to deliver Financial Information in electronic form.

This Section constitutes an agreement between the parties to conduct transactions by electronic means pursuant to the Texas Uniform Electronic Transactions Act, Chapter 43, Texas Business & Commerce Code (the "**Act**"), and, notwithstanding any choice of law provisions in this Note to the contrary, the provisions of the Act shall be applicable to the delivery of Financial Information by Borrower to Funding Lender in electronic form.

[Remainder of page intentionally left blank]

Promissory Note

ACTIVE 56174586v8

IN WITNESS WHEREOF, the Borrower has duly executed this Note the day and year at the beginning of the Note.

CAROLINE LOFTS, LP, a Texas limited partnership

By: Caroline Lofts Advisors, LLC, a Texas limited liability company, its general partner

By: Mark-Dana Corporation, a Virginia corporation, its managing member

By: _____
David Mark Koogler, President

ENDORSEMENT

This Endorsement is attached to and made a part of that certain Promissory Note made by Caroline Lofts, LP, a Texas limited partnership, to TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas existing under the laws of the State of Texas for purposes of annexing thereto the following endorsement:

Pay to the order of Zions Bancorporation, National Association, without recourse, as fiscal agent under the Funding Loan Agreement referred to in the Promissory Note, as security for the Governmental Lender Note issued under such Funding Loan Agreement. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Promissory Note.

[Signature Page Follows]

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS, a public and official
agency of the State of Texas

By: _____
Name: James B. "Beau" Eccles
Title: Secretary to the Board

[Signature Page to Allonge]

Promissory Note

ACTIVE 56174586v8

After recording
return to:

Wayne A. Yaffee, Esq.
Greenberg Traurig LLP
1000 Louisiana, Suite 1700
Houston, Texas 77002

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**MULTIFAMILY DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

TEXAS

(Revised 9/1/2014)

Property Name: Caroline Lofts

**MULTIFAMILY DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

TEXAS

THIS MULTIFAMILY DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("**Instrument**") is made to be effective this 1st day of May, 2021, by **CAROLINE LOFTS, LP**, a limited partnership organized and existing under the laws of Texas, whose address is 26302 Oak Tree Ridge Drive, Suite 100, Spring, Texas 77380, File No. 0803587481, as Trustor ("**Borrower**") to Natalie Garza, as Trustee, whose address for purposes hereof is Natalie Garza, P.O. Box 27459, Houston, TX 77227-7459, (the "**Trustee**"), for the benefit of Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, as lender (the "**Governmental Lender**").

RECITAL

Borrower, in consideration of the Indebtedness and the trust created by this Instrument, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, all right, title and interest of the Borrower in the Mortgaged Property, including the fee interest in the Land located in Harris County, State of Texas and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee's successor in trust and Trustee's assigns forever, subject, however, to the Schedule of Title Exceptions.

AGREEMENT

TO SECURE TO GOVERNMENTAL LENDER the repayment of the Indebtedness evidenced by Borrower's Promissory Note (the "**Borrower Loan Note**") payable to Governmental Lender, dated as of the date of this Instrument, and maturing no later than May 1, 2054 ("**Maturity Date**"), in the principal amount of \$20,000,000.00, and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower contained in the Loan Agreement or any other Borrower Loan Document.

Borrower warrants and represents that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered, except as shown on the schedule of exceptions to coverage in the title policy issued to and accepted by

Governmental Lender contemporaneously with the execution and recordation of this Instrument and insuring Governmental Lender's interest in the Mortgaged Property ("**Schedule of Title Exceptions**"). Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any easements and restrictions listed in the Schedule of Title Exceptions and each Regulatory Agreement.

UNIFORM COVENANTS
(Direct Purchase of Tax-Exempt Loans)
(Revised 9/1/2014)

Covenants. In consideration of the mutual promises set forth in this Instrument, Borrower and Governmental Lender covenant and agree as follows:

1. **Definitions.** The following terms, when used in this Instrument (including when used in the above recitals), will have the following meanings and any capitalized term not specifically defined in this Instrument will have the meaning ascribed to that term in the applicable Loan Agreement:

"Attorneys' Fees and Costs" means (a) reasonable fees and out of pocket costs of Governmental Lender's, Funding Lender's and Loan Servicer's attorneys, as applicable, including costs of Governmental Lender's, Funding Lender's and Loan Servicer's out of pocket costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses; (b) costs and fees of expert witnesses, including appraisers; (c) investigatory fees; and (d) the costs for any opinion required by Governmental Lender pursuant to the terms of the Borrower Loan Documents.

"Borrower" means all Persons identified as "**Borrower**" in the first paragraph of this Instrument, together with their successors and assigns.

"Borrower Loan Agreement" means the Borrower Loan Agreement dated as of the date of this Instrument, among Borrower, Governmental Lender, and Fiscal Agent, as such agreement may be amended, modified and/or restated from time to time.

"Borrower Loan Documents" means, collectively (as then in effect) the Borrower Loan Note, this Instrument, the Borrower Loan Agreement, the Construction Disbursement Agreement, the Regulatory Agreement, all guaranties, all indemnity agreements, all collateral agreements, UCC filings, O&M Programs, and any other documents now or in the future executed by Borrower, any guarantor or any other Person which governs, evidences, and/or secures the loan evidenced by the Borrower Loan Note, as such documents may be amended from time to time.

“Borrower Loan Note” means the Borrower Loan Note defined hereinabove, including all schedules, riders, allonges and addenda attached thereto, as such Borrower Loan Note may be amended, modified and/or restated from time to time.

“Business Day” means any day other than a Saturday, a Sunday or any other day on which the Funding Lender or the national banking associations are not open for business.

“Citi” means Citibank, N.A..

“Closing Date” has the meaning assigned to that term in the Construction Disbursement Agreement.

“Construction Disbursement Agreement” means the Construction Disbursement Agreement, executed by Borrower and the Funding Lender, dated as of the date of this Agreement, as such agreement may be amended, modified and/or restated from time to time.

“Conversion Date” means the date Citi purchases the Funding Loan from the Funding Lender.

“Equity Investor” means, collectively, RBC Community Investments, LLC, an Illinois limited liability, and its affiliates, successors and/or assigns, the investor limited partner of Borrower, and RBC Community Investments Manager II, Inc., its affiliates, successors and/or assigns, the Special Limited Partner of the Borrower.

“Event of Default” means the occurrence of any event described in Section 11.

“Fiscal Agent” means Zions Bancorporation, National Association, and its successors as Fiscal Agent under the Funding Loan Agreement.

“Fixtures” means all property owned by Borrower which is attached to the Land or the Improvements so as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers

and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

“Funding Lender” means Zions Bancorporation, N.A., dba Amegy Bank, and any subsequent Person who is the holder of the Governmental Note.

“Funding Lender Representative” means Funding Lender or any Person designated by Funding Lender to act on behalf of Funding Lender as provided in the Funding Loan Agreement, or an assignee of such Person as provided in the Funding Loan Agreement. The initial Funding Lender Representative shall be the Funding Lender on the Closing Date, and Citi shall become Funding Lender Representative upon the occurrence of the Conversion Date.

“Funding Loan” means the loan in the original principal amount of \$20,000,000.00 made to Governmental Lender by the Funding Lender pursuant to the Funding Loan Agreement.

“Funding Loan Agreement” means the Funding Loan Agreement dated as of the date of this Instrument, by and among the Funding Lender, Governmental Lender, and Fiscal Agent, as the same may be amended, modified and/or restated from time to time.

“Governmental Authority” means any board, commission, department, agency or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property, or the use, operation or improvement of the Mortgaged Property, or over Borrower.

“Governmental Lender” means the entity identified as **“Governmental Lender”** in the first paragraph of this Instrument, or any subsequent holder of the Borrower Loan Note (and may include the Funding Lender, as the collateral assignee of the Borrower Loan Note).

“Governmental Note” means the Multifamily Housing Governmental Note dated the Closing Date, executed by Governmental Lender and authenticated by the Fiscal Agent in favor of the Funding Lender, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any mortgage note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“**PCBs**”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Mortgaged Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a **“hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,”** or **“pollutant”** within the meaning of any Hazardous Materials Law.

“Hazardous Materials Laws” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials and apply to Borrower or to the Mortgaged Property. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq., and their state analogs.

“Impositions” and **“Imposition Deposits”** are defined in Section 5(a).

“Improvements” means the buildings, structures, improvements now constructed or at any time in the future constructed or placed upon the Land, including any future alterations, replacements and additions.

“Indebtedness” means the principal of, interest at the fixed rate set forth in the Borrower Loan Note on, and all other amounts due at any time under the Borrower Loan Agreement, the Borrower Loan Note, this Instrument or any other Borrower Loan Document, including late charges, default interest, and advances as provided in Section 8 to protect the security of this Instrument.

“Land” means the land described in Exhibit A.

“Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

“Loan Agreement” means, individually or collectively as the context may require, the Borrower Loan Agreement and/or the Construction Disbursement Agreement (if then in effect), as such agreements may be amended from time to time.

“Loan Servicer” means the entity that from time to time is designated by Funding Lender Representative pursuant to the Borrower Loan Agreement to collect payments and deposits and receive Notices under the Borrower Loan Note, this Instrument and any other Borrower Loan Document, and otherwise to service the loan evidenced by the Borrower Loan Note for the benefit of Funding Lender and Governmental Lender.

“Mortgaged Property” means all of Borrower’s present and future right, title and interest in and to all of the following:

- (a) The Land.
- (b) the interest of Borrower in the twelve (12) condominium units (as referred to herein as the **“Condominium Project”** and more particularly described in **Exhibit “A-1”** attached hereto) created pursuant to the Condominium Declaration For Caroline Lofts Condominiums (as may be amended or supplemented from time to time, the **“Declaration”**) filed on or about the date hereof in the Official Public Records of Real Property of Harris County, Texas;
- (c) the Common Elements of the Condominium Project which shall be the Common Elements under and as defined in the Declaration;
- (d) The Improvements.
- (c) The Fixtures.
- (d) The Personalty.
- (e) All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated.
- (f) All proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained the insurance pursuant to Governmental Lender’s or Funding Lender’s requirement.

- (g) To the extent assignable, all awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof.
- (h) To the extent assignable, all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations.
- (i) All proceeds from the conversion, voluntary or involuntary, of any of the items described in subsections (a) through (h) inclusive into cash or liquidated claims, and the right to collect such proceeds.
- (j) All Rents and Leases.
- (k) All earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the loan secured by this Instrument.
- (l) All Imposition Deposits.
- (m) All refunds or rebates of Impositions by Governmental Authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated).
- (n) To the extent permitted by applicable law, all tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits.
- (o) All names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property.
- (p) All books and records of Borrower relating to the foregoing in any form and all computer software necessary or useful to reading such books and records.
- (q) To the extent assignable, all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Land and the

Improvements (including, without limitation, any form of reservation for utility capacity that may be granted by any governmental subdivision).

- (r) To the extent a security interest can be granted under applicable law, all right, title, and interest of Trustor in and to any Low-Income Housing Tax Credit (as that term is used in Section 42 of the Internal Revenue Code of 1986, as amended) relating to the Mortgaged Property and the use thereof; it being understood by the parties hereto that such Low Income Housing Tax Credit may not be transferable separate and apart from the Land and Improvements and may be subject to other statutes and regulations related therewith.
- (s) All timber, crops, and to the extent assignable, all letter of credit rights, investment property, environmental site assessments and soils tests, and arising from or by virtue of any transactions relating to the Land and the other Mortgaged Property.

“Notice” or **“Notices”** means all notices, demands and other communication required under the Borrower Loan Documents, provided in accordance with the requirements of the Borrower Loan Agreement and the Construction Disbursement Agreement.

“Person” means any natural person, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

“Personalty” means all of Borrower’s right, title and interest in the following:

- (a) Accounts (including deposit accounts) of Borrower related to the Mortgaged Property.
- (b) Equipment and inventory owned by Borrower, which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or Improvements, including furniture, furnishings, machinery, building materials, goods, supplies, tools, books, records (whether in written or electronic form) and computer equipment (hardware and software).
- (c) Other tangible personal property owned by Borrower which is used now or in the future in connection with the ownership, management or operation of the Land or Improvements or is located on the Land or in the Improvements, including ranges, stoves, microwave ovens, refrigerators, dishwashers,

garbage disposers, washers, dryers and other appliances (other than Fixtures).

- (d) Any operating agreements relating to the Land or the Improvements.
- (e) Any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.
- (f) All other intangible property, general intangibles and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a Governmental Authority.
- (g) Any rights of Borrower in or under letters of credit.

“Property Jurisdiction” means the State in which the Land is located.

“Regulatory Agreement” means each Regulatory Agreement under and as defined in the Construction Disbursement Agreement, each regulating or restricting the use or manner of operation of the Mortgaged Property and containing requirements that specified percentages of the dwelling units in the Mortgaged Property be occupied by tenants whose incomes are below specified levels.

“Rents” means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due or to become due, and deposits forfeited by tenants, and, if Borrower is a cooperative housing corporation or association, maintenance fees, charges or assessments payable by shareholders or residents under proprietary leases or occupancy agreements, whether now due, past due, or to become due.

“Taxes” means all taxes, assessments, vault rentals and other charges, if any, whether general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a Lien on the Land or the Improvements.

2. Uniform Commercial Code Security Agreement.

- (a) This Instrument is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may

be subjected to a security interest under the Uniform Commercial Code, for the purpose of securing Borrower's obligations under this Instrument and to further secure Borrower's obligations under the Borrower Loan Note, this Instrument and other Borrower Loan Documents, whether such Mortgaged Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, "**UCC Collateral**"), and by this Instrument, Borrower grants to Governmental Lender a security interest in the UCC Collateral. To the extent necessary under applicable law, Borrower hereby authorizes Governmental Lender to prepare and file financing statements, continuation statements and financing statement amendments in such form as Governmental Lender may require to perfect or continue the perfection of this security interest.

- (b) Unless Borrower gives Notice to Governmental Lender within 30 days after the occurrence of any of the following, and executes and delivers to Governmental Lender modifications or supplements of this Instrument (and any financing statement which may be filed in connection with this Instrument) as Governmental Lender may require, Borrower will not (i) change its name, identity, structure or jurisdiction of organization; (ii) change the location of its place of business (or chief executive office if more than one place of business); or (iii) add to or change any location at which any of the Mortgaged Property is stored, held or located.
- (c) If an Event of Default has occurred and is continuing, Governmental Lender will have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Instrument. In exercising any remedies, Governmental Lender may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Governmental Lender's other remedies.
- (d) This Instrument also constitutes a financing statement with respect to any part of the Mortgaged Property that is or may become a Fixture, if permitted by applicable law.

3. Assignment of Rents; Appointment of Receiver; Lender in Possession.

- (a) As part of the consideration for the Indebtedness, Borrower grants a security interest to Governmental Lender in the Rents, in accordance with the Texas Assignment of Rents Act (codified as Chapter 64 of the Texas Property Code). Notwithstanding any other provision hereof or in any of the Borrower Loan Documents to the contrary, all provisions related to the assignment of rents are subject to the terms, provisions, and conditions of the Texas Assignment of Rents Act ("**TARA**"), as codified in Tex. Prop. Code, Chapter 64, as the same may be amended, modified or supplemented from time to time. To the extent that specific terms and

requirements of this Instrument or any other Borrower Loan Document, including the Borrower Loan Agreement, conflict with the specific terms and requirements of TARA, (i) to the extent such terms and requirements of TARA may be superseded by an agreement between the parties, the specific terms and requirements of this Instrument or the other Borrower Loan Documents hereby supersedes such specific terms and requirements of TARA; and (ii) to the extent that such terms and requirements of TARA cannot be superseded by an agreement between the parties, the specific terms and requirements of TARA shall control, and the parties further agree that all other terms and requirements of this Instrument or the other Borrower Loan Documents shall not otherwise be impaired or superseded thereby and shall remain in full force and effect. This Instrument is intended to be a Security Instrument for purposes of TARA and the Indebtedness shall be a secured obligation for purposes of TARA. Promptly upon request by Governmental Lender, Borrower agrees to execute and deliver such further assignments as Governmental Lender may from time to time require. Borrower and Governmental Lender intend this assignment and grants of a security interest of Rents to be an assignment for security of the Indebtedness. Rents shall be deemed to be a part of the "Mortgaged Property". It is the intention of the Borrower that this Instrument create and perfect a lien on Rents in favor of Governmental Lender, which lien shall be effective as of the date of this Instrument.

- (b) If an Event of Default has occurred and is continuing, Borrower authorizes Governmental Lender to collect, sue for and compromise Rents and directs each tenant of the Mortgaged Property to pay all Rents to, or as directed by, Governmental Lender, and Borrower shall, upon Borrower's receipt of any Rents from any sources, pay the total amount of such receipts to the Governmental Lender. However, so long as no Event of Default has occurred and is continuing, Governmental Lender hereby grants to Borrower a revocable license to collect and receive all Rents, to hold all Rents in trust for the benefit of Governmental Lender and to apply all Rents to pay the installments of interest and principal then due and payable under the Borrower Loan Note and the other amounts then due and payable under the other Borrower Loan Documents, including Imposition Deposits, and to pay the current costs and expenses of managing, operating and maintaining the Mortgaged Property, including utilities, Taxes and insurance premiums (to the extent not included in Imposition Deposits), tenant improvements and other capital expenditures. So long as no Event of Default has occurred and is continuing, the Rents remaining after application pursuant to the preceding sentence may be retained by Borrower free and clear of, and released from, Governmental Lender's rights with respect to Rents under this Instrument. From and during the continuance of an Event of Default, and without the necessity of Governmental Lender entering upon and taking

and maintaining control of the Mortgaged Property directly, or by a receiver, Borrower's license to collect Rents shall automatically terminate and Governmental Lender shall without notice be entitled to all Rents as they become due and payable, including Rents then due and unpaid, and Borrower shall pay to Governmental Lender upon demand all Rents to which Governmental Lender is entitled. At any time during the continuance of an Event of Default, Governmental Lender may give, and Borrower hereby irrevocably authorizes Governmental Lender to give, notice to all tenants of the Mortgaged Property instructing them to pay all Rents to Governmental Lender; provided, however, that the giving of any such notice by Governmental Lender shall not affect, in any way, Governmental Lender's entitlement to the Rents as of the date on which the Event of Default occurs. No tenant shall be obligated to inquire further as to the occurrence or continuance of an Event of Default, and no tenant shall be obligated to pay to Borrower any amounts which are actually paid to Governmental Lender in response to such a notice. Any such notice by Governmental Lender shall be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Borrower shall not interfere with and shall cooperate with Governmental Lender's collection of such Rents.

- (c) If an Event of Default has occurred and is continuing, then Governmental Lender will have each of the following rights and may take any of the following actions:
- (i) Governmental Lender may, regardless of the adequacy of Governmental Lender's security or the solvency of Borrower and even in the absence of waste, enter upon and take and maintain full control of the Mortgaged Property in order to perform all acts that Governmental Lender in its reasonable discretion determines to be necessary or desirable for the operation and maintenance of the Mortgaged Property, including the execution, cancellation or modification of Leases, the collection of all Rents, the making of repairs to the Mortgaged Property and the execution or termination of contracts providing for the management, operation or maintenance of the Mortgaged Property, for the purposes of enforcing the assignment of Rents pursuant to Section 3(a), protecting the Mortgaged Property or the security of this Instrument, or for such other purposes as Governmental Lender in its reasonable discretion may deem necessary or desirable.
 - (ii) Alternatively, if an Event of Default has occurred and is continuing, regardless of the adequacy of Governmental Lender's security, without regard to Borrower's solvency and without the necessity of

giving prior notice (oral or written) to Borrower, Governmental Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in the preceding sentence. If Governmental Lender elects to seek the appointment of a receiver for the Mortgaged Property at any time an Event of Default has occurred and is continuing, Borrower, by its execution of this Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver ex parte if permitted by applicable law.

- (iii) If Borrower is a housing cooperative corporation or association, Borrower hereby agrees that if a receiver is appointed, the order appointing the receiver may contain a provision requiring the receiver to pay the installments of interest and principal then due and payable under the Borrower Loan Note and the other amounts then due and payable under the other Borrower Loan Documents, including Imposition Deposits, it being acknowledged and agreed that the Indebtedness is an obligation of Borrower and must be paid out of maintenance charges payable by Borrower's tenant shareholders under their proprietary leases or occupancy agreements.
- (iv) Governmental Lender or the receiver, as the case may be, will be entitled to receive a reasonable fee for managing the Mortgaged Property.
- (v) Immediately upon appointment of a receiver or immediately upon Governmental Lender's entering upon and taking possession and control of the Mortgaged Property, Borrower will surrender possession of the Mortgaged Property to Governmental Lender or the receiver, as the case may be, and will deliver to Governmental Lender or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property (and Borrower may retain a copy thereof) and all security deposits and prepaid Rents.
- (vi) If Governmental Lender takes possession and control of the Mortgaged Property, then Governmental Lender may exclude Borrower and its representatives from the Mortgaged Property.

Borrower acknowledges and agrees that the exercise by Governmental Lender of any of the rights conferred under this Section 3 will not be construed to make Governmental Lender a mortgagee-in-possession of the Mortgaged Property so long as Governmental Lender has not itself entered into actual possession of the Land and Improvements.

- (d) If Governmental Lender enters the Mortgaged Property, Governmental Lender will be liable to account only to Borrower and only for those Rents actually received. Except solely and exclusively to the extent of Governmental Lender's, or any party's acting directly under the control of Governmental Lender, gross negligence or willful misconduct, Governmental Lender will not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property, by reason of any act or omission of Governmental Lender under Section 3(c), and Borrower hereby releases and discharges Governmental Lender from any such liability to the fullest extent permitted by law.
- (e) If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Governmental Lender for such purposes will become an additional part of the Indebtedness as provided in Section 8.
- (f) Any entering upon and taking of control of the Mortgaged Property by Governmental Lender or the receiver, as the case may be, and any application of Rents as provided in this Instrument will not cure or waive any Event of Default or invalidate any other right or remedy of Governmental Lender under applicable law or provided for in this Instrument.

4. Assignment of Leases; Leases Affecting the Mortgaged Property.

- (a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Governmental Lender all of Borrower's right, title and interest in, to and under the Leases, including Borrower's right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.
 - (i) It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Governmental Lender of all of Borrower's right, title and interest in, to and under the Leases. Borrower and Governmental Lender intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only.
 - (ii) For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases will not be deemed to be a part of the Mortgaged Property.
 - (iii) However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the Property Jurisdiction, then the Leases will be included as a part of

the Mortgaged Property and it is the intention of Borrower that in this circumstance this Instrument create and perfect a Lien on the Leases in favor of Governmental Lender, which Lien will be effective as of the date of this Instrument.

- (b) Until Governmental Lender gives Notice to Borrower of Governmental Lender's exercise of its rights under this Section 4 upon the occurrence and continuation of an Event of Default, Borrower will have all rights, power and authority granted to Borrower under any Lease (except as otherwise limited by this Section or any other provision of this Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon Governmental Lender giving Notice to Borrower of Governmental Lender's exercise of its rights under this Section upon the occurrence and continuation of an Event of Default, the permission given to Borrower pursuant to the preceding sentence to exercise all rights, power and authority under Leases will automatically terminate. Borrower will comply with and observe Borrower's obligations under all Leases, including Borrower's obligations pertaining to the maintenance and disposition of tenant security deposits.
- (c)
 - (i) Borrower acknowledges and agrees that the exercise by Governmental Lender, either directly or by a receiver, of any of the rights conferred under this Section 4 will not be construed to make Governmental Lender a mortgagee-in-possession of the Mortgaged Property so long as Governmental Lender has not itself entered into actual possession of the Land and the Improvements.
 - (ii) The acceptance by Governmental Lender of the assignment of the Leases pursuant to Section 4(a) will not at any time or in any event obligate Governmental Lender to take any action under this Instrument or to expend any money or to incur any expenses.
 - (iii) Except to the extent of Governmental Lender's gross negligence or willful misconduct, Governmental Lender will not be liable in any way for any injury or damage to person or property sustained by any Person or Persons in or about the Mortgaged Property.
 - (iv) Prior to Governmental Lender's actual entry into and taking possession of the Mortgaged Property, Governmental Lender will not be obligated for any of the following:
 - (A) Governmental Lender will not be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease).

- (B) Governmental Lender will not be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property.
 - (C) Governmental Lender will not be responsible for the operation, control, care, management or repair of the Mortgaged Property or any portion of the Mortgaged Property. The execution of this Instrument by Borrower will constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Mortgaged Property is and will be that of Borrower, prior to such actual entry and taking of possession.
- (d) Upon delivery of Notice by Governmental Lender to Borrower of Governmental Lender's exercise of Governmental Lender's rights under this Section 4 at any time after the occurrence of an Event of Default, and during the continuance of such Event of Default, and without the necessity of Governmental Lender entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, Governmental Lender immediately will have all rights, powers and authority granted to Borrower under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.
- (e) Borrower will, promptly upon Governmental Lender's request, deliver to Governmental Lender an executed photocopy of each residential Lease then in effect.
- (f) If Borrower is a cooperative housing corporation or association, notwithstanding anything to the contrary contained in this Instrument, so long as Borrower remains a cooperative housing corporation or association and is not in breach of any covenant of this Instrument, Governmental Lender consents to the following:
- (i) Borrower may execute leases of apartments for a term in excess of 2 years to a tenant shareholder of Borrower, so long as such leases, including proprietary leases, are and will remain subordinate to the Lien of this Instrument.
 - (ii) Borrower may surrender or terminate such leases of apartments where the surrendered or terminated lease is immediately replaced or where Borrower makes its best efforts to secure such immediate replacement by a newly-executed lease of the same apartment to a tenant shareholder of Borrower. However, no consent is given by

Governmental Lender to any execution, surrender, termination or assignment of a lease under terms that would waive or reduce the obligation of the resulting tenant shareholder under such lease to pay cooperative assessments in full when due or the obligation of the former tenant shareholder to pay any unpaid portion of such assessments.

5. DEPOSITS FOR TAXES, INSURANCE AND OTHER CHARGES.

- (a) During the continuance of an Event of Default, upon written notice by Lender, Borrower shall deposit with Lender on the first day of each month an installment of one-twelfth (1/12th) of the amount sufficient to accumulate with Lender the entire, annual sum required to pay, before past due and accumulating penalties (1) any water and sewer charges which, if not paid, may result in a lien on all or any part of the Mortgaged Property, (2) Taxes, and (3) amounts for other charges and expenses which Lender at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lender's interests, all as reasonably estimated from time to time by Lender. The amounts deposited under the preceding sentence are collectively referred to in this Instrument as the "**Imposition Deposits**". The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Instrument as "**Impositions**". The amount of the Imposition Deposits shall be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Lender shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Lender are held for the purpose of paying Taxes, insurance premiums and each other obligation of Borrower for which Imposition Deposits are required. Any waiver by Lender of the requirement that Borrower remit Imposition Deposits to Lender may be revoked by Lender, in Lender's reasonable discretion, at any time upon notice to Borrower.
- (b) Imposition Deposits shall be held in an account in Borrower's name in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency. Lender shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Lender shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Lender shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits.

Borrower hereby pledges and grants to Lender a security interest in the Imposition Deposits as additional security for all of Borrower's obligations under this Instrument and the other Loan Documents. Any amounts deposited with Lender under this Section 5 shall not be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Lender for that purpose under Section 5(e).

- (c) If Lender receives a bill or invoice for an Imposition, Lender shall pay the Imposition from the Imposition Deposits held by Lender prior to the date such Impositions become past due. Lender shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.
- (d) If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Lender, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition is less than the amount reasonably estimated by Lender to be necessary, Borrower shall pay to Lender the amount of the deficiency within 15 days after notice from Lender.
- (e) If an Event of Default has occurred and is continuing, Lender may apply any Imposition Deposits, in any amounts and in any order as Lender determines, in Lender's reasonable discretion, to pay any Impositions or as a credit against the Indebtedness. Upon payment in full of the Indebtedness, Lender shall refund to Borrower any Imposition Deposits held by Lender.

6. CONDOMINIUM COVENANTS.

- (a) With respect to the Condominium Project:
 - (i) Condominium Obligations. Borrower shall perform all of Borrower's obligations under each of the following documents, as the same may be amended from time to time: (i) the Declaration or any other document that creates or pertains to the Condominium Project, (ii) any bylaws, rules and regulations affecting the Condominium Project and adopted or promulgated by the Caroline Lofts Condominium Association, Inc. formed pursuant to the Declaration (the "**Owner's Association**") or by the declarant of the Condominium Project, and (iii) any other equivalent documents (clauses (i) – (iii), collectively, the "**Governing Documents**"). Borrower shall promptly pay, when

due, all dues and assessments imposed pursuant to the Governing Documents.

- (ii) Hazard Insurance. Without limiting the requirements of the Loan Agreement and to the extent not otherwise required by the Loan Agreement, so long as the Owner's Association maintains, with an insurance carrier acceptable to Governmental Lender, a "master" or "blanket" policy on the Condominium Project that is reasonably satisfactory to Governmental Lender and that provides insurance coverage in the amounts, for the periods and against the hazards required by this Security Instrument and the Loan Agreement, then Borrower's obligation to maintain hazard insurance on the Mortgaged Property under the terms of the Loan Agreement is deemed satisfied to the extent that the required coverage is provided by the Owner's Association policy. Notwithstanding anything in the Declaration to the contrary, insurance proceeds shall be used and applied by Governmental Lender as provided for in this Security Instrument and the Loan Agreement.

Borrower shall give Governmental Lender prompt notice of any lapse in required insurance coverage. In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Mortgaged Property, any proceeds payable to Borrower are hereby assigned and shall be paid to Governmental Lender for application by Governmental Lender as provided in this Security Instrument and in the Loan Agreement.

Borrower shall only vote under the Declaration as a member of the Owner's Association or otherwise to apply all available insurance proceeds to be used for restoration of the Mortgaged Property if and to the extent such restoration is permitted under the terms of this Instrument and otherwise permitted by Governmental Lender.

Borrower hereby assigns to Governmental Lender, as security for the obligations secured by this Instrument, all of its right to vote on, or consent to, any proposed use of any proceeds of any insurance maintained by the Owner's Association, and agrees that it will not so vote or consent without the prior written consent of Governmental Lender thereto in each instance. Without limiting the foregoing, in no event shall Borrower vote for any restoration which is not permitted under the terms of this Instrument.

- (iii) Public Liability Insurance. Borrower shall take such actions as may be reasonable to ensure that, in addition to the liability insurance required under the Loan Agreement and the other Borrower Loan Documents, the Owners' Association maintains a public liability

insurance policy reasonably acceptable in form, amount and extent of coverage to Governmental Lender.

- (iv) Condemnation. Subject to the terms of the Loan Agreement, and without limiting the terms thereof, the proceeds of any award or claim for damages, direct or consequential, payable to Borrower (either directly or by the Owner's Association under the Declaration) in connection with any condemnation or other taking of all or any part of the Mortgaged Property, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Governmental Lender. Notwithstanding anything in the Declaration to the contrary, such proceeds shall be applied by Governmental Lender as provided in the Loan Agreement.
- (v) Governmental Lender's Prior Consent. Borrower shall not, except after notice to Governmental Lender and with Governmental Lender's prior written consent, consent to:
 - (A) Abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
 - (B) Any material amendment to any provision of the Governing Documents, including, but not limited to, any amendment that would change the percentage interest of the owners of units in the Condominium Project;
 - (C) Any proposed use of the proceeds of any casualty insurance on, or condemnation or transfer in lieu of condemnation, of the Mortgaged Property or the Condominium Project or any portion thereof;
 - (D) Any action that would have the effect of rendering the public liability insurance coverage maintained by the Owners' Association unacceptable to Governmental Lender; or
 - (E) Any proposed use of any proceeds of any insurance maintained by the Owners' Association.
- (vi) Voting Rights; Notice of Meetings. Borrower hereby assigns to Governmental Lender all of Borrower's voting rights under the Governing Documents and irrevocably appoints Governmental Lender as its attorney and proxy to cast its votes at all times permitted or required pursuant thereto (including, without limitation,

with respect to the use of insurance proceeds) at any time after the occurrence and during the continuance of an Event of Default. If Governmental Lender's representative fails to attend a duly called meeting either in person or by proxy, then Borrower may cast its votes as though this power had not been granted to Governmental Lender. It is agreed that this power is coupled with an interest and may not be revoked by Borrower until this Security Instrument is fully satisfied and reconveyed. Borrower will, from time to time, execute and deliver to Governmental Lender such other proxies as Governmental Lender deems necessary or advisable to appoint Governmental Lender its proxy hereunder. Borrower agrees that it will cause copies of all notices of meetings and other notices required or permitted under the Governing Documents to be sent to Governmental Lender promptly after receipt thereof by Borrower and so as to provide Governmental Lender with reasonable notice of the time, place and subject of any such meeting.

- (vii) **Remedies.** If Borrower does not pay condominium dues and assessments with respect to the Mortgaged Property when due, Governmental Lender may (but without obligation to do so) pay them. Any amounts disbursed by Governmental Lender under this Section 6 shall become additional indebtedness of Borrower from the date of disbursement at the rate of interest from time to time applicable to the Borrower Loan Note and shall be payable, with interest, ten days after written notice from Governmental Lender to Borrower requesting payment.

7. Application of Payments. If at any time Governmental Lender receives, from Borrower or otherwise, any amount intended to be applicable to the payment of the Indebtedness which is less than all amounts due and payable at such time, then Governmental Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Governmental Lender, in Governmental Lender's reasonable discretion. Neither Governmental Lender's acceptance of an amount that is less than all amounts then due and payable nor Governmental Lender's application of such payment in the manner authorized will constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Instrument, the Borrower Loan Note and all other Borrower Loan Documents will remain unchanged until this Instrument is released of record.

8. Protection of Lender's Security; Instrument Secures Future Advances.

- (a) If Borrower fails to perform in any material respect any of its obligations under this Instrument or any other Borrower Loan Document, or if any

action or proceeding is commenced which purports to affect the Mortgaged Property, Governmental Lender's security or Governmental Lender's rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent then Governmental Lender at Governmental Lender's option may make such appearances, file such documents, disburse such sums and take such actions as Governmental Lender reasonably deems necessary to perform such obligations of Borrower (subject to the terms of the Borrower Loan Documents) and to protect Governmental Lender's interest, including all of the following:

- (i) Governmental Lender may pay Attorneys' Fees and Costs.
 - (ii) Governmental Lender may pay fees and out-of-pocket expenses of accountants, inspectors and consultants.
 - (iii) Governmental Lender may enter upon the Mortgaged Property to make repairs or secure the Mortgaged Property.
 - (iv) Governmental Lender may procure the Insurance required by the Loan Agreement.
 - (v) Governmental Lender may pay any amounts which Borrower has failed to pay under the Loan Agreement.
 - (vi) Governmental Lender may perform any of Borrower's obligations under the Loan Agreement.
 - (vii) Governmental Lender may make advances to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a prior lien.
- (b) Any amounts disbursed by Governmental Lender under this Section 8, or under any other provision of this Instrument that treats such disbursement as being made under this Section 8, will be secured by this Instrument, will be added to, and become part of, the principal component of the Indebtedness, will be immediately due and payable and will bear interest from the date of written demand therefor made by Governmental Lender to Borrower until paid at the Default Rate.
- (c) Nothing in this Section 8 will require Governmental Lender to incur any expense or take any action.

9. Property and Liability Insurance.

- (a) Borrower shall keep the Improvements insured at all times against such hazards as Governmental Lender may from time to time require, as required by each Loan Agreement, which insurance shall include but not be limited to coverage against loss by fire and allied perils, general boiler and machinery coverage, and business income coverage. Governmental Lender's insurance requirements may change from time to time throughout the term of the Indebtedness. If Governmental Lender so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Mortgaged Property does not conform to applicable zoning or land use laws, building ordinance or law coverage.
- (b) In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Governmental Lender. Borrower hereby authorizes and appoints Governmental Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Governmental Lender's expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 9 shall require Governmental Lender to incur any expense or take any action. Governmental Lender may, at Governmental Lender's option, (1) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Governmental Lender (the "**Restoration**"), or (2) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Governmental Lender determines to apply insurance proceeds to Restoration, Governmental Lender shall do so in accordance with Governmental Lender's then-current policies relating to the restoration of casualty damage on similar multifamily properties.
- (c) Governmental Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (1) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing; (2) Governmental Lender determines, in its reasonable discretion, that there will be sufficient funds to complete the Restoration; (3) Governmental Lender determines, in its reasonable discretion, that the net operating income generated by the Mortgaged Property after completion of the Restoration will be sufficient to support a debt service coverage ratio not less than that required by the

Conditions to Conversion under and as defined in the Forward Purchase Agreement dated as of the date hereof by and among the Funding Lender, Citi and the Borrower, as the same may be amended, modified or supplemented from time to time; (4) Governmental Lender determines, in its reasonable discretion, that the Restoration will be completed before the earlier of (A) the maturity date of the Borrower Loan Note or (B) one year after the date of the loss or casualty; and (5) upon Governmental Lender's request, Borrower provides Governmental Lender evidence of the availability during and after the Restoration of the insurance required to be maintained by Borrower pursuant to this Section 9.

- (d) If the Mortgaged Property is sold at a foreclosure sale or Governmental Lender acquires title to the Mortgaged Property, Governmental Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

10. Condemnation.

- (a) Upon receipt of notice thereof, Borrower shall promptly notify Governmental Lender of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "**Condemnation**"). Borrower shall appear in and prosecute or defend any action or proceeding relating to any Condemnation unless otherwise directed by Governmental Lender in writing. Borrower authorizes and appoints Governmental Lender as attorney-in-fact for Borrower to commence, appear in and prosecute, in Governmental Lender's or Borrower's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 10 shall require Governmental Lender to incur any expense or take any action, and if Governmental Lender fails or elects to take any such action, Borrower shall be permitted to do so. Borrower hereby transfers and assigns to Governmental Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.
- (b) Governmental Lender may apply such awards or proceeds, after the deduction of Governmental Lender's reasonable expenses incurred in the collection of such amounts, at Governmental Lender's option, to the restoration or repair of the Mortgaged Property or to the payment of the

Indebtedness, with the balance, if any, to Borrower. Unless Governmental Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Borrower Loan Note or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards or proceeds as Governmental Lender may require.

- (c) Governmental Lender shall not exercise its option to apply condemnation proceeds to the payment of the Indebtedness if all of the following conditions are met: (1) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing that would not be cured by applying such proceeds to the restoration or repair of the Mortgaged Property; (2) Governmental Lender determines, in its reasonable discretion, that there will be sufficient funds to complete the restoration or repair of the Mortgaged Property; (3) Governmental Lender determines, in its reasonable discretion, that the net operating income generated by the Mortgaged Property after completion of the restoration or repair of the Mortgaged Property will be sufficient to support a debt service coverage ratio not less than that required by the Conditions to Conversion under and as defined in the Forward Purchase Agreement dated as of the date hereof by and among the Funding Lender, Citi and the Borrower, as the same may be amended, modified or supplemented from time to time; (4) Governmental Lender determines, in its sole and reasonable discretion, that the restoration or repair of the Mortgaged Property will be completed before the earlier of (A) the maturity date of the Borrower Loan Note or (B) one year after the date of the loss or casualty; and (5) upon Governmental Lender's request, Borrower provides Governmental Lender evidence of the availability during and after the restoration of the insurance required to be maintained by Borrower pursuant to Section 9.

- 11. Events of Default.** An Event of Default under and as defined in the Borrower Loan Agreement, and a Default under and as defined in the Construction Disbursement Agreement (if then in effect), will constitute an Event of Default under this Instrument, which, notwithstanding how such terms are used in the respective Loan Agreement, in the context of this Instrument, the term "Event of Default" shall mean all applicable notice, grace, and cure periods provided in the Borrower Loan Documents have expired without cure. Notwithstanding anything to the contrary contained herein, the Equity Investor shall have the right (but not the obligation) to cure any default under this Instrument and the other Borrower Loan Documents or any Unmatured Default, Default, Potential Default and Event of Default under the applicable Loan Agreement. Such cure shall be accepted or rejected as if tendered by the Borrower.

- 12. Remedies Cumulative.** Each right and remedy provided in this Instrument is distinct from all other rights or remedies under this Instrument, the Loan Agreement or any other Borrower Loan Document or afforded by applicable law or equity, and each will be cumulative and may be exercised concurrently, independently or successively, in any order. Governmental Lender's exercise of any particular right or remedy will not in any way prevent Governmental Lender from exercising any other right or remedy available to Governmental Lender. Governmental Lender may exercise any such remedies from time to time and as often as Governmental Lender chooses.
- 13. Waiver of Statute of Limitations, Offsets, and Counterclaims.** To the extent permitted by applicable law, Borrower waives the right to assert any statute of limitations as a bar to the enforcement of the Lien of this Instrument or to any action brought to enforce any Borrower Loan Document. Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Governmental Lender or otherwise to offset any obligations to make the payments required by the Borrower Loan Documents. Except as arising solely and directly from the gross negligence or willful misconduct of Governmental Lender, no failure by Governmental Lender to perform any of its obligations under this Instrument will be a valid defense to, or result in any offset against, any payments that Borrower is obligated to make under any of the Borrower Loan Documents.
- 14. Waiver of Marshalling.**
- (a) Notwithstanding the existence of any other security interests in the Mortgaged Property held by Governmental Lender or by any other party, Governmental Lender will have the right to determine the order in which any or all of the Mortgaged Property will be subjected to the remedies provided in this Instrument, the Borrower Loan Note, the Loan Agreement or any other Borrower Loan Document or applicable law. Governmental Lender will have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies.
- (b) Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Instrument.
- 15. Further Assurances; Governmental Lender's Expenses.**

- (a) Borrower will deliver, at its sole cost and expense, all further, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as Governmental Lender may reasonably require from time to time in order to better assure, grant and convey to Governmental Lender the rights intended to be granted, now or in the future, to Governmental Lender under this Instrument and the Borrower Loan Documents.
- (b) Borrower acknowledges and agrees that, in connection with each request by Borrower under this Instrument or any Borrower Loan Document, Borrower will pay all reasonable Attorneys' Fees and Costs incurred by Governmental Lender, Funding Lender or Loan Servicer, regardless of whether the matter is approved, denied or withdrawn. Any amounts payable by Borrower under this Instrument or under any other Borrower Loan Document will be deemed a part of the Indebtedness, will be secured by this Instrument and will bear interest at the Default Rate if not fully paid within 10 days of written demand for payment.

- 16. Governing Law; Consent to Jurisdiction and Venue.** This Instrument, and any Borrower Loan Document which does not itself expressly identify the law that is to apply to it, will be governed by the laws of the Property Jurisdiction, excluding the Property Jurisdiction's choice and conflict of law principals. Borrower and Governmental Lender agree that any controversy arising under or in relation to the Borrower Loan Note, this Instrument or any other Borrower Loan Document will be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction will have exclusive jurisdiction over all controversies that may arise under or in relation to the Borrower Loan Note, any security for the Indebtedness or any other Borrower Loan Document. Borrower and Governmental Lender irrevocably consent to service, jurisdiction and venue of such courts for any such litigation and waive any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.
- 17. Notice.** All Notices, demands and other communications under or concerning this Instrument will be governed by the terms set forth in the Borrower Loan Agreement. Notices to Governmental Lender shall be given to Funding Lender Representative and Loan Servicer.
- 18. Successors and Assigns Bound.** This Instrument will bind the respective successors and assigns of Borrower and Governmental Lender, and the rights granted by this Instrument will inure to Governmental Lender's successors and assigns. Governmental Lender has assigned its rights as Governmental Lender to the Fiscal Agent which is the party entitled to act as the Governmental Lender under the terms of this Instrument but only at the direction of the Funding Lender (the Funding Lender may act for and on behalf of the Fiscal Agent under the terms of this Instrument without the necessity of specific consent or joinder of the Fiscal

Agent with respect to any such action). All rights provided to the Governmental Lender in this Instruments have been assigned to Fiscal Agent which shall only act at the express direction of the Funding Lender (which Funding lender may act on behalf of fiscal Agent or in its own capacity with respect to such rights).

19. Joint and Several Liability. If more than one Person signs this Instrument as Borrower, the obligations of such Persons will be joint and several.

20. Relationship of Parties; No Third Party Beneficiary.

(a) The relationship between Governmental Lender and Borrower will be solely that of creditor and debtor, respectively, and nothing contained in this Instrument will create any other relationship between Governmental Lender and Borrower. Nothing contained in this Instrument will constitute Governmental Lender as a joint venturer, partner or agent of Borrower, or render Governmental Lender liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.

(b) No creditor of any party to this Instrument and no other Person will be a third party beneficiary of this Instrument or any other Borrower Loan Document. Without limiting the generality of the preceding sentence, (i) any arrangement ("**Servicing Arrangement**") between Governmental Lender or Funding Lender and any Loan Servicer for loss sharing or interim advancement of funds will constitute a contractual obligation of such Loan Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower will not be a third party beneficiary of any Servicing Arrangement, and (iii) no payment by Loan Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

(c) Funding Lender shall be entitled to direct all remedies and other actions which may be exercised by Governmental Lender under this Instrument.

21. Severability; Amendments.

(a) The invalidity or unenforceability of any provision of this Instrument will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect. This Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Instrument.

(b) This Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

22. Construction.

- (a) The captions and headings of the Sections of this Instrument are for convenience only and will be disregarded in construing this Instrument. Any reference in this Instrument to a "Section" will, unless otherwise explicitly provided, be construed as referring to a Section of this Instrument.
- (b) Any reference in this Instrument to a statute or regulation will be construed as referring to that statute or regulation as amended from time to time.
- (c) Use of the singular in this Instrument includes the plural and use of the plural includes the singular.
- (d) As used in this Instrument, the term "including" means "including, but not limited to" and the term "includes" means "includes without limitation."
- (e) The use of one gender includes the other gender, as the context may require.
- (f) Unless the context requires otherwise any definition of or reference to any agreement, instrument or other document in this Instrument will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in this Instrument).
- (g) Any reference in this Instrument to any person will be construed to include such person's successors and assigns.

23. Subrogation. If, and to the extent that, the proceeds of the loan evidenced by the Borrower Loan Note, or subsequent advances under Section 8, are used to pay, satisfy or discharge a Prior Lien, such loan proceeds or advances will be deemed to have been advanced by Governmental Lender at Borrower's request, and Governmental Lender will automatically, and without further action on its part, be subrogated to the rights, including Lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

24. Acceleration; Remedies.

- (a) At any time during the existence of an Event of Default, Governmental Lender, at Governmental Lender's option, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by Texas law or provided in this Instrument, the Loan Agreement or in any other Borrower Loan Document. Borrower acknowledges that the power of sale granted in

this Instrument may be exercised by Governmental Lender without prior judicial hearing. Governmental Lender will be entitled to collect all costs and expenses incurred in pursuing such remedies, including Attorneys' Fees and Costs, costs of documentary evidence, abstracts and title reports.

- (b) If Governmental Lender invokes the power of sale, Governmental Lender may, by and through the Trustee, or otherwise, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Governmental Lender may determine, with or without having first taken possession of the Mortgaged Property, to the highest bidder for cash at public auction. Such sale will be made at the courthouse door of the county in which all or any part of the Land to be sold is situated (whether the parts or parcel, if any, situated in different counties are contiguous or not, and without the necessity of having any Personalty present at such sale) on the first Tuesday of any month between the hours of 10:00 a.m. and 4:00 p.m., after advertising the time, place and terms of sale and that portion of the Mortgaged Property to be sold by posting or causing to be posted written or printed notice of sale at least 21 days before the date of the sale at the courthouse door of the county in which the sale is to be made and at the courthouse door of any other county in which a portion of the Land may be situated, and by filing such notice with the County Clerk(s) of the county(s) in which all or a portion of the Land may be situated, which notice may be posted and filed by the Trustee acting, or by any person acting for the Trustee, and Governmental Lender has, at least 21 days before the date of the sale, served written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the Indebtedness according to Governmental Lender's records by the deposit of such notice, including Borrower and any guarantor under the Borrower Loan Documents, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor's most recent address as shown by Governmental Lender's records, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed will be *prima facie* evidence of the fact of service.
- (c) Trustee will deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold in fee simple with covenants of general warranty. Borrower covenants and agrees to defend generally the purchaser's title to the Mortgaged Property against all claims and demands. The recitals in Trustee's deed will be *prima facie* evidence of the truth of the statements contained in those recitals. Trustee will apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including reasonable Trustee's fees not to exceed 2% of the gross sales price, Attorneys' Fees and Costs and costs

of title evidence; (ii) to the Indebtedness in such order as Governmental Lender, in Governmental Lender's reasonable discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled to the excess.

- (d) If all or any part of the Mortgaged Property is sold pursuant to this Section, Borrower will be divested of any and all interest and claim to the Mortgaged Property, including any interest or claim to all insurance policies, utility deposits, bonds, loan commitments and other intangible property included as a part of the Mortgaged Property. Additionally, after a sale of all or any part of the Land, Improvements, Fixtures and Personalty, Borrower will be considered a tenant at sufferance of the purchaser of the same, and the purchaser will be entitled to immediate possession of such property. If Borrower will fail to vacate the Mortgaged Property immediately, the purchaser may and will have the right, without further notice to Borrower, to go into any justice court in any precinct or county in which the Mortgaged Property is located and file an action in forcible entry and detainer, which action will lie against Borrower or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have under this Instrument or otherwise.
- (e) In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Borrower agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Borrower agrees that Governmental Lender will be entitled to seek a deficiency judgment from Borrower and any other party obligated on the Borrower Loan Note equal to the difference between the amount owing on the Borrower Loan Note and the amount for which the Mortgaged Property was sold pursuant to judicial or nonjudicial foreclosure sale. Borrower expressly recognizes that this Section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Borrower and other persons against whom a recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Mortgaged Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Borrower further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Property for purposes of calculating deficiencies owed by Borrower, Guarantor, and others against whom recovery of a deficiency is sought. Alternatively, in the event the waiver provided for in this Section is determined by a court of competent jurisdiction to be unenforceable, in any

action for a deficiency after a foreclosure under this Instrument, if any person against whom recovery is sought requests the court in which the action is pending to determine the fair market value of the Mortgaged Property, as of the date of the foreclosure sale, the following will be the basis of the court's determination of fair market value:

- (i) The Mortgaged Property will be valued "as is" and in its condition as of the date of foreclosure, and no assumption of increased value because of post-foreclosure repairs, refurbishment, restorations or improvements will be made.
- (ii) Any adverse effect on the marketability of title because of the foreclosure or because of any other title condition not existing as of the date of this Instrument will be considered.
- (iii) The valuation of the Mortgaged Property will be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Mortgaged Property for cash within a 6 month-period after foreclosure.
- (iv) Although the Mortgaged Property may be disposed of more quickly by the foreclosure purchaser, the gross valuation of the Mortgaged Property as of the date of foreclosure will be discounted for a hypothetical reasonable holding period (not to exceed 6 months) at a monthly rate equal to the average monthly interest rate on the Borrower Loan Note for the 12 months before the date of foreclosure.
- (v) The gross valuation of the Mortgaged Property as of the date of foreclosure will be further discounted and reduced by reasonable estimated costs of disposition, including brokerage commissions, title policy premiums, environmental assessment and clean-up costs, tax and assessment, prorations, costs to comply with legal requirements and Attorneys' Fees and Costs.
- (vi) Expert opinion testimony will be considered only from a licensed appraiser certified by the State of Texas and, to the extent permitted under Texas law, a member of the Appraisal Institute, having at least 5 years' experience in appraising property similar to the Mortgaged Property in the county where the Mortgaged Property is located, and who has conducted and prepared a complete written appraisal of the Mortgaged Property taking into considerations the factors set forth in this Instrument; no expert opinion testimony will be considered without such written appraisal.

- (vii) Evidence of comparable sales will be considered only if also included in the expert opinion testimony and written appraisal referred to in subsection (vi), above.
 - (viii) An affidavit executed by Governmental Lender to the effect that the foreclosure bid accepted by Trustee was equal to or greater than the value of the Mortgaged Property determined by Governmental Lender based upon the factors and methods set forth in subsections (i) through (vii) above before the foreclosure will constitute *prima facie* evidence that the foreclosure bid was equal to or greater than the fair market value of the Mortgaged Property on the foreclosure date.
- (f) Governmental Lender may, at Governmental Lender's option, comply with these provisions in the manner permitted or required by Title 5, Section 51.002 of the Texas Property Code (relating to the sale of real estate) or by Chapter 9 of the Texas Business and Commerce Code (relating to the sale of collateral after default by a debtor), as those titles and chapters now exist or may be amended or succeeded in the future, or by any other present or future articles or enactments relating to same subject. Unless expressly excluded, the Mortgaged Property will include Rents collected before a foreclosure sale, but attributable to the period following the foreclosure sale, and Borrower will pay such Rents to the purchaser at such sale.
- (g) At any such sale, all of the following will be true:
- (i) Whether made under the power contained in this Instrument, Section 51.002 of the Texas Property Code, Chapter 9 of the Texas Business and Commerce Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it will not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property. Borrower will deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee and the title to and right of possession of any such property will pass to the purchaser as completely as if the property had been actually present and delivered to the purchaser at the sale.
 - (ii) Each instrument of conveyance executed by Trustee will contain a general warranty of title, binding upon Borrower.
 - (iii) The recitals contained in any instrument of conveyance made by Trustee will conclusively establish the truth and accuracy of the

matters recited in the Instrument, including nonpayment of the Indebtedness and the advertisement and conduct of the sale in the manner provided in this Instrument and otherwise by law and the appointment of any successor Trustee.

- (iv) All prerequisites to the validity of the sale will be conclusively presumed to have been satisfied.
- (v) The receipt of Trustee or of such other party or officer making the sale will be sufficient to discharge to the purchaser or purchasers for such purchaser(s)' purchase money, and no such purchaser or purchasers, or such purchaser(s)' assigns or personal representatives, will thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication of such purchase money.
- (vi) To the fullest extent permitted by law, Borrower will be completely and irrevocably divested of all of Borrower's right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale will be a perpetual bar to any claim to all or any part of the property sold, both at law and in equity, against Borrower and against any person claiming by, through or under Borrower.
- (vii) To the extent and under such circumstances as are permitted by law, Governmental Lender may be a purchaser at any such sale.

25. Release. Upon payment of the Indebtedness, Governmental Lender will release this Instrument and any UCC financing statements filed which relate hereto. Borrower will pay Governmental Lender's reasonable costs incurred in any such release of this Instrument and UCC financing statements.

26. Trustee.

- (a) Trustee may resign by giving of notice of such resignation in writing to Governmental Lender. If Trustee will die, resign or become disqualified from acting under this Instrument or will fail or refuse to act in accordance with this Instrument when requested by Governmental Lender or if for any reason and without cause Governmental Lender will prefer to appoint a substitute trustee to act instead of the original Trustee named in this Instrument or any prior successor or substitute trustee, Governmental

Lender will have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who will succeed to all the estate, rights, powers and duties of the original Trustee named in this Instrument. Such appointment may be executed by an authorized officer, agent or attorney-in-fact of Governmental Lender (whether acting pursuant to a power of attorney or otherwise), and such appointment will be conclusively presumed to be executed with authority and will be valid and sufficient without proof of any action by Governmental Lender.

- (b) Any successor Trustee appointed pursuant to this Section will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of the predecessor Trustee with like effect as if originally named as Trustee in this Instrument; but, nevertheless, upon the written request of Governmental Lender or such successor Trustee, the Trustee ceasing to act will execute and deliver an instrument transferring to such successor Trustee, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and will duly assign, transfer and deliver any of the property and monies held by the Trustee ceasing to act to the successor Trustee.
- (c) Trustee may authorize one or more parties to act on Trustee's behalf to perform the ministerial functions required of Trustee under this Instrument, including the transmittal and posting of any notices.

27. Environmental Matters.

- (a) Except for matters covered by a written program of operations and maintenance approved in writing by Governmental Lender and those disclosed to the Funding Lender and the Governmental Lender in writing prior to the date hereof (an "**O&M Program**"), and the items set forth in Section 27(b) below, Borrower shall not cause or knowingly permit any of the following:
 - (i) the presence, use, generation, release, treatment, processing, storage (including storage in above ground and underground storage tanks), handling, or disposal of any Hazardous Materials on or under the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property;
 - (ii) the transportation of any Hazardous Materials to, from, or across the Mortgaged Property;
 - (iii) any occurrence or condition on the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property,

which occurrence or condition is or may be in violation of Hazardous Materials Laws; or

- (iv) any violation of or noncompliance with the terms of any Environmental Permit with respect to the Mortgaged Property or any property of Borrower that is adjacent to the Mortgaged Property.

The matters described in clauses (i) through (iv) above are referred to collectively in this Section 27 as “**Prohibited Activities or Conditions**”.

- (b) Prohibited Activities and Conditions shall not include lawful conditions permitted by an O&M Program or the safe and lawful use and storage of quantities of (1) pre-packaged supplies, cleaning materials and petroleum products customarily used in the operation and maintenance of comparable multifamily properties, (2) cleaning materials, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential dwelling units in the Mortgaged Property; and (3) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Mortgaged Property’s parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Hazardous Materials Laws.
- (c) Borrower shall take all commercially reasonable actions (including the inclusion of appropriate provisions in any Leases executed after the date of this Instrument) to prevent its employees, agents, and contractors, and all tenants and other occupants from causing or permitting any Prohibited Activities or Conditions. Borrower shall not lease or allow the sublease or use of all or any portion of the Mortgaged Property to any tenant or subtenant for nonresidential use by any user that, in the ordinary course of its business, would cause or permit any Prohibited Activity or Condition.
- (d) If an O&M Program has been established with respect to Hazardous Materials, Borrower shall comply in a timely manner with, and undertake commercially reasonable efforts to cause all employees, agents, and contractors of Borrower and any other persons present on the Mortgaged Property to comply with, the O&M Program. All costs of performance of Borrower’s obligations under any O&M Program shall be paid by Borrower, and Governmental Lender’s reasonable out-of-pocket costs incurred in connection with the monitoring and review of the O&M Program and Borrower’s performance shall be paid by Borrower upon demand by Governmental Lender. Any such out-of-pocket costs of Governmental Lender which Borrower fails to pay promptly shall become an additional part of the Indebtedness.

- (e) Borrower, to the best of its knowledge, represents and warrants to Governmental Lender that, except as previously disclosed by Borrower to Governmental Lender in writing, including without limitation in the Phase I Environmental Site Assessment provided to Governmental Lender prior to the date of this Instrument:
- (i) Borrower has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions;
 - (ii) to the best of Borrower's knowledge after reasonable and diligent inquiry, no Prohibited Activities or Conditions exist or have existed on the Mortgaged Property;
 - (iii) except to the extent previously disclosed by Borrower to Governmental Lender in writing, the Mortgaged Property does not now contain any underground storage tanks, and, to the best of Borrower's knowledge after reasonable and diligent inquiry, the Mortgaged Property has not contained any underground storage tanks in the past. If there is an underground storage tank located on the Land which has been previously disclosed by Borrower to Governmental Lender in writing, that tank complies with all requirements of Hazardous Materials Laws;
 - (iv) Borrower has complied with all Hazardous Materials Laws, including all requirements for notification regarding releases of Hazardous Materials. Without limiting the generality of the foregoing, Borrower has obtained all Environmental Permits required for the operation of the Mortgaged Property in accordance with Hazardous Materials Laws now in effect and all such Environmental Permits are in full force and effect;
 - (v) no event has occurred with respect to the Mortgaged Property that constitutes, or with the passing of time or the giving of notice would constitute, noncompliance with the terms of any Environmental Permit;
 - (vi) there are no actions, suits, claims or proceedings pending or, to the best of Borrower's knowledge after reasonable and diligent inquiry, threatened that involve the Mortgaged Property and allege, arise out of, or relate to any Prohibited Activity or Condition; and
 - (vii) Borrower has not received any written complaint, order, notice of violation or other communication from any Governmental Authority with regard to air emissions, water discharges, noise emissions or Hazardous Materials, or any other environmental, health or safety

matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property.

The representations and warranties in this Section 27 shall be continuing representations and warranties that shall be deemed to be made by Borrower throughout the term of the loan evidenced by the Borrower Loan Note, until the Indebtedness has been paid in full.

- (f) Borrower shall promptly notify Governmental Lender in writing upon the occurrence of any of the following events:
 - (i) Borrower's discovery of any Prohibited Activity or Condition;
 - (ii) Borrower's receipt of or knowledge of any written complaint, order, notice of violation or other communication from any Governmental Authority or other person with regard to present or future alleged Prohibited Activities or Conditions or any other environmental, health or safety matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property; and
 - (iii) any representation or warranty in this Section 27 becomes untrue in any material detrimental after the date of this Instrument.

Any such notice given by Borrower shall not relieve Borrower of, or result in a waiver of, any obligation under this Instrument, the Borrower Loan Note, or any other Borrower Loan Document.

- (g) Borrower shall pay promptly the reasonable costs of any environmental inspections, tests or audits ("**Environmental Inspections**") required by Governmental Lender in connection with any foreclosure or deed in lieu of foreclosure, or required by Governmental Lender following a reasonable determination by Governmental Lender that Prohibited Activities or Conditions may exist. Any such costs incurred by Governmental Lender (including the fees and out-of-pocket costs of attorneys and technical consultants whether incurred in connection with any judicial or administrative process or otherwise) which Borrower fails to pay promptly shall become an additional part of the Indebtedness as provided in Section 8. The results of all Environmental Inspections made by Governmental Lender shall at all times remain the property of Governmental Lender and Governmental Lender shall have no obligation to disclose or otherwise make available to Borrower or any other party such results or any other information obtained by Governmental Lender in connection with its Environmental Inspections (unless Borrower pays all of the costs and expenses associated with such Environmental Inspection, in which event Borrower shall have a right to receive a copy of the Environmental Inspection, but the Environmental Inspection shall be owned by the Governmental Lender). Governmental Lender hereby reserves the right,

and Borrower hereby expressly authorizes Governmental Lender, to make available to any party, including any prospective bidder at a foreclosure sale of the Mortgaged Property, the results of any Environmental Inspections made by Governmental Lender with respect to the Mortgaged Property. Borrower consents to Governmental Lender notifying any such party (either as part of a notice of sale or otherwise) of the results of any of Governmental Lender's Environmental Inspections. Borrower acknowledges that Governmental Lender cannot control or otherwise assure the truthfulness or accuracy of the results of any of its Environmental Inspections and that the release of such results to prospective bidders at a foreclosure sale of the Mortgaged Property may have a material and adverse effect upon the amount which a party may bid at such sale. Borrower agrees that Governmental Lender shall have no liability whatsoever as a result of delivering the results of any of its Environmental Inspections to any third party, and Borrower hereby releases and forever discharges Governmental Lender from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the results of, the delivery of any of Governmental Lender's Environmental Inspections in accordance with this Section 27(g).

- (h) If any investigation, site monitoring, containment, clean-up, restoration or other remedial work ("**Remedial Work**") is necessary to comply with any Hazardous Materials Law or order of any Governmental Authority that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property under any Hazardous Materials Law, Borrower shall, by the earlier of (1) the applicable deadline required by Hazardous Materials Law or (2) 30 days after notice from Governmental Lender demanding such action, begin performing the Remedial Work, and thereafter diligently prosecute it to completion, and shall in any event complete the work by the time required by applicable Hazardous Materials Law. If Borrower fails to begin on a timely basis or diligently prosecute any required Remedial Work, Governmental Lender may, at its option, cause the Remedial Work to be completed, in which case Borrower shall reimburse Governmental Lender on demand for the reasonable cost of doing so. Any reimbursement due from Borrower to Governmental Lender shall become part of the Indebtedness as provided in Section 8.
- (i) Borrower shall cooperate with any inquiry by any Governmental Authority and shall comply with any governmental or judicial order which arises from any alleged Prohibited Activity or Condition.
- (j) Borrower shall indemnify, hold harmless and defend (i) Governmental Lender, (ii) any prior owner or holder of the Borrower Loan Note, (iii) the Loan Servicer, (iv) any prior Loan Servicer, (v) the officers, directors,

shareholders, partners, employees and trustees of any of the foregoing, and (vi) the heirs, legal representatives, successors and assigns of each of the foregoing (collectively, the "Indemnitees") from and against all proceedings, claims, damages, penalties and reasonable costs (whether initiated or sought by Governmental Authorities or private parties), including reasonable fees and out-of-pocket expenses of attorneys and expert witnesses, investigatory fees, and remediation costs, whether incurred in connection with any judicial or administrative process or otherwise, arising directly or indirectly from any of the following (except that portion exclusively caused by the gross negligence or willful misconduct of any Indemnitee or any other Governmental Lender Party):

- (i) any breach of any representation or warranty of Borrower in this Section 27;
- (ii) any failure by Borrower to perform any of its obligations under this Section 27;
- (iii) the existence of any Prohibited Activity or Condition;
- (iv) the presence of Hazardous Materials on or under the Mortgaged Property or any property of Borrower that is adjacent to the Mortgaged Property; and
- (v) the actual violation of any Hazardous Materials Law.

Borrower's liability under clauses (iii), (iv) and (v) of this subsection (j) shall not extend to cover the violation of any Hazardous Materials Laws or Prohibited Activity or Conditions that first arise, commence or occur solely and exclusively as a result of actions of Governmental Lender, its successors, assigns or designees, after the satisfaction, discharge, release, assignment, termination or cancellation of the Instrument following the payment in full of the Borrower Loan Note and all other sums payable under the Borrower Loan Documents or after the foreclosure of the Instrument or the acceptance by Governmental Lender of a conveyance of the Mortgaged Property by a deed in lieu of foreclosure.

- (k) Counsel selected by Borrower to defend Indemnitees shall be subject to the approval of those Indemnitees. However, any Indemnitee may elect to defend any claim or legal or administrative proceeding at the Borrower's reasonable expense. However, unless an Event of Default has occurred and is continuing, or the interests of Borrower and Governmental Lender are in conflict, as determined by Governmental Lender in its sole and reasonable discretion, Governmental Lender shall permit Borrower to undertake the actions referenced in this Section 27 so long as Governmental Lender approves such action.

- (l) Borrower shall not, without the prior written consent of those Indemnitees who are named as parties to a claim or legal or administrative proceeding (a "**Claim**"), settle or compromise the Claim if the settlement (1) results in the entry of any judgment that does not include as an unconditional term the delivery by the claimant or plaintiff to Governmental Lender of a written release of those Indemnitees, satisfactory in form and substance to Governmental Lender; or (2) may materially and adversely affect Governmental Lender, as determined by Governmental Lender in its reasonable discretion.
- (m) [RESERVED].
- (n) Borrower shall, at its own cost and expense, do all of the following:
 - (i) pay or satisfy any final judgment or decree that may be entered against any Indemnitee or Indemnitees in any legal or administrative proceeding incident to any matters against which Indemnitees are entitled to be indemnified under this Section 27;
 - (ii) reimburse Indemnitees for any reasonable expenses paid or incurred in connection with any matters against which Indemnitees are entitled to be indemnified under this Section 27; and
 - (iii) reimburse Indemnitees for any and all reasonable expenses, including reasonable fees and out-of-pocket expenses of attorneys and expert witnesses, paid or incurred in connection with the enforcement by Indemnitees of their rights under this Section 27, or in monitoring and participating in any legal or administrative proceeding.
- (o) In any circumstances in which the indemnity under this Section 27 applies, Governmental Lender may employ its own legal counsel and consultants to prosecute, defend or negotiate any claim or legal or administrative proceeding and Governmental Lender, with the prior written consent of Borrower (which shall not be unreasonably withheld, delayed or conditioned), may settle or compromise any action or legal or administrative proceeding. Borrower shall reimburse Governmental Lender upon demand for all reasonable costs and expenses incurred by Governmental Lender, including all reasonable costs of settlements entered into in good faith, and the reasonable fees and out-of-pocket expenses of such attorneys and consultants.
- (p) The provisions of this Section 27 shall be in addition to any and all other obligations and liabilities that Borrower may have under applicable law or under other Borrower Loan Documents, and each Indemnitee shall be

entitled to indemnification under this Section 27 without regard to whether Governmental Lender or that Indemnitee has exercised any rights against the Mortgaged Property or any other security, pursued any rights against any guarantor, or pursued any other rights available under the Borrower Loan Documents or applicable law. If Borrower consists of more than one person or entity, the obligation of those persons or entities to indemnify the Indemnitees under this Section 27 shall be joint and several. To the extent the action or event giving rise to the obligation arises or occurs prior to any foreclosure or deed in lieu of foreclosure, the obligation of Borrower to indemnify the Indemnitees under this Section 27 shall survive any repayment or discharge of the Indebtedness, any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the lien of this Instrument.

- (q) Notwithstanding anything herein to the contrary, (i) Obligations of Borrower under Section 27 are not secured by this Instrument; and (ii) Borrower's liability under this Section 27 shall not extend to cover the presence or release of any Hazardous Materials that occurs (A) solely and exclusively as a result of actions of Governmental Lender or any Governmental Lender Party, (B) after the written release of this Instrument duly executed by Governmental Lender following the payment in full of the Borrower Loan Note and all other sums payable under the Borrower Loan Documents, or (C) following foreclosure of this Instrument or acquisition of the Mortgaged Property by a deed in lieu of foreclosure.

- 28. No Fiduciary Duty.** Governmental Lender owes no fiduciary or other special duty to Borrower.
- 29. Fixture Filing.** This Instrument is also a fixture filing under the Uniform Commercial Code of Texas.
- 30. Additional Provisions Regarding Assignment Of Rents.** Section 3 will not be construed to require a pro tanto or other reduction of the Indebtedness resulting from the assignment of Rents. If the provisions of Section 3 and the preceding sentence cause the assignment of Rents in Section 3 to be deemed to be an assignment for additional security only, Governmental Lender will be entitled to all rights, benefits and remedies attendant to such collateral assignment. The assignment of Rents contained in Section 3 will terminate upon the release of this Instrument.
- 31. Loan Charges.** Borrower and Governmental Lender intend at all times to comply with the laws of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the Indebtedness (or applicable United States federal law to the extent that it permits Governmental Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas

law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under the Borrower Loan Note, this Instrument or any other Borrower Loan Document, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or if acceleration of the maturity of the Indebtedness, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Governmental Lender expressly intend that all excess amounts collected by Governmental Lender will be applied to reduce the unpaid principal balance of the Indebtedness (or, if the Indebtedness has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of the Borrower Loan Note, this Instrument and the other Borrower Loan Documents immediately will be deemed reformed and the amounts thereafter collectible under the Borrower Loan Documents reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under the Borrower Loan Documents. The right to accelerate the maturity of the Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Governmental Lender does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Governmental Lender for the use, forbearance or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in the Borrower Loan Note, this Instrument or any other Borrower Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of the Indebtedness, the total amount of interest that Borrower is obligated to pay and Governmental Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Instrument or any other Borrower Loan Document (such as for the payment of Impositions and similar expenses or costs).

32. **ENTIRE AGREEMENT. THIS INSTRUMENT, THE BORROWER LOAN NOTE AND THE OTHER BORROWER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**
33. **(RESERVED)**

34. Section 42 Compliance. Notwithstanding any other provision herein to the contrary, Governmental Lender agrees that in the event of a foreclosure on the above property, that no tenant may be evicted or rent raised for the three year period following foreclosure if such eviction or increase in rent would be contrary to the provisions of Section 42(h)(6)(E) of the Internal Revenue Code of 1986, as may be amended, and that this Instrument is expressly subordinate to this provision.

35. Attached Exhibits. The following Exhibits, if marked with an "X" in the space provided, are attached to this Instrument:

Exhibit A Description of the Land (required)

Exhibit A-1 Description of Condominium Project

Exhibit B Modifications to Instrument

Exhibit C Ground Lease Description (if applicable)

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IN WITNESS WHEREOF, Borrower has signed and delivered this Instrument or has caused this Instrument to be signed and delivered by its duly authorized representative.

CAROLINE LOFTS, LP, a Texas limited partnership

By: Caroline Lofts Advisors, LLC, a Texas limited liability company, its general partner

By: Mark-Dana Corporation, a Virginia corporation, its managing member

By: _____
David Mark Koogler, President

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared David Mark Koogler, President of Mark-Dana Corporation, a Virginia corporation, on behalf of said corporation, managing member of Caroline Lofts Advisors, LLC, a Texas limited liability company, general partner of CAROLINE LOFTS, LP, a Texas limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2021.

NOTARY PUBLIC in and for The State

EXHIBIT A
DESCRIPTION OF THE LAND

EXHIBIT A-1

Description of Condominium Project

EXHIBIT B

MODIFICATIONS TO INSTRUMENT

The following modifications are made to the text of the Instrument that precedes this Exhibit:

None

EXHIBIT [___] TO FORWARD PURCHASE AGREEMENT

FORM OF
AMENDED AND RESTATED MULTIFAMILY NOTE

\$ _____

[Month] [Day], [Year]

FOR VALUE RECEIVED, the undersigned (“**Borrower**”) promises to pay to the order of **ZIONS BANCORPORATION, NATIONAL ASSOCIATION**, a national banking association, as Fiscal Agent and Assignee, for the benefit of **CITIBANK, N.A.**, under that certain Funding Loan Agreement, dated as of [____], 2021, the maximum principal sum of _____ AND NO/100 DOLLARS (\$ _____), with interest on the unpaid principal balance from time to time outstanding at the annual rate as set forth on Schedule A. The terms of this Note incorporate the Modifications, if any, set forth on Schedule C to this Note.

1. **Defined Terms.** As used in this Note, the following terms shall have the following definitions:

(a) “**Beneficiary Parties**” shall have the meaning set forth in the Security Instrument.

(b) “**Borrower Loan**” means the loan evidenced by this Note, the proceeds of which shall be disbursed in accordance with the Borrower Loan Agreement.

(c) “**Borrower Loan Agreement**” means that certain Borrower Loan Agreement, dated as of [____] 1, 2021, by and between Borrower and Governmental Lender.

(d) “**Business Day**” means 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 are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

(e) “**Closing Date**” shall mean the date of this Note.

(f) “**Default Rate**” shall have the meaning set forth in Section 8 of this Note.

(g) “**First Payment Date**” means the first Business Day of the first month following the Closing Date.

(h) “**Fiscal Agent**” means Zions Bancorporation, National Association, and its successors.

(i) “**Funding Lender**” means Citibank, N.A., a national banking association, and its successors and assigns.

(j) **“Governmental Lender”** means Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas.

(k) **“Indebtedness”** means the principal of, interest on, and any other amounts due at any time under, this Note, the Security Instrument or any other Borrower Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of the Security Instrument as described in Section 12 of the Security Instrument.

(l) **“Interest-Only Period End Date”** means the date that is thirty-six (36) months after the First Payment Date.

(m) **“Interest Rate”** shall have the meaning set forth in Schedule A to this Note.

(n) **“Lender”** means the Fiscal Agent, on behalf of the Funding Lender, and any subsequent holder of this Note. For avoidance of doubt, Fiscal Agent is referred to herein as “Lender” due to being a holder of the Note, however, Fiscal Agent is acting only as a fiscal agent pursuant to the Funding Loan Agreement and has not participated as a lender in the transaction and has not made an extension of credit or otherwise acted as a lender.

(o) **“Loan Month”** means the period commencing on a Loan Payment Date and ending on the day preceding the next succeeding Loan Payment Date (without adjustment in either case for Business Day conventions).

(p) **“Loan Payment Date”** means the first Business Day of each month, commencing on the First Payment Date.

(q) **“Lock-Out Period”** means the tenth (10th) anniversary of the Closing Date.

(r) **“Mandatory Prepayment Date”** means the first Business Day of the month following [____], 2039 [NOTE: INSERT 18TH ANNIVERSARY OF THE CONSTRUCTION LOAN CLOSING DATE].

(s) **“Maturity Date”** means the earlier to occur of (i) May 1, 2054, or (ii) any earlier date on which the unpaid principal balance of this Note becomes due and payable, by acceleration or otherwise.

(t) **“Maximum Rate”** means the lesser of (i) twelve percent (12%) per annum or (ii) the maximum interest rate that may be paid on the Governmental Lender Note under the laws of the Property Jurisdiction.

(u) **“Note”** means this Amended and Restated Multifamily Note.

(v) **“Note Interest”** shall have the meaning set forth in Schedule A to this Note.

(w) “**Prepayment Premium Period**” means the period commencing on the Closing Date and ending on the date that is six (6) months prior to the Mandatory Prepayment Date.

(x) “**Property Jurisdiction**” shall have the meaning set forth in the Security Instrument.

(y) “**Servicer Remittance Date**” means two (2) Business Days prior to each Loan Payment Date.

All other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Borrower Loan Agreement.

2. **Method of Payment.** All payments due under this Note shall be payable to Servicer, or, if there is no Servicer, to the Fiscal Agent, or its successor. Each such payment shall be made by wire transfer of immediately available funds in accordance with wire transfer instructions that the Fiscal Agent or Servicer shall supply by Written Notice to the Borrower from time to time.

3. **Payment of Principal and Interest.** Principal and interest shall be paid as follows:

(a) Borrower shall pay all amounts due under this Note at the times and in the amounts set forth herein and in the Borrower Loan Agreement. Borrower shall make its payments under this Note in immediately available funds.

(b) [Intentionally Omitted].

(c) Commencing on the First Payment Date and continuing on each Loan Payment Date thereafter until and including the Interest-Only Period End Date, Borrower shall pay monthly payments of interest only as set forth on Schedule A attached hereto, in successive monthly installments. Such payments shall be made to the Servicer by 11:00 a.m., New York City time, or to the Fiscal Agent by 2:00 p.m., New York City time, on each Servicer Remittance Date.

(d) Commencing on the first Loan Payment Date following the Interest-Only Period End Date and continuing on each Loan Payment Date thereafter until and including the Maturity Date, Borrower shall pay monthly payments of principal and interest as set forth on Schedule A attached hereto, in successive monthly installments. Such payments shall be made to the Servicer by 11:00 a.m., New York City time, or to the Fiscal Agent by 2:00 p.m., New York City time, on each Servicer Remittance Date.

(e) Any accrued interest remaining past due may, at Funding Lender’s discretion, be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note, and any reference below to “accrued interest” shall refer to accrued interest that has not become part of the unpaid principal balance.

(f) Borrower shall pay all unpaid principal of and interest on this Note on the Maturity Date and any other amounts due under subsection 3(a) hereof. The unpaid principal balance of this Note shall continue to bear interest after the Maturity Date at the Default Rate set forth in this Note until and including the date on which it is paid in full.

(g) Any regularly scheduled monthly installment of principal and interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(h) Borrower shall make all payments of principal and interest under this Note without relief from valuation and appraisal laws.

(i) Borrower acknowledges that the calculation of all interest payments shall be made by the Funding Lender and shall be final and conclusive, absent manifest error.

4. **Application of Payments.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable under this Note in any manner and in any order determined by Funding Lender, in Funding Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured by, among other things, the Security Instrument, and reference is made to the Security Instrument for other rights of Lender and Funding Lender as to collateral for the Indebtedness.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, the prepayment premium payable under Section 10, if any, and all other amounts payable under this Note and any other Borrower Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower (except if notice is required by applicable law, then after such notice). Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge.** If any amount payable under this Note or under the Security Instrument or any other Borrower Loan Document is not received by Lender when such amount is due (unless applicable law requires a longer period of time before a late charge may be imposed, in which event, such longer period shall be substituted), Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to five percent (5.0%) of such amount (unless applicable law requires a lesser amount be charged, in which event such lesser amount shall be substituted). Notwithstanding the foregoing, with regard to each regularly scheduled monthly installment of principal and/or interest payable pursuant to this Note, such late charge shall not become due and payable to Lender so long as the Borrower makes such payment on or prior to the tenth (10th) calendar day following the date upon which such payment is due (or the Business Day immediately following such tenth (10th) calendar day if such tenth (10th) calendar day is not a Business Day). Any accrued but unpaid late charges shall be added

to and become part of the unpaid principal balance of this Note, shall bear interest at the rate or rates specified in this Note, and shall be secured by the Security Instrument and the other applicable Borrower Loan Documents. Borrower acknowledges that its failure to make timely payments will cause Funding Lender to incur additional expenses in servicing and processing the Borrower Loan, and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section represents a fair and reasonable estimate, taking into account all circumstances existing on the Closing Date, of the additional expenses Funding Lender will incur by reason of such late payment, and such late charge shall be deemed liquidated damages and not additional interest or a penalty. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 8. Notwithstanding anything to the contrary in any other Borrower Loan Document, if a Servicer has been appointed by Funding Lender, any late charges payable hereunder shall not be remitted to Lender and shall instead be paid directly to Servicer, who shall apply such late charges in accordance with the terms of the applicable servicing agreement. Any action regarding the collection of a Late Charge will be without prejudice to any other rights, and shall not act as a waiver of any other rights that the Servicer, the Funding Lender or the Lender may have as provided herein, in the other Borrower Loan Documents, or at law or in equity.

8. **Default Rate.** So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate per annum (the “**Default Rate**”) equal to the lesser of the Maximum Rate or a rate equal to the Interest Rate plus four percent (4%), in each case compounded monthly (computed in accordance with Schedule A in the same manner in which Note Interest is computed). If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate until the unpaid principal balance and all accrued interest is paid in full. Borrower also acknowledges that its failure to make timely payments will cause Lender and Funding Lender to incur additional expenses in servicing and processing the Borrower Loan, that, during the time that any monthly installment under this Note is delinquent, Lender and Funding Lender will incur additional costs and expenses arising from their loss of the use of the money due and from the adverse impact on Lender’s and Funding Lender’s ability to meet their other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent or any other Event of Default has occurred and is continuing, Lender’s and Funding Lender’s risk of nonpayment of this Note will be materially increased and Lender and Funding Lender are entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate as provided above represents a fair and reasonable estimate, taking into account all circumstances existing on the Closing Date, of the additional costs and expenses Lender and Funding Lender will incur by reason of Borrower’s delinquent payment and the additional compensation Lender and Funding Lender are entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

9. **Personal Liability of Borrower.**

(a) [Intentionally Omitted].

(b) Except as otherwise provided in this Section 9, neither Borrower nor any of its partners, members and/or managers shall have any personal liability under this Note, the Security Instrument or any other Borrower Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Borrower Loan Documents, and Lender's and Funding Lender's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be Lender's and Funding Lender's exercise of their respective rights and remedies with respect to the Mortgaged Property and any other collateral held by Lender and Funding Lender as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's and Funding Lender's enforcement of their respective rights against any guarantor of the Indebtedness or any guarantor of any obligations of Borrower.

(c) Borrower shall at all times be personally liable to Lender and Funding Lender for the repayment of a portion of the Indebtedness equal to any loss or damage suffered by Lender or Funding Lender (the "**Losses**") as a result of (1) failure of Borrower to pay to Lender upon demand after the occurrence and during the continuation of an Event of Default (it being acknowledged and agreed that in no event shall Funding Lender or Lender have any obligation to accept a cure of an Event of Default) all Rents to which Funding Lender or Lender is entitled under Section 3(a) of the Security Instrument and the amount of all security deposits collected by Borrower from tenants then in residence; (2) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Security Instrument; (3) failure of Borrower to comply with Section 14(d) or (e) of the Security Instrument relating to the delivery of books and records, statements, schedules, and reports; (4) fraud or material misrepresentation by Borrower or Guarantor or any general partner, managing member, manager, officer, director, partner, member, agent or employee of Borrower or Guarantor in connection with the application for or creation of the Indebtedness or any request for any action or consent by or on behalf of Lender or Funding Lender; (5) failure to apply Rents, first, to the payment of reasonable operating expenses (other than property management fees that are not currently payable pursuant to the terms of an Assignment of Management Agreement or any other Borrower Loan Document) and then to amounts ("**Debt Service Amounts**") payable under this Note, the Security Instrument or any other Borrower Loan Document (except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a bankruptcy, receivership or similar judicial proceeding, or (ii) with respect to Rents that are distributed on account of any calendar year if Borrower has paid all operating expenses and Debt Service Amounts for that calendar year); (6) failure of Borrower to comply with the provisions of Section 17(a) of the Security Instrument prohibiting the commission of waste or allowing the impairment or deterioration of the Mortgaged Property; or (7) failure of Borrower to obtain and maintain any local real estate tax abatement or exemption required under the Security Instrument, or the reduction, revocation, cancellation or other termination of such abatement or exemption, as a result

of any act or omission by or on behalf of Borrower, Guarantor or any of their respective partners, members, managers, directors, officers, agents, employees or representatives.

(d) For purposes of determining Borrower's personal liability under this Section 9, all payments made by Borrower with respect to the Indebtedness and all amounts received by Lender from the enforcement of its rights under the Security Instrument shall be applied first to the portion of the Indebtedness for which Borrower has no personal liability.

(e) Borrower shall at all times be personally liable to Lender and Funding Lender for the repayment of all of the Indebtedness upon the occurrence and continuation of any of the following Events of Default (it being acknowledged and agreed that in no event shall Funding Lender or Lender have any obligation to accept a cure of an Event of Default): (1) Borrower's acquisition of any property or operation of any business not permitted by Section 32 of the Security Instrument; or (2) a Transfer (as defined in the Security Instrument) (including, but not limited to, a lien or encumbrance) that is an Event of Default under Section 21 of the Security Instrument, other than a Transfer as defined in the Security Instrument) consisting solely of the involuntary removal or involuntary withdrawal of a general partner in a limited partnership or a manager in a limited liability company or a Permitted Transfer (as defined in the Security Instrument); or (3) a Bankruptcy Event, as defined in the Security Instrument (but only if the Bankruptcy Event occurs with the consent or active participation of Borrower, its General Partner, Guarantor or any Borrower Affiliate (as defined in the Security Instrument).

(f) In addition to the Borrower's personal liability pursuant to the other provisions of this Note, Borrower shall at all times be personally liable to Lender and Funding Lender for (1) the performance of all of Borrower's obligations under Section 18 of the Security Instrument (relating to environmental matters) and the Agreement of Environmental Indemnification; (2) the costs of any audit under Section 14(d) of the Security Instrument; and (3) any costs and expenses incurred by Lender or Funding Lender in connection with the collection of all amounts for which Borrower is personally liable under this Section 9, including out of pocket expenses and actual fees of attorneys and expert witnesses and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(g) To the extent that Borrower has personal liability under this Section 9, Lender or Funding Lender may exercise its rights against Borrower personally without regard to whether Lender or Funding Lender has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any guarantor, or pursued any other rights available to Lender under this Note, the Security Instrument, any other Borrower Loan Document or applicable law. For purposes of this Section 9, the term "**Mortgaged Property**" shall not include any funds that (1) have been applied by Borrower as required or permitted by the Security Instrument prior to the occurrence of an Event of Default or (2) Borrower was unable to apply as required or permitted by the Security Instrument because of a bankruptcy, receivership, or similar judicial proceeding. To the fullest extent permitted by applicable law, in any action to enforce Borrower's

personal liability under this Section 9, Borrower waives any right to set off the value of the Mortgaged Property against such personal liability.

(h) Nothing herein or in the other Borrower Loan Documents shall be deemed to be a waiver of any right which the Lender, the Funding Lender or the Servicer may have under Sections 506(a), 506(b), 1111(b) or any other provision of the United States Bankruptcy Code, as such sections may be amended, or corresponding or superseding sections of the Bankruptcy Amendments and Federal Judgeship Act of 1984, to file a claim for the full amount due to the Lender, the Funding Lender and the Servicer hereunder and under the other Borrower Loan Documents or to require that all collateral shall continue to secure the amounts due hereunder and under the other Borrower Loan Documents.

10. **Prepayments.**

(a) In connection with any prepayment (i.e., any receipt by Lender of principal, other than principal required to be paid in monthly installments pursuant to Section 3, prior to the Maturity Date) made under this Note, whether voluntary or involuntary, a prepayment premium shall be payable to the extent provided below. EXCEPT AS OTHERWISE PERMITTED HEREIN, NO VOLUNTARY PREPAYMENTS OF THIS NOTE, IN WHOLE OR IN PART, SHALL BE PERMITTED.

(b) [Intentionally Omitted].

(c) [Intentionally Omitted].

(d) After the Closing Date, no voluntary prepayments of this Note, in whole or in part, shall be permitted during the Lock-Out Period. After the Lock-Out Period, Borrower may voluntarily prepay all (but not less than all) of the unpaid principal balance of this Note on any Loan Payment Date if: (i) Borrower has given Lender, Funding Lender and Governmental Lender prior Written Notice of its intention to make such prepayment at least thirty (30) days prior to the proposed prepayment date (or such shorter time as agreed to by Funding Lender in its sole discretion) and (ii) Borrower pays (A) the entire unpaid principal balance of this Note, (B) all accrued interest, (C) if applicable, the prepayment premium calculated pursuant to Schedule B, and (D) all other sums due to Lender and Funding Lender at the time of such prepayment. If Lender and Funding Lender, in Funding Lender's sole and absolute discretion, agree in writing to waive the foregoing provisions and allow any prepayment that is not permitted hereunder, a prepayment premium calculated pursuant to Schedule B shall be otherwise due and payable by Borrower on the amount of principal being prepaid. In connection with any prepayment pursuant to this Section 10(d), the Borrower shall wire transfer the amount required hereunder in immediately available funds by no later than 12:00 p.m., New York City time, on the date of prepayment. For all purposes including the accrual of interest, any prepayment received by Lender or Funding Lender on any day other than the last calendar day of a Loan Month shall be deemed to have been received on the last calendar day of such Loan Month.

(e) Upon Funding Lender's exercise or direction to Fiscal Agent to exercise of any right of acceleration under this Note, Borrower shall pay to Lender, in addition to the entire unpaid principal balance of this Note outstanding at the time of the acceleration, (i) all accrued interest and all other sums due to Lender and Funding Lender, and (ii) if applicable, the prepayment premium calculated pursuant to Schedule B.

(f) Any application by Lender of any collateral or other security to the repayment of any portion of the unpaid principal balance of this Note in the absence of acceleration shall be deemed to be a partial prepayment by Borrower, requiring the payment to Lender by Borrower of a prepayment premium, calculated pursuant to Schedule B.

(g) [Intentionally Omitted].

(h) The Borrower shall prepay the entire outstanding principal balance of this Note, at the direction of the Lender, at a price equal to the outstanding principal balance of this Note, plus (i) accrued interest and any other amounts payable under this Note or the Borrower Loan Agreement through the date of prepayment, and (ii) if applicable, the prepayment premium calculated pursuant to Schedule B, upon the occurrence of any event or condition described below:

(1) no later than the day before (a) any sale of the Project, restructuring of the Borrower or any other event that would cause or be deemed to cause an assumption of obligations of an unrelated party for purposes of Section 1.150-1(d)(2) of the Regulations (any such event referred to herein as a "**Transfer**") which Transfer would occur within six months of a "refinancing" (as contemplated by such Regulation), or (b) any "refinancing" that would occur within six months of a Transfer; or

(2) in whole, upon a Determination of Taxability.

In connection with any such prepayment, the Borrower shall wire transfer immediately available funds by no later than 12:00 p.m., New York City time, on the date fixed by the Funding Lender, which date shall be communicated by the Funding Lender in writing to the Borrower and Governmental Lender.

(i) The Borrower shall prepay the outstanding principal balance of this Note at the direction of the Funding Lender, in whole or in part, at a price equal to the amount of principal being prepaid plus accrued interest and any other amounts payable under this Note or the other Borrower Loan Documents, upon the occurrence of any event or condition described below:

(1) in whole or in part, if the Mortgaged Property shall have been damaged or destroyed to the extent that it is not practicable or feasible to rebuild, repair or restore the damaged or destroyed property within the period and under the conditions described in the Security Instrument following such event of damage or destruction; or

(2) in whole or in part, if title to, or the use of, all or a portion of the Mortgaged Property shall have been taken under the exercise of the power of eminent domain by any Governmental Authority which results in a prepayment of this Note under the conditions described in the Security Instrument; or

(3) in whole or in part, to the extent that insurance proceeds or proceeds of any condemnation award with respect to the Mortgaged Property are not applied to restoration of the Mortgaged Property in accordance with the provisions of the Security Instrument.

In connection with any such prepayment, the Borrower shall wire transfer immediately available funds by no later than 12:00 p.m., New York City time, on the date fixed by the Funding Lender, which date shall be communicated by the Funding Lender in writing to the Borrower and Governmental Lender. To the extent that the Borrower receives any insurance proceeds or condemnation awards that are to be applied to the prepayment of this Note, such amounts shall be applied to the prepayment of this Note. No prepayment premium shall be payable with respect to any prepayment required by this Section 10(i).

(j) Any permitted or required prepayment of less than the unpaid principal balance of this Note shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless Funding Lender agrees otherwise in writing.

(k) Borrower recognizes that any prepayment of the unpaid principal balance of this Note, whether voluntary, involuntary or resulting from a default by Borrower, will result in Funding Lender incurring a loss, including reinvestment loss, additional expense and frustration or impairment of Funding Lender's ability to meet its commitments to third parties. Borrower agrees to pay to Lender for remittance to Funding Lender, upon demand damages for the detriment caused by any prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower therefore acknowledges and agrees that the formula for calculating prepayment premiums set forth on Schedule B represents a reasonable estimate of the damages Funding Lender will incur because of a prepayment.

(l) Borrower further acknowledges that the prohibition of voluntary prepayment and the prepayment premium provisions of this Note are a material part of the consideration for the Borrower Loan, and acknowledges that the terms of this Note are in other respects more favorable to Borrower as a result of Borrower's voluntary agreement to such provisions.

(m) Notwithstanding anything herein to the contrary, Borrower shall prepay this Note, together with all amounts due under the Borrower Loan Documents, in full on the Mandatory Prepayment Date.

(n) Any prepayment premium payable hereunder shall be remitted to Servicer, or if a Servicer has not been appointed by Funding Lender, to Lender and, in each case, remitted to Funding Lender.

11. **Costs and Expenses.** To the fullest extent allowed by applicable law, Borrower shall pay all expenses and costs, including, without limitation, out-of-pocket expenses and actual fees of attorneys (including, without limitation, in-house attorneys) and expert witnesses and costs of investigation, incurred by Lender or Funding Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Borrower Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. For purposes of Section 9(f) and this Section 11, attorneys' out-of-pocket expenses shall include, but are not limited to, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses.

12. **Forbearance.** Any forbearance by Lender in exercising any right or remedy under this Note, the Security Instrument, or any other Borrower Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

13. **Waivers.** Except as otherwise expressly required by the terms of the Borrower Loan Documents, presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower and all endorsers and guarantors of this Note and all other third party obligors.

14. **Borrower Loan Charges.** Neither this Note nor any of the other Borrower Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Borrower Loan is interpreted so that any interest or other charge provided for in any Borrower Loan Document, whether considered separately or together with other charges provided for in any other Borrower Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated

and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

15. **Obligations of the Borrower Absolute and Unconditional.** Subject to Section 9 hereof, the obligations of the Borrower to make all payments required under this Note and the other Borrower Loan Documents on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder and under the other Borrower Loan Documents shall be primary, absolute, unconditional and irrevocable, and shall be paid or performed strictly in accordance with the terms of this Note and the other Borrower Loan Documents under any and all circumstances, without notice or demand, and without abatement, deduction, set-off, counterclaim (except for compulsory counterclaims), recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Mortgaged Property or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Mortgaged Property or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Mortgaged Property, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Lender's or Funding Lender's legal organization or status, or any default of the Lender or Funding Lender hereunder or under any other Borrower Loan Document, and regardless of the invalidity of any action of the Lender or Funding Lender or the invalidity of any portion of this Note or the other Borrower Loan Documents. Provided further, the obligations of Borrower under this Note and the other Borrower Loan Documents shall not be affected by:

- (a) any lack of validity or enforceability of any Borrower Loan Document or any of the Related Documents;
- (b) any amendment of, or any waiver or consent with respect to, any of the Borrower Loan Documents or Related Documents;
- (c) the existence of any claim, set-off, defense or other rights which Borrower, General Partner or Guarantor may have at any time against Lender or Funding Lender (other than the defense of payment in accordance with the terms of this Note or the other Borrower Loan Documents) or any other Person, whether in connection with this Note or any other Borrower Loan Document, the Related Documents or any transaction contemplated thereby or any unrelated transaction;
- (d) any breach of contract or other dispute between Borrower, General Partner or Guarantor, and Lender or Funding Lender;
- (e) any document presented in connection therewith, proving to be forged, fraudulent, untrue, inaccurate, invalid or insufficient in any respect (except in the event of willful misconduct by Funding Lender with respect to same); or

(f) any exchange, release or nonperfection of any lien or security interest in any collateral pledged or otherwise provided to secure any of the obligations contemplated herein, in any other Borrower Loan Document or in any Related Document.

The Borrower hereby waives the application to it of the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Note or the other Borrower Loan Documents or which releases or purports to release the Borrower therefrom. Nothing contained herein shall be construed as prohibiting the Borrower from pursuing any rights or remedies it may have against any Person in a separate legal proceeding.

16. **Commercial Purpose.** Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household or agricultural purposes.

17. **Counting of Days.** Except where otherwise specifically provided, any reference in this Note to a period of “days” means calendar days, not Business Days.

18. **Notices.** All notices, demands and other communications required or permitted to be given pursuant to this Note shall be in writing and addressed as set forth below. Each notice shall be deemed given on the earliest to occur of (a) the date when the notice is received by the addressee; (b) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (c) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

<u>If to Borrower:</u>	Caroline Lofts, LP c/o Mark-Dana Corporation 26302 Oak Ridge Dr., Suite 100 Spring, Texas 77380 Attention: David Mark Koogler
With a copy to:	Texas Department of Housing and Community Affairs P.O. Box 13941 Austin, Texas 78711 Attention: Director of Multifamily Bonds
With a copy to:	Locke Lord LLP 600 Congress Ave, Suite 2200 Austin, Texas 78701 Attention: Richard Morrow, Esq.
With a copy to:	RBC Community Investments National Fund-32, L.P. c/o RBC Community Investments, LLC 600 Superior Avenue, Suite 2300 Cleveland, Ohio 44114 Attention: President and General Counsel

With a copy to: Applegate & Thorne-Thomsen, PC
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett P. Applegate

If to Lender: Citibank, N.A.
388 Greenwich Street, Trading 6th Floor
New York, New York 10013
Attention: Transaction and Asset Management Group
Re: Caroline Lofts Deal ID No. [_____]]
Facsimile: (212) 723-8209

And to: Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: Caroline Lofts Deal ID No. [_____]]
Facsimile: (805) 557-0924

With a copy to: Citibank N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Re: Caroline Lofts Deal ID No. [_____]]
Facsimile: (215) 328-0305

And a copy of any notices of default sent to:: Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Re: Caroline Lofts Deal ID No. [_____]]
Facsimile: (646) 291-5754

Any of the parties listed above may change the address to which notices intended for it are to be directed by means of notice given to the other parties in accordance with this Section 18. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 18, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 18 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

19. **Payments on Non-Business Day.** If the date for the making of any payment under this Note is not a Business Day, such payment shall be due and payable on the next succeeding Business Day.

20. **Terms of Note Governing Payment Matters Control in the Event of any Conflict.** In the event the provisions of the Borrower Loan Agreement or the other Borrower Loan Documents (other than this Note) conflict with the provisions of this Note which govern the terms of repayment of the Borrower Loan or the payment of other amounts due in connection with the Borrower Loan (including, without limitation, the provisions of this Note which govern the required payments of principal, interest and other amounts due in connection with the Borrower Loan, the manner of payment, the calculation of interest, the payment of the Lender's costs and expenses, the application of payments received by the Lender, the acceleration of amounts owed by the Borrower, late charges, default rates of interest, prepayments, prepayment premiums or maximum rates of interest or similar charges), the provisions of this Note shall govern and control.

21. **Local Law Provisions (Texas).**

(a) Notwithstanding the definition given thereto in Section 1, as used in this Note, the term "**Maximum Rate**" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Lender in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that such law permits Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all Charges (as defined below) made in connection with the transaction evidenced by this Note and the other Loan Documents.

(b) As used hereunder, the term "**Charges**" shall mean all fees, charges and/or any other things of value, if any, contracted for, charged, taken, received or reserved by Lender in connection with the transactions relating to this Note and the other Loan Documents, which are treated as interest under applicable law.

(c) Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against Funding Lender, Borrower will provide written notice to Lender and Funding Lender, advising Lender in reasonable detail of the nature and amount of the violation, and Funding Lender, or Lender at Funding Lender's direction, shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against this Note and/or the Indebtedness then owing by Borrower to Lender. All calculations of the rate of interest contracted for, charged, taken, reserved or received by Lender or Funding Lender, as applicable, for the use, forbearance or detention of any debt evidenced by this Note and/or any other Loan Documents, that are made for the purpose of determining whether such rate exceeds the Maximum Rate, shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading, using the actuarial method, all interest contracted for, charged, taken, reserved or received by Lender or Funding Lender, as applicable, throughout the full term of this Note and/or any other Loan Documents (including any and all renewal and extension periods).

(d) In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to this Note and/or any Indebtedness.

(e) Not later than the sixty-first (61st) day before the date Borrower files suit seeking penalties for Funding Lender's violation of the usury law (or not later than the time of Borrower filing a counterclaim in an original action by Funding Lender), Borrower is required to give Lender and Funding Lender written notice stating in reasonable detail the nature and amount of the violation. Funding Lender, or Lender at Funding Lender's direction, is then entitled to correct such violation within the sixty (60) day period beginning with the date such notice is received. If the usury violation is raised on a counterclaim, Funding Lender can petition the court to abate the proceedings for sixty (60) days to allow Funding Lender or Lender at Funding Lender's direction to cure the violation. If Funding Lender, or Lender at Funding Lender's direction, timely corrects such violation, Funding Lender will not be liable to Borrower for such violation, except to reimburse Borrower for actual attorneys' fees in the event the issue is raised by Borrower in a counterclaim. Funding Lender is also not liable to Borrower for a violation of the usury penalty statute if Funding Lender gives written notice to Borrower of Funding Lender's usury violation before Borrower itself gives written notice of the violation or files an action alleging the violation, and provided Funding Lender, or Lender at Funding Lender's direction, corrects such violation not later than the sixtieth (60th) day after the date Funding Lender actually discovered the violation that applies to the Note and/or any of the Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Funding Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

(f) To the extent that Funding Lender is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Rate payable on this Note or any other portion of the Indebtedness, Funding Lender will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits Funding Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Funding Lender will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Funding Lender may, at Funding Lender's option and from time to time, utilize any other method of establishing the Maximum Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect.

22. **Determinations by Lender.** Except to the extent expressly set forth in this Note to the contrary, in any instance where the consent or approval of Lender or Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender or Funding Lender under this Note, 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 Lender or Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

23. **Release; Indemnity.**

(a) *Release.* Borrower covenants and agrees that, in performing any of its rights or duties under this Note, neither the Beneficiary Parties, nor their respective agents or employees, shall be liable for any losses, claims, damages, liabilities and expenses that may be incurred by any of them as a result of such performance, except to the extent such liability for any losses, claims, damages, liabilities or expenses arises out of the willful misconduct or gross negligence of such party (except with respect to the Governmental Lender only to the extent arising from fraud, bad faith or willful misconduct).

(b) *Indemnity.*

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS NOTE, THE INDEMNIFICATION PROVISIONS IN THIS SECTION SHALL BE ENFORCEABLE REGARDLESS OF WHETHER THE LIABILITY IS BASED ON PAST, PRESENT OR FUTURE ACTS, CLAIMS OR LEGAL REQUIREMENTS (INCLUDING ANY PAST, PRESENT OR FUTURE BULK SALES LAW, ENVIRONMENTAL LAW, FRAUDULENT TRANSFER ACT, OCCUPATIONAL SAFETY AND HEALTH LAW, OR PRODUCTS LIABILITY, SECURITIES OR OTHER LEGAL REQUIREMENT), AND REGARDLESS OF WHETHER ANY PERSON (INCLUDING THE PERSON FROM WHOM INDEMNIFICATION IS SOUGHT) ALLEGES OR PROVES THE SOLE, CONCURRENT, CONTRIBUTORY OR COMPARATIVE NEGLIGENCE OF THE PERSON SEEKING INDEMNIFICATION, OR OTHER SOLE OR CONCURRENT STRICT LIABILITY IMPOSED ON THE PERSON SEEKING INDEMNIFICATION.

Borrower hereby agrees to indemnify and hold harmless the Beneficiary Parties and their respective agents and employees from and against any and all losses, claims, damages, liabilities and expenses including, without limitation, reasonable attorneys' fees and costs and disbursements, which may be imposed or incurred by any of them in connection with this Note, except that no such party will be indemnified for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party (except with respect to the Governmental Lender only to the extent arising from fraud, bad faith or willful misconduct).

24. **Governing Law.** This Note shall be governed by and enforced in accordance with the laws of the Property Jurisdiction, without giving effect to the choice of law principles of the Property Jurisdiction that would require the application of the laws of a jurisdiction other than the Property Jurisdiction.

25. **Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. 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 Lender's or Funding Lender's right to bring any suit, action or proceeding relating to matters arising under this Note against Borrower or any of Borrower's assets in any court of any other jurisdiction.

26. **Severability.** The invalidity, illegality or unenforceability of any provision of this Note shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

27. **Remedies Cumulative.** In the event of Borrower's default under this Note, the Lender or Funding Lender may exercise all or any one or more of their respective rights and remedies available under this Note, at law or in equity. Such rights and remedies shall be cumulative and concurrent, and may be enforced separately, successively or together, and the exercise of any particular right or remedy shall not in any way prevent the Lender or Funding Lender from exercising any other right or remedy available to the Lender or Funding Lender. The Lender or Funding Lender may exercise any such remedies from time to time as often as may be deemed necessary by the Lender or Funding Lender.

28. **No Agency or Partnership.** Nothing contained in this Note shall constitute Lender or Funding Lender as a joint venturer, partner or agent of Borrower, or render Lender or Funding Lender liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.

29. **Entire Agreement; Amendment and Waiver.** This Note contains the complete and entire understanding of the parties with respect to the matters covered. This Note 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 Note shall be considered as a general waiver.

30. **Further Assurances.** Borrower shall at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that Lender or Funding Lender may reasonably request, in order to protect any right or interest granted by this Note or to enable Lender or Funding Lender to exercise and enforce their respective rights and remedies under this Note.

31. **Captions.** The captions of the sections of this Note are for convenience only and shall be disregarded in construing this Note.

32. **Servicer.** Borrower hereby acknowledges and agrees that, pursuant to the terms of the Security Instrument: (a) from time to time, Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under this Note or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives written notice from Funding Lender to the contrary, any action or right which shall or may be taken or exercised by Funding Lender may be taken or exercised by such servicer with the same force and effect.

33. **Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF 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 NOTE 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.

34. **Time of the Essence.** Time is of the essence with respect to this Note.

35. **Modifications.** All modifications (if any) to the terms of this Note (“**Modifications**”) are set forth on Schedule C attached to this Note. In the event of a Transfer under the terms of the Security Instrument, some or all of the Modifications to this Note may be modified or rendered void by Funding Lender at its option by notice to Borrower or such transferee.

36. **Amended and Restated Note.** This Note amends and restates that certain Promissory Note dated as of [_____] 1, 2021 in the original maximum principal amount of \$20,000,000.00 the (“**Original Note**”) made by Borrower in favor of Governmental Lender and endorsed to Fiscal Agent for the benefit of Zions Bancorporation, N.A. dba Amegy Bank (“**Original Funding Lender**”). Pursuant to a Funding Loan Agreement dated as of [_____] 1, 2021, among Original Funding Lender, Governmental Lender and Fiscal Agent, the Original Funding Lender made a loan to the Governmental Lender, the proceeds of which Governmental Lender used to make a loan to the Borrower pursuant to a Borrower Loan Agreement, dated as of [_____] 1, 2021, by and between Borrower and Governmental Lender. Contemporaneously with the execution and delivery of this Note, Original Funding Lender has assigned all of its right, title and interest in and to the Original Note to Fiscal Agent for the benefit of Funding Lender pursuant to the provisions of a certain Assignment of Deed of Trust and Loan Documents, dated as of the _____, and intended to be recorded in the Official Records of Harris County, Texas. This Note does not create any new or additional indebtedness but evidences the reduced outstanding indebtedness established by the Original Note so that this Note evidences a single consolidated debt in the principal amount of [\$11,300,000.00]¹. This Note amends and restates in its entirety the terms, obligations, agreements, covenants and conditions set forth in the Original Note so that the terms of this Note supersede the terms, obligations, agreements, covenants and conditions of the Original Note. This Note does not extinguish the outstanding indebtedness evidenced by the Original Note or discharge or release any security therefor, and the parties do not intend this Note to be a substitution or novation of the original indebtedness or instruments securing the same.

37. **Attached Schedules.** The following Schedules are attached to this Note and are incorporated by reference herein as if more fully set forth in the text hereof:

Schedule A – Principal and Interest Payments

¹ This amount is inclusive of potential earn out.

Schedule B – Prepayment Premium

Schedule C – Modifications to Multifamily Note

The terms of this Note are modified and supplemented as set forth in said Schedules. To the extent of any conflict or inconsistency between the terms of said Schedules and the text of this Note, the terms of said Schedules shall be controlling in all respects.

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IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Amended and Restated Multifamily Note or caused this Amended and Restated Multifamily 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.

BORROWER:

CAROLINE LOFTS, LP,
a Texas limited partnership

By: Caroline Lofts Advisors, LLC,
its General Partner

By: Mark-Dana Corporation,
its Managing Member

By: _____
David Mark Koogler
President

SCHEDULE A

PRINCIPAL AND INTEREST PAYMENTS

Except as provided in Sections 8 and 14 of this Note, interest (“**Note Interest**”) shall accrue on the unpaid principal of this Note from, and including, the Closing Date until paid in full at an annual rate (the “**Interest Rate**”) as follows:

A. **Interest Rate and Principal Payments on and after the Closing Date.** From, and including, the Closing Date, until the Maturity Date, the following provisions shall apply:

1. **Interest Rate.** Note Interest shall accrue on the unpaid principal of this Note from, and including, the Closing Date, until the Maturity Date, at an annual rate, as follows:

(a) **Fixed Rate.** Interest shall accrue at annual rate of [] and [] percent ([]%)². [NOTE: IF THE TERMINATION DATE IS EXTENDED IN ACCORDANCE WITH SECTION 4.1 OF THE FORWARD PURCHASE AGREEMENT, AN ADDITIONAL 0.05% WILL BE ADDED TO THE INTEREST RATE SET FORTH HEREIN FOR EACH SIX (6) MONTH EXTENSION GRANTED BY FUNDING LENDER, IN ITS SOLE AND ABSOLUTE DISCRETION. IN ADDITION, IF THE EARN-OUT IS EXERCISED THE PRINCIPAL AMOUNT OF THIS NOTE WILL BE INCREASED BY THE EARN-OUT AMOUNT AND THE RATE WILL BE A BLENDED RATE BETWEEN THE RATE LISTED AND THE RATE OF THE EARN-OUT AS DESCRIBED IN THE FORWARD PURCHASE AGREEMENT.]

(b) **Maximum Rate.** Notwithstanding any other provision of this Note to the contrary, Note Interest shall not exceed the Maximum Rate, as the Maximum Rate may change in accordance with this Note.

(c) **Interest Accrual.** Note Interest shall be computed on the basis of the actual number of days in the period in which payment is being made, divided by 360.

B. **Monthly Interest Only Payments Until and Including the Interest-Only Period End Date.** Commencing on the First Payment Date following the Closing Date and on each Loan Payment Date thereafter until and including the Interest-Only Period End Date, consecutive monthly installments of interest that has accrued on the outstanding principal balance of the Borrower Loan during the applicable accrual period shall be payable.

C. **Monthly Payments Following the Interest-Only Period End Date.** Commencing on the first Loan Payment Date following the Interest-Only Period End Date and on each Loan Payment Date thereafter until and including the Maturity Date, consecutive monthly installments of principal and interest in the amount of \$[] shall be payable on each Loan Payment Date until the entire unpaid principal balance evidenced by this Note is fully

² [NOTE: The interest rate will be a fixed rate equal to the sum of the 18 year LIBOR swap index (which shall have a floor of 0.75%) plus a spread of 2.45%.]

paid. Any remaining principal and interest, if not sooner paid, shall be due and payable on the Maturity Date. In the event that the Borrower Loan is reamortized at any time as a result of the application of any insurance proceeds or condemnation award in accordance with Section 10(i) of this Note, equal monthly payments of principal and interest in installments in the amount necessary to fully amortize the remaining principal balance of this Note over the remainder of the original thirty-five (35) year amortization period, assuming a 360-day year comprised of twelve 30-day months, and a final installment on the Maturity Date in the amount of the remaining principal balance of this Note, which amortization schedule shall be determined by Funding Lender and which determination shall be final and conclusive absent manifest error and which shall be delivered to the Borrower, Fiscal Agent and Governmental Lender.

D. **Loss of Tax Exclusion.** Borrower understands that the interest rates provided under this Note are based on the assumption that interest income paid on the Funding Loan and received by the Funding Lender will be excludable from Funding Lender's gross income under Section 103 of the Internal Revenue Code and applicable state law. In the event that Borrower receives notice from Funding Lender that a Determination of Taxability has occurred, then, notwithstanding any provision to the contrary contained herein, the interest rate on this Note and on all obligations of Borrower under the Borrower Loan Documents (other than those to which the Default Rate applies) shall be equal to the Fixed Rate plus a number of basis points equal to the value of the exclusion of interest on the Funding Loan from Funding Lender's gross taxable income.

Borrower shall, in addition, pay to Lender, promptly upon demand, an amount equal to the difference between the amount of interest payable on this Note from the date on which such loss of tax exemption on the Funding Loan shall be applicable to the date on which the interest rate on this Note was increased and the amount of interest that would have been payable on this Note during such period had this Note borne interest during such period at such higher rate. The Borrower shall also indemnify, defend and hold Lender and Funding Lender harmless from any penalties, interest expense or other costs, including attorneys' fees (including all allocated time and charges of "in-house" and "outside" counsel) and accountants' costs, resulting from any dispute with the Internal Revenue Service concerning the proper tax treatment of the Funding Loan and the interest payable to Funding Lender on the Funding Loan. The obligations of the Borrower under this paragraph shall survive any termination of the Borrower Loan Documents, release of the Security Instrument and repayment of the Borrower Loan and/or Funding Loan.

SCHEDULE B

PREPAYMENT PREMIUM

Any prepayment premium payable under Section 10 of this Note shall be computed as follows:

(a) If the prepayment is made at any time after the date of this Note and before the end of the Prepayment Premium Period (the “**Yield Maintenance Period End Date**”) the prepayment premium shall be the greater of:

(i) 1% of the amount of principal being prepaid; or

(ii) The product obtained by multiplying:

(A) the amount of principal being prepaid,

by

(B) the difference obtained by subtracting the Yield Rate (as defined below) from the interest rate on this Note on the twenty-fifth Business Day preceding (x) the date upon which any voluntary prepayment will be made, determined in accordance with Section 10 of this Note, or (y) the date Lender accelerates the Borrower Loan or otherwise accepts a prepayment pursuant to Section 10 of this Note,

by

(C) the present value factor calculated using the following formula:

$$\frac{1 - (1 + r)^{-n/12}}{r}$$

r = Yield Rate

n = the number of months remaining between (1) either of the following: (x) in the case of a voluntary prepayment, the last calendar day of the month during which the prepayment is made, or (y) in any other case, the date on which Lender accelerates the unpaid principal balance of this Note and (2) the Yield Maintenance Period End Date.

For purposes of this clause (ii), the “**Yield Rate**” means the yield calculated by interpolating the yields for the immediately shorter and longer term U.S. “Treasury constant maturities” (as reported in the Federal Reserve Statistical Release H.15 Selected Interest Rates (the “**Fed Release**”) under the heading “U.S. government

securities”) closest to the remaining term of the Prepayment Premium Period, as follows (rounded to three decimal places):

$$\{ ((a - b) \div (x - y)) \times (z - y) \} + b$$

a = the yield for the longer U.S. Treasury constant maturity

b = the yield for the shorter U.S. Treasury constant maturity

x = the term of the longer U.S. Treasury constant maturity

y = the term of the shorter U.S. Treasury constant maturity

z = “n” (as defined in the present value factor calculation above) divided by 12.

Notwithstanding any provision to the contrary, if “z” equals a term reported under the U.S. “Treasury constant maturities” subheading in the Fed Release, the yield for such term shall be used, and interpolation shall not be necessary. If publication of the Fed Release is discontinued by the Federal Reserve Board, Lender shall determine the Yield Rate from another source selected by Lender. Any determination of the Yield Rate by Lender will be binding absent manifest error.

(b) Notwithstanding the provisions of Section 10 of this Note, no prepayment premium shall be payable with respect to any prepayment made on or after the Yield Maintenance Period End Date.

SCHEDULE C

MODIFICATIONS TO AMENDED AND RESTATED MULTIFAMILY NOTE

The following modifications are made to the text of the Note that precedes this Schedule:

1. The following new clause (4) is hereby added to Section 9(e) of this Note “or (4) any failure by Borrower to comply with the provisions of Sections 57, 58(b), 59(a) or 60 of the Security Instrument.”

Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Note.

[Caroline Lofts]

**PREPARED BY, AND AFTER
RECORDING RETURN TO:**

Greenberg Traurig LLP
1000 Louisiana, Suite 1800
Houston, Texas 77002
Attention: Wayne A. Yaffee, Esq.

ASSIGNMENT OF DEED OF TRUST AND LOAN DOCUMENTS

KNOW ALL PERSONS BY THESE PRESENTS:

That The Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (herein designated as the "Assignor"), is made as of May 1, 2021, to be effective as of the date of delivery of the Loan Agreement (defined in Schedule 2), for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents assign to the "Assignee" designated on Schedule 1 attached hereto (herein designated as the "Assignee") without recourse, warranty or representation of Assignor and excluding the Reserved Rights of Assignor as provided in the Funding Loan Agreement among Zions Bancorporation, National Association, Assignor, and Assignee dated as of May 1, 2021, to be effective as of the date of delivery of the Loan Agreement all of the Assignor's right, title and interest in and to, subject to the reserved rights stated therein, (i) the instruments ("Assigned Instruments") described on Schedule 1 attached hereto, and (ii) all other documents, instruments, rights and privileges described on Schedule 2 attached hereto to the extent Assignor has an interest in the same.

TOGETHER with the Note described in the Assigned Instruments, and the money due and to become due thereon, with the interest thereon. TO HAVE AND TO HOLD the same unto the said Assignee forever, subject only to all the provisions contained therein, AND the said Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, irrevocable in law or in equity, in the Assignor's name, place and stead, but at Borrower's cost and expense, to have, use and take all lawful ways and means for the recovery of all of the said money and interest; and in case of payment, to discharge the same as fully as the Assignor might or could if these presents were not made.

In all references herein to any parties, persons, entities or corporations the use of any particular gender on the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

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IN WITNESS WHEREOF, the said Assignor has hereunto set its hand or caused these presents to be signed by its proper corporate officer as of the date first set forth above.

Texas Department of Housing and Community Affairs,
a public and official agency of the State of Texas

By: _____

Name: James B. "Beau" Eccles

Title: Secretary to the Board

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of _____, 2021, by James B. "Beau" Eccles, Secretary to the Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

NOTARY PUBLIC, State of Texas

SCHEDULE 1
TO
ASSIGNMENT OF DEED OF TRUST AND LOAN DOCUMENTS

"ASSIGNEE" (AND ADDRESS):

Zions Bancorporation, National Association, as Fiscal Agent
1801 Main Street, Suite 1190
Houston, Texas 77002
Attention: Robert Lozano

ASSIGNED INSTRUMENTS:

1. Promissory Note by CAROLINE LOFTS, LP, a Texas limited partnership ("Borrower"), to Assignor made as of May ____, 2021, in the original principal sum of \$20,000,000.00.

2. Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, is made as of May 1, 2021, to be effective as of the date of delivery of the Loan Agreement from Borrower for the benefit of Assignor, which Instrument was recorded as Clerk's File No. _____ on _____, 2021 in the office of the County Clerk of Harris County, Texas and which encumbers the real property (and improvements thereon) which is particularly described in the Exhibit A attached thereto.

SCHEDULE 2
TO
ASSIGNMENT OF DEED OF TRUST AND LOAN DOCUMENTS

Each of the following are made as of May 1, 2021, to be effective as of the date of delivery of the Loan Agreement (as hereinafter defined).

1. The Borrower Loan Agreement among Assignor, and Borrower (the "Loan Agreement").
2. Payment and Performance Guaranty from Mark-Dana Corporation.
3. Collateral Assignment of Rights to Tax Credits and Partnership Interests.
4. Any and all other Borrower Loan Documents (as defined in the Loan Agreement) in connection with the transaction whereby proceeds of the Assignor's Multifamily Housing Governmental Note (Caroline Lofts) Series 2021 in the amount of \$20,000,000.00 have been loaned by Assignor to Borrower.

TAX EXEMPTION CERTIFICATE AND AGREEMENT

Dated as of

May 1, 2021

among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender

and

ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
as Fiscal Agent

and

CAROLINE LOFTS, LP,
as Borrower

regarding

\$20,000,000
MULTIFAMILY HOUSING GOVERNMENTAL NOTE
(CAROLINE LOFTS)
SERIES 2021

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TAX EXEMPTION CERTIFICATE AND AGREEMENT

THIS TAX EXEMPTION CERTIFICATE AND AGREEMENT (this “Agreement”) dated as of May 1, 2021, but effective as of the Issue Date of the Governmental Lender Note (as defined below) is among the **Texas Department of Housing and Community Affairs** (together with its successors and assigns, the “Governmental Lender”), a public and official agency of the State (as defined herein), **Zions Bancorporation, National Association**, a national banking association organized and existing under the laws of the United States of America, as Fiscal Agent under the hereinafter defined Funding Loan Agreement (together with any successor Fiscal Agent under the Funding Loan Agreement described below and their respective successors and assigns, the “Fiscal Agent”), and **Caroline Lofts, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”) and is entered into in connection with the issuance of the \$20,000,000 Texas Department of Housing and Community Affairs Governmental Lender Note (Caroline Lofts) Series 2021 (the “Governmental Lender Note”). The representations of facts and circumstances and the covenants of the Governmental Lender made herein are made in part for purposes of fulfilling the requirements set forth in section 1.148-2(b)(2) of the Regulations (as defined herein).

RECITALS

WHEREAS, the Governing Board of the Governmental Lender has determined to authorize the issuance of the Governmental Lender Note pursuant to and in accordance with the terms of an Funding Loan Agreement (as defined herein) by and among the Governmental Lender, the Funding Lender (as defined herein) and the Fiscal Agent for the purpose of obtaining funds to finance the Project (as defined herein), all under and in accordance with the Constitution and laws of the State (as defined herein); and

WHEREAS, the Governmental Lender desires to use the Proceeds (as defined herein) of the Governmental Lender Note to fund a mortgage loan to the Borrower (i.e., the Borrower Loan, as defined herein) upon the terms and conditions set forth in the Borrower Loan Agreement (as defined herein) in order to finance Project Costs (as defined herein); and

WHEREAS, the Governmental Lender and the Borrower desire that interest on the Governmental Lender Note be excludable from gross income for federal income tax purposes under the Code (as defined herein); and

WHEREAS, the purpose of executing this Agreement is to set forth various facts, certifications, covenants, representations, and warranties regarding the Governmental Lender Note and the Project and to establish the expectations of the Governmental Lender, the Borrower, and the Fiscal Agent as to future events regarding the Governmental Lender Note, the Project, and the use and investment of Proceeds of the Governmental Lender Note.

NOW THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby certify, covenant, represent, and agree on behalf of the Governmental Lender, the Borrower, and the Fiscal Agent (but not in their individual capacities), respectively, as follows:

1. **Definitions.** Each capitalized term used in this Agreement has the meaning ascribed to such term below or has the meaning or is the amount, as the case may be, specified for such term in this Agreement or in Exhibits to this Agreement and for all purposes hereof has the meaning or is in the amount therein specified. All capitalized terms used but not defined herein, to the extent that such terms are defined in the Funding Loan Agreement, the Borrower Loan Agreement, or the Regulatory Agreement for all purposes hereof have the meanings therein specified. All such terms defined in the Code or Regulations that are not defined herein will for all purposes hereof have the same meanings as given to those terms in the Code and Regulations unless the context clearly requires otherwise.

“Bank” means Zions Bancorporation, N.A. dba Amegy Bank

“Bond Counsel” means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially shall mean Bracewell LLP.

“Bond Year” means each one-year period that ends on the day selected by the Borrower in a certificate provided to the Governmental Lender and the Fiscal Agent. The first and last bond years may be short periods. If no day is selected by the Borrower before the earlier of the final Maturity Date of the Governmental Lender Note or the date that is five years after the Issue Date of the Governmental Lender Note, a bond year will end on each anniversary of the Issue Date of the Governmental Lender Note and on the final Maturity Date of the Governmental Lender Note.

“Borrower Loan” means the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of \$20,000,000 and evidenced by the Borrower Note.

“Borrower Loan Agreement” means the Borrower Loan Agreement by and between the Governmental Lender and the Borrower, dated as of May 1, 2021.

“Borrower Note” means that certain Promissory Note, dated the Closing Date, in the original principal amount of \$20,000,000, made by the Borrower and payable to the Governmental Lender, evidencing a loan of the proceeds of the Governmental Lender Note, as executed by the Borrower on the Closing Date and endorsed and assigned by the Governmental Lender without recourse to the Fiscal Agent, and as it may thereafter be amended or supplemented from time to time.

“Closing Costs Fund” means the “Closing Costs Fund” established pursuant to the Funding Loan Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference is deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Computation Date” means each Installment Computation Date and the Final Computation Date.

“Costs of Issuance” means costs to the extent incurred in connection with, and allocable to, the issuance of an issuance of obligations within the meaning of section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“Expense Fund” means the “Expense Fund” established pursuant to the Funding Loan Agreement.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Governmental Lender Note under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Lender Note or other customary exceptions acceptable to the recipient thereof).

“Final Computation Date” means the date on which the final payment in full of the Governmental Lender Note is made.

“Financial Advisor” means Stifel, Nicolaus & Company, Incorporated.

“Form 8038” means IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

“Funding Lender” means the Bank.

“Funding Loan Agreement” means the Funding Loan Agreement by and among the Governmental Lender, the Funding Lender and the Fiscal Agent, dated as of May 1, 2021.

“Gross Proceeds” means any Proceeds and any Replacement Proceeds.

“Installment Computation Date” means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

“Investment Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from investing Proceeds.

“IRS” means the Internal Revenue Service.

“Issue Date” means, with respect to an issue of obligations, the first date on which an issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any obligation.

“Issue Price” has the meaning ascribed to it in section 1.148-1(f) of the Regulations.

“Maturity Date” means May 1, 2054.

“Median Gross Income for the Area” means, with respect to the Project, the median income for the households in the area which includes the standard metropolitan statistical area in which the Project is located, as determined from time to time by the Secretary of HUD, under Section 8 of the Housing Act (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size.

“Minor Portion” means that portion of the Gross Proceeds of the Governmental Lender Note that does not exceed in the aggregate \$100,000.

“Net Proceeds” means Sale Proceeds, less the portion of any Sale Proceeds invested in a reasonably required reserve or replacement fund.

“Nonpurpose Investment” means any “investment property,” within the meaning of section 148(b) of the Code, that is not a purpose investment acquired to carry out the governmental purpose of the Governmental Lender Note.

“Official Intent Date” means October 8, 2020.

“Original Issue Discount” means the excess of the Stated Redemption Price at Maturity over the Issue Price.

“Original Issue Premium” means the excess of the Issue Price over the Stated Redemption Price at Maturity.

“Payment Fund” means the “Governmental Lender Note Payment Fund” established pursuant to the Funding Loan Agreement.

“Permitted Investments” has the meaning set forth in the Funding Loan Agreement.

“Placed in Service” has the meaning set forth in section 1.150-2(c) of the Regulations and means, with respect to a facility, the date on which, based on all the facts and circumstances, (a) the facility reaches a degree of completion that will permit its operation at substantially its design level, and (b) the facility is, in fact, in operation at such level.

“Pre-Issuance Accrued Interest” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means amounts representing interest that accrued on an obligation for a period not greater than one year before its Issue Date but only if those amounts are paid within one year after the Issue Date.

“Preliminary Expenditures” are described in section 1.150-2(f)(2) of the Regulations and include architectural, engineering, surveying, soil testing, reimbursement bond issuance and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, but do not include land acquisition, site preparation and similar costs incident to the commencement of construction or rehabilitation.

“**Proceeds**” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means any Sale Proceeds and Investment Proceeds.

“**Project**” means an approximately 119-unit multifamily housing development to be located at 2403 Caroline Street, Houston, Texas 77004. For the avoidance of doubt, the Project does not include any nonresidential or commercial space developed in connection with the Project.

“**Project Costs**” means, to the extent authorized by State law, any and all costs incurred by the Borrower with respect to the acquisition, construction, rehabilitation, and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the Issue Date of the Bonds, including, without limitation, costs for site preparation, the planning of housing and improvements, the removal or demolition of existing structures, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors’ and Borrower’s overhead and supervisor’s fees and costs directly allocable to the Project, and administrative and other expenses necessary or incident to the Project and the financing thereof.

“**Project Fund**” means the “Project Fund” established pursuant to the Funding Loan Agreement, with a Note Proceeds Account and a Borrower Equity Account therein.

“**Qualified Administrative Costs**” are those costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Governmental Lender Note. Qualified Administrative Costs do not include the costs of issuing, carrying or repaying the Borrower Loan.

“**Qualified Project Costs**” means costs of the Project that meet the following requirements:

(a) The costs are chargeable to a capital account with respect to the Project for federal income tax purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Governmental Lender Note during, and fees for a “qualified guarantee” (within the meaning of section 1.148-4 of the Regulations) attributable to the period of, the construction of the Project will constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs.

(b) If any portion of the Project is being constructed or rehabilitated by the Borrower or a Related Person to the Borrower (whether as a general contractor or a subcontractor), such costs include only (i) the actual out-of-pocket costs incurred by the Borrower or such Related Person in constructing or rehabilitating the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Borrower or such Related Person (but excluding any profit component) and (iii) any overhead expenses incurred by the Borrower or such Related Person that are directly attributable to the work performed on the Project and do not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of section 1504 of the Code) participating in the construction of the Project or payments

received by such Related Person due to early completion of the Project (or any portion thereof).

(c) The costs are not Costs of Issuance.

(d) (i) The costs were paid no earlier than 60 days prior to the Official Intent Date and (ii) the reimbursement allocation is made no later than 18 months after the later of (A) the date the expenditure was paid and (B) the date the Project is Placed in Service or abandoned, but in no event more than three years after the original expenditure is paid; provided that such limitations do not apply to any amount not in excess of \$100,000 or to Preliminary Expenditures that do not exceed 20 percent of the Sale Proceeds of the Governmental Lender Note.

“Qualified Project Period” means, with respect to the Project, the period beginning on the first day on which 10 percent of the Units are occupied and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied, (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is outstanding for federal income tax purposes or, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Qualifying Tenant” means a tenant whose Annual Income is 60 percent or less of Median Gross Income for the Area, as determined under sections 142(d)(2)(B) and (E) of the Code. If all the occupants of a Unit are students (as defined under section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants are not Qualifying Tenants, unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

“Rebate Amount” has the meaning set forth in section 1.148-3(b) of the Regulations and, generally, means the excess, as of any date, of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments all as determined in accordance with section 1.148-3 of the Regulations.

“Rebate Analyst” means a Person that is (a) qualified and experienced in the calculation of rebate payments under section 148 of the Code, (b) chosen by the Borrower, and (c) engaged for the purpose of determining the amount of required deposits, if any, to the Rebate Fund.

“Rebate Fund” means the “Rebate Fund” established pursuant to the Funding Loan Agreement.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement, among the Governmental Lender, the Fiscal Agent, and the Borrower, dated as of May 1, 2021.

“Related Party” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to a person that is not a governmental unit or a 501(c)(3) organization, a Related Person.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Proceeds” has the meaning set forth in section 1.148-1(c) of the Regulations and, generally, consist of amounts that have a sufficiently direct nexus to an issue of obligations or the governmental purpose of an issue of obligations to conclude that the amounts would have been used for that governmental purpose if the Proceeds were not used or to be used for that governmental purpose.

“Sale Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from the sale (or other disposition) of any obligation, including amounts used to pay underwriters’ discount or compensation and accrued interest other than Pre-Issuance Accrued Interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any obligation and that is described in section 1.148-4(b)(4) of the Regulations.

“State” means the State of Texas.

“Stated Redemption Price at Maturity” means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate and payable unconditionally at fixed periodic intervals of one year or less during the entire term of the debt instrument).

“Substantial User” has the meaning given to such term in section 1.103-11(b) of the Regulations, and generally includes any person (i) specifically for whom a facility, or part thereof, is constructed, reconstructed, or acquired or (ii) that (A) receives more than five percent of the total revenue derived by all users of such facility as gross revenue or (B) occupies more than five percent of the entire usable area of the facility.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation; provided that, a residential accommodation will not fail to be treated as a “Unit” merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“Weighted Average Maturity” means the sum of the products of the Issue Price and the number of years to maturity (taking into account mandatory redemptions) of an obligation, divided by the aggregate Sale Proceeds of such obligation.

“Yield” on (a) an issue of obligations has the meaning set forth in section 1.148-4 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments of principal, interest and fees for qualified guarantees to be paid on the obligation

produces an amount equal to the Issue Price of such issue and (b) any investment has the meaning set forth in section 1.148-5 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments to be received on the investment produces an amount equal to all payments for the investment.

“*Yield Reduction Payments*” means amounts paid in accordance with section 1.148-5(c) of the Regulations that are treated as payments that reduce the Yield on an investment.

“*40-60 Test*” means the requirement set forth in section 142(d)(1)(B) of the Code providing that 40 percent or more of the Units in the Project be occupied by individuals whose income is 60 percent or less of the Median Gross Income for the Area.

2. Authorized Representatives.

(a) Governmental Lender. The undersigned representative of the Governmental Lender represents that such representative (i) is charged, along with others, with the responsibility for the Governmental Lender Note and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Governmental Lender to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Governmental Lender personnel and consultants to the Governmental Lender, the undersigned representative of the Governmental Lender has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(b) Borrower. The undersigned representative of the Borrower represents that such representative (i) is a duly chosen, qualified and acting officer or other representative of the Borrower, which will be the owner of the Project and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Borrower to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Borrower personnel and consultants to the Borrower, the undersigned representative of the Borrower has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(c) Fiscal Agent. The undersigned representative of the Fiscal Agent represents that such representative is a duly chosen, qualified and acting officer or other representative of the Fiscal Agent and is authorized on behalf of the Fiscal Agent to execute and deliver this Agreement.

3. Reasonable Expectations. The Governmental Lender and the Borrower hereby affirm that the facts and estimates that are set forth in this Agreement are accurate and the expectations that are set forth in this Agreement are reasonable in light of such facts and estimates.

There are no other facts or estimates that would materially change such expectations. The Governmental Lender has also relied, to the extent appropriate, on the (a) Certificate of Funding Lender attached hereto as Exhibit A and (b) the Certificate of Financial Advisor attached hereto as Exhibit B. The undersigned representatives of the Governmental Lender and the Borrower are aware of no fact, estimate or circumstance that would create any doubt regarding the accuracy or reasonableness of all or any portion of the representations set forth in such certificates.

4. Reliance on Borrower's Representations and Covenants. Except as otherwise indicated in this Agreement, the representations, expectations, certifications, covenants and warranties of the Governmental Lender concerning the use and investment of the Proceeds of the Governmental Lender Note and certain other matters described in this Agreement are based solely upon representations, expectations, certifications, covenants and warranties of the Borrower, as set forth in this Agreement or in the Exhibits attached hereto. In relying upon such representations, expectations, certifications, covenants and warranties of the Borrower, the Governmental Lender has not made any independent investigations of the matters pertaining thereto. The Governmental Lender is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation, expectations, certifications, covenants and warranties of the Borrower made in this Agreement or in the Exhibits attached hereto.

5. Completeness of Borrower Information. The Borrower has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the excludability from gross income for federal income tax purposes of the interest on the Governmental Lender Note, 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 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 for which Bond Counsel has not asked. After due investigation, there is no information not obtained, or any investigation or inspection not heretofore pursued, that would be relevant or material to the certifications set forth below.

6. General Requirements Relating to Issuance of the Governmental Lender Note.

(a) Governmental Purpose. The Borrower has applied to the Governmental Lender and been approved for the Borrower Loan to be made from the Proceeds of the Governmental Lender Note. The proceeds of the Borrower Loan (and, thus, the Proceeds of the Governmental Lender Note) will be used to finance a portion of the Project Costs.

(b) Public Hearing and Approval. As required under section 147(f) of the Code and in accordance with Revenue Procedure 2021-21 and 2021-49, the Governmental Lender hosted a telephonic hearing that provided a reasonable opportunity for interested individuals to express their views on the Governmental Lender Note and the location and nature of the Project on March 11, 2021. The Governmental Lender provided notice reasonably designed to inform residents of the approving governmental unit of the proposed issue no fewer than seven days before the date of such public hearing by publication in a newspaper of general circulation available to residents of the governmental

unit. The notice stated the time and a toll-free telephone number and access code for the public hearing, a general functional description of the type and use of the Project, the maximum stated principal amount of the Governmental Lender Note, the name of the expected initial legal owner of the Project, and the location of the Project. The Attorney General of the State approved the issuance of the Governmental Lender Note.

(c) Volume Cap. The Governmental Lender has received from the Texas Bond Review Board a reservation of State private activity bond volume cap in an amount no less than the aggregate principal amount of the Governmental Lender Note (or if greater, the Issue Price of the Governmental Lender Note) for the purpose of issuing the Governmental Lender Note to finance the Project.

(d) Issue. There are no other obligations that (i) were sold at substantially the same time as the Governmental Lender Note (i.e., less than 15 days apart), (ii) were sold pursuant to the same plan of financing with the Governmental Lender Note, and (iii) will be paid out of substantially the same source of funds as the Governmental Lender Note.

(e) Form 8038. The Borrower has examined the completed Form 8038 with respect to the Governmental Lender Note, including accompanying schedules and statements, and, to the best of the Borrower's knowledge and belief, the information in Parts IV and V, which was furnished by the Borrower, is true, correct, and complete. The Governmental Lender will cause Form 8038 with respect to the Governmental Lender Note to be filed timely with the IRS.

(f) Substantial User. No person that was a Substantial User of the Project at any time during the five-year period before the Issue Date of the Governmental Lender Note or any Related Person to such Substantial User will (i) receive (directly or indirectly) more than five percent of the Proceeds of the Governmental Lender Note for such user's interest in the Project and (ii) will be a Substantial User of the Project at any time during the five-year period after the Issue Date of the Governmental Lender Note.

(g) Program Covenant. Neither the Borrower nor any Related Party of the Borrower is, or will be, a party to any agreement, formal or informal, pursuant to which it will purchase any of the Governmental Lender Note in an amount related to the amount of the Borrower Loan made to the Borrower unless the Borrower or such Related Party provides a Favorable Opinion of Bond Counsel to the Governmental Lender.

(h) No Federal Guarantee. Neither the Governmental Lender nor the Borrower will take any action that would result in all or any portion of the Governmental Lender Note being treated as federally guaranteed within the meaning of section 149(b)(2) of the Code.

7. Sale Proceeds of the Governmental Lender Note. The amount of Sale Proceeds received by the Governmental Lender from the issuance of the Governmental Lender Note is \$20,000,000, which represents the combined Stated Redemption Price at Maturity of the Governmental Lender Note. The Sale Proceeds of the Governmental Lender Note will be loaned to the Borrower and deposited as follows:

(a) The amount of \$[] will be deposited in the Note Proceeds Account of the Project Fund and used to pay Project Costs. The aggregate amount of the Project Costs is anticipated to exceed such amount.

(b) The amount of \$[] will be deposited in the Closing Costs Fund and disbursed to pay Costs of Issuance on the Governmental Lender Note.

8. Pre-Issuance Accrued Interest. There is no Pre-Issuance Accrued Interest on the Governmental Lender Note.

9. Use of Proceeds of the Governmental Lender Note.

(a) Qualified Project Costs. At least 95 percent of the Net Proceeds of the Governmental Lender Note actually expended will be used to pay or reimburse Qualified Project Costs. Not more than five percent of the Net Proceeds of the Governmental Lender Note will be expended for or allocated to Project Costs that are not Qualified Project Costs.

For purposes of this subparagraph (a) the Project includes only: (i) those portions of buildings included in the Project that are (A) separate and complete facilities for living, sleeping, eating, cooking and sanitation that will be used on other than a transient basis by one or more persons and that will be available on a regular basis for use by members of the general public and will be rented, or available for rental, on a continuous basis during the Qualified Project Period, and (B) facilities in building areas that are functionally related and subordinate thereto, such as centrally located machinery and equipment and common areas in a typical apartment building (but not including any health club facilities, except a facility that will be available only to tenants and their guests with no separate fee to be paid for the use of such facility); and (ii) land and other facilities that are properly allocable to such living facilities, such as parking areas and recreational areas for occupants of the living facilities.

Further, all of the allocable functionally related and subordinate land areas, facilities, and building areas taken into account in determining Qualified Project Costs under this subparagraph (a) are of a character and size commensurate with the number and size of the living facilities and are not functionally related and subordinate to, or properly allocable to, any other facilities.

(b) Additional Limitations.

(i) Costs of Issuance. Costs of Issuance in an amount of \$[302,817] are expected to be paid out of the Net Proceeds of the Governmental Lender Note. The Costs of Issuance financed out of Net Proceeds of the Governmental Lender Note will not exceed in the aggregate two percent of the Sale Proceeds of the Governmental Lender Note (i.e., \$400,000). Costs of Issuance in excess of two percent of Sale Proceeds of the Governmental Lender Note will be paid by the Borrower from sources other than Net Proceeds of the Governmental Lender Note.

(ii) Acquisition of Existing Property. No portion of the Net Proceeds of the Governmental Lender Note will be used to pay or reimburse the cost of

acquiring any property or an interest therein unless, except for land, the first use of such property is pursuant to such acquisition.

(iii) Limitation on Land Acquisition. Less than 25 percent of the Net Proceeds of the Governmental Lender Note will be used (directly or indirectly) to acquire land (or an interest therein) and no portion of the Net Proceeds of the Governmental Lender Note will be used (directly or indirectly) for farming purposes. For this purpose, an amount is considered used for the acquisition of land (or an interest therein) to the extent of that portion of the acquisition cost of the Project that is properly allocable for all federal income tax purposes to the land component (including interests in land) of the Project. Net Proceeds of the Governmental Lender Note in the amount of \$[4,990,990] are expected to be used (directly or indirectly) to acquire land (or an interest therein), and such amount is less than 25 percent of the Net Proceeds of the Governmental Lender Note (i.e., \$5,000,000).

(iv) Prohibited Facilities. None of the Proceeds of the Governmental Lender Note will be used to acquire, construct, or equip, and no portion of the Project will be, an airplane, a skybox or any other type of luxury box, a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; provided that, any fitness room functionally related to and subordinate to the Project for use by tenants of the Project or their guest is not considered a health club facility for purposes of this subparagraph.

(v) Payments to Related Persons. Any amount of Proceeds of the Governmental Lender Note paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower will not exceed an arm's-length charge that is the amount that would be charged to a person other than the Borrower. Further, any amount of Proceeds of the Governmental Lender Note paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower would be paid under the same circumstances by a person other than the Borrower to such affiliated person or entity. Notwithstanding the foregoing, in no event will amounts of Proceeds of the Governmental Lender Note that are paid to a Related Person to the Borrower be treated as spent until such amounts are spent on capital expenditures by such Related Person.

(vi) No Working Capital. Except for an amount that does not exceed five percent of the Sale Proceeds of the Governmental Lender Note (and that is directly related to the Project), the Proceeds of the Governmental Lender Note will only be expended for (A) costs that would be chargeable to the capital account of the Project if the Governmental Lender's income were subject to federal income taxation; (B) interest on the Governmental Lender Note in an amount that does not cause the aggregate amount of interest paid on the Governmental Lender Note to exceed that amount of interest on the Governmental Lender Note that is attributable to the period that commences on the Issue Date of the Governmental Lender Note and ends on the later of (1) the date that is three years from the Issue Date of the

Governmental Lender Note or (2) the date that is one year after the date on which the Project is Placed in Service; and/or (C) fees for a qualified guarantee of the Governmental Lender Note or payment for a qualified hedge on the Governmental Lender Note.

(vii) No Pooling. The Proceeds of the Governmental Lender Note are not being used directly or indirectly to make or finance loans to two or more ultimate unrelated borrowers.

(viii) Weighted Average Economic Life. The Weighted Average Maturity of the Governmental Lender Note, as calculated by the Financial Advisor as set forth in Exhibit B hereto, is [WAM] years. The weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Governmental Lender Note is at least [WAM/1.2] years. Thus, the Weighted Average Maturity of the Governmental Lender Note is not more than 120 percent of the weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Governmental Lender Note. Such weighted average estimated economic life is determined in accordance with the following assumptions: (A) the weighted average is determined by taking into account the respective costs of each asset, excluding land; (B) the reasonably expected economic life of an asset is determined as of the later of (1) the Issue Date of the Governmental Lender Note or (2) the date on which such asset is originally Placed in Service (or expected to be Placed in Service); and (C) the economic lives for the itemized assets are the useful lives that would have been used for depreciation purposes under section 167 of the Code prior to the enactment of the ACRS system under section 168 of the Code (i.e., the mid-point lives under the Class Life Asset Depreciation Range System of section 167(m) of the Code where applicable and the guideline lives under Revenue Procedure 62-21, 1962-2 C.B. 418, in the case of structures). The Borrower hereby covenants to not make any changes to the Project that would, at the time made, cause the remaining Weighted Average Maturity of the Governmental Lender Note to be more than 120 percent of the remaining weighted average estimated economic life of the portion of the Project financed with Proceeds of the Governmental Lender Note.

(c) Reimbursement. The Borrower expects that it will use Proceeds of the Governmental Lender Note in the amount of approximately \$[332.997.58] to reimburse itself for expenditures paid prior to the Issue Date of the Governmental Lender Note. Other than (i) an amount not greater than \$100,000 and/or (ii) Preliminary Expenditures up to an amount not in excess of 20 percent of the Issue Price of the Governmental Lender Note, no portion of the Proceeds of the Governmental Lender Note will be disbursed to reimburse the Governmental Lender, the Borrower or any Related Person to the Borrower for any expenditures paid or incurred prior to the date that is 60 days before the Official Intent Date, which is the date on which the Governmental Lender adopted a resolution describing the Project, stating the maximum principal amount of obligations expected to be issued for the Project and stating the Governmental Lender's reasonable expectation that expenditures for costs of the Project would be reimbursed with Proceeds of an obligation. Such resolution was not an official intent declared as a matter of course or in an amount

substantially in excess of the amount expected to be necessary for the Project. Neither the Governmental Lender nor the Borrower has engaged in a pattern of failure to reimburse actual original expenditures covered by official intents. Such reimbursed portion will be treated as spent for purposes of the “Funds—Project Fund” subparagraph herein and the “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph herein.

(d) Allocations and Accounting. The Borrower will prepare a final allocation of the Proceeds of the Governmental Lender Note to expenditures not later than 18 months after the later of the date the original expenditure is made or the date the Project is Placed in Service, but in no event later than the date that is 60 days after the fifth anniversary of the Issue Date of the Governmental Lender Note or the retirement of the Governmental Lender Note, if earlier; provided that, if such allocation is made pursuant to a reimbursement expenditure described above, such reimbursement allocation will in no event be made later than the date that is three years after the date each such original expenditure is paid. The Borrower may redetermine the allocation of the Proceeds of the Governmental Note within the time frame set forth in the immediately preceding sentence, provided that the Borrower will notify the Governmental Lender and Bond Counsel of any such reallocation and provide such parties with documentation of such reallocation, including evidence that the Borrower, on the date the original expenditure was paid with proceeds of the Governmental Note, had on hand sufficient other sources to pay such expenditure. The Borrower hereby elects to consistently allocate the expenditure of Proceeds of the Governmental Lender Note to Qualified Project Costs of the Project. No Proceeds of the Governmental Lender Note will be allocated to any expenditures to which Proceeds of any other tax-exempt obligations have heretofore been allocated.

10. Issue Price. In accordance with section 1.148-1(f)(2)(iv) of the Regulations, the Governmental Lender hereby identifies in its books and records maintained for the Governmental Lender Note the rule the Governmental Lender will use to determine the Issue Price for each maturity of the Governmental Lender Note as the rule set forth in the second sentence of section 1.148-1(f)(2)(i) of the Regulations, i.e. the Issue Price is the price paid by the single buyer. Based on the representations set forth in Exhibit A hereto, the aggregate Issue Price of the Governmental Lender Note is \$20,000,000.

11. Yield on the Governmental Lender Note. The Governmental Lender and the Borrower hereby represent, covenant and agree as follows:

(a) The Yield on the Governmental Lender Note is the discount rate that, when used in computing the present value as of the Issue Date of the Governmental Lender Note, of all unconditionally payable payments of principal and interest on the Governmental Lender Note, produces an amount equal to the present value, using the same discount rate, of the combined Issue Price of the Governmental Lender Note plus any Pre-Issuance Accrued Interest as of the Issue Date of the Governmental Lender Note.

(b) The Yield with respect to that portion of the Governmental Lender Note, if any, subject to optional redemption is computed by treating such portion of the Governmental Lender Note as retired at the Stated Redemption Price at Maturity because

(i) the Governmental Lender has no present intention to redeem prior to maturity the portion of the Governmental Lender Note that is subject to optional redemption; (ii) the Governmental Lender Note is not subject to optional redemption at any time for a price less than the retirement price at final maturity plus accrued interest; (iii) the Governmental Lender has no present intention of exercising its right to optionally redeem the Governmental Lender Note within five years of the Issue Date of the Governmental Lender Note; (iv) no portion of the Governmental Lender Note subject to optional redemption is issued at an Issue Price that exceeds the Stated Redemption Price at Maturity of such portion of the Governmental Lender Note by more than one-fourth of one percent multiplied by the product of the Stated Redemption Price at Maturity of such portion of the Governmental Lender Note and the number of complete years to the first optional redemption date for such portion of the Governmental Lender Note; and (v) no portion of the Governmental Lender Note subject to optional redemption bears interest at a rate that increases during the term of the Governmental Lender Note.

(c) Neither the Governmental Lender nor the Borrower has entered into any hedging transaction with respect to the Governmental Lender Note, and each covenants not to enter into a hedging transaction with respect to the Governmental Lender Note unless there is first received a Favorable Opinion of Bond Counsel.

12. Yield on the Borrower Loan. The Governmental Lender and the Borrower hereby represent, covenant and agree as follows:

(a) The Borrower Loan is allocated to the Governmental Lender Note. The Yield on the Borrower Loan is computed using the same compounding interval and financial conventions used to compute the Yield on the Governmental Lender Note. For the purposes of this Agreement, the Yield on the Borrower Loan is the discount rate that, when used in computing the present value as of the Issue Date of the Governmental Lender Note of all receipts with respect to the Borrower Loan, produces an amount equal to the present value, using the same discount rate, of the aggregate payments with respect to the Borrower Loan as of the Issue Date of the Governmental Lender Note. The aggregate payments made to the Borrower with respect to the Borrower Loan include no payments other than the “purchase price” of the Borrower Loan. The purchase price of the Borrower Loan is the amount loaned to the Borrower by the Governmental Lender on the Issue Date of the Governmental Lender Note, i.e. \$20,000,000.

(b) The Borrower Loan is a purpose investment that the Governmental Lender intends to treat as a “program investment” within the meaning of section 1.148-1 of the Regulations, because it is part of a governmental program (i) that involves the origination or acquisition of purpose investments; (ii) in which at least 95 percent of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, organizations exempt from tax under section 501(c)(3) of the Code, persons who provide housing and related facilities, or any combination of the foregoing; (iii) in which at least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse

anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption; and (iv) in which the program documents prohibit any obligor on a purpose investment financed by the program or any “related party,” within the meaning of section 1.150-1(b) of the Regulations, to that obligor from purchasing bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor. The Governmental Lender has not waived the right to treat the Borrower Loan as a program investment.

(c) The receipts from the Borrower with respect to the Borrower Loan include interest and principal payments with respect to the Borrower Loan and the Qualified Administrative Costs paid by the Borrower, and the Qualified Administrative Costs paid by the Borrower have been taken into account, as provided by section 1.148-5(e) of the Regulations, for purposes of computing the yield on the Borrower Loan. Because the Governmental Lender intends to treat the Borrower Loan as a “program investment” within the meaning of section 1.148-1 of the Regulations, the Qualified Administrative Costs do not include the costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Borrower Loan, which amounts are set forth in Exhibit C hereto.

(d) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Borrower Loan, calculated in the manner set forth above will not exceed the Yield on the Governmental Lender Note by more than 1.5 percentage points.

13. Investment of Proceeds Pending Expenditure; No Arbitrage.

(a) Investment Proceeds. Amounts on deposit in the Payment Fund and the Project Fund may be comprised of Proceeds of the Governmental Lender Note and amounts that are not Proceeds of the Governmental Lender Note or any tax-exempt obligation. If Proceeds of the Governmental Lender Note and amounts that are not Proceeds of the Governmental Lender Note are commingled, the Borrower will take into account for purposes of its covenant to comply with the arbitrage and rebate requirements that Proceeds of the Governmental Lender Note and amounts that are not Proceeds of the Governmental Lender Note have been commingled as an investment. Investment Proceeds resulting from the investment of any Proceeds of the Governmental Lender Note pending expenditure of such Proceeds for Project Costs will be used to pay Qualified Project Costs or, if not used to pay Qualified Project Costs, such amounts will be treated as “bad costs.”

(b) Minor Portion and Yield Reduction Payments. All Gross Proceeds of the Governmental Lender Note will be invested in accordance with the “Funds” paragraph herein. To the extent such amounts remain on hand following the periods set forth in the “Funds” paragraph herein or exceed the limits set forth in the “Funds” paragraph herein, such amounts will be invested at a restricted Yield as set forth in such paragraph; provided, however, that an amount not to exceed the Minor Portion may be invested at a Yield that is higher than the Yield on the Governmental Lender Note and, provided further, that, if permitted by section 1.148-5(c) of the Regulations, the Yield restriction requirements may be satisfied by making Yield Reduction Payments to the federal government.

(c) Governmental Lender Note Are Not Hedge Bonds. Not more than 50 percent of the Proceeds of the Governmental Lender Note will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more. Further, at least 85 percent of the spendable Proceeds of the Governmental Lender Note are reasonably expected to be used to carry out the governmental purposes of the Governmental Lender Note within the three-year period beginning on the Issue Date of the Governmental Lender Note.

(d) No Arbitrage. On the basis of the facts, estimates and circumstances set forth in this Agreement, it is expected by the Governmental Lender and the Borrower that the Gross Proceeds of the Governmental Lender Note will not be used in a manner that would cause the Governmental Lender Note to be “arbitrage bonds” within the meaning of section 148 of the Code. To the best of the knowledge and belief of the undersigned representatives of the Governmental Lender and the Borrower, there are no other facts, estimates or circumstances that would materially change such expectations. Except as provided in the Funding Loan Agreement and the Borrower Loan Agreement, the Borrower will 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 the Borrower Loan Agreement or the note relating to the Borrower Loan, will not establish any segregated reserve or similar fund for such purpose and will not prepay any such amounts in advance of the redemption date of an equal principal amount of the Governmental Lender Note, unless in each case there will have been delivered a Favorable Opinion of Bond Counsel. The Borrower will not, at any time prior to the final maturity of the Governmental Lender Note, direct or permit the Fiscal Agent to invest Gross Proceeds of the Governmental Lender Note in any investment (or to use Gross Proceeds of the Governmental Lender Note 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 Note to stated maturity, except as permitted by section 148 of the Code. The Governmental Lender and the Borrower further covenant and agree that each will comply with and will take all action reasonably required to ensure that the Fiscal Agent complies with all applicable requirements of section 148 of the Code relating to the Governmental Lender Note and the interest thereon.

(e) Guaranteed Investment Contract. Proceeds of the Governmental Lender Note may be deposited in a guaranteed investment contract (the “GIC”). If Proceeds of the Governmental Lender Note are co-mingled as an investment in the GIC, the Borrower will take into account for purposes of its covenant to comply with the rebate requirement that proceeds of the Governmental Lender Note and amounts that are not proceeds of the Governmental Lender Note have been co-mingled as an investment in the GIC and will comply with the requirements of section 1.148-5(d)(6)(iii) of the Regulations.

14. Covenants of Fiscal Agent Relating to Investment of Proceeds. The Fiscal Agent will invest funds held under the Funding Loan Agreement in accordance with the respective terms of the Funding Loan Agreement and this Agreement, which covenant will extend throughout the term of the Governmental Lender Note, to all funds and accounts created under the Funding Loan Agreement and this Agreement and all moneys on deposit to the credit of any fund or account.

Should the Governmental Lender or the Borrower deliver notice (in the manner required under the Funding Loan Agreement or the Borrower Loan Agreement, as applicable) to the Fiscal Agent (it being understood that neither the Governmental Lender nor the Borrower has an obligation to so deliver) or should the Fiscal Agent receive an opinion of Bond Counsel to the effect that any proposed investment or other use of Proceeds of the Governmental Lender Note would cause the Governmental Lender Note to become “arbitrage bonds” within the meaning of section 148 of the Code, then the Fiscal Agent will comply with any written direction of the Borrower regarding such investment or use so as to prevent the Governmental Lender Note from becoming an “arbitrage bond.” The Governmental Lender and the Borrower agree that, in complying with the provisions set forth under this paragraph, the Fiscal Agent will be deemed to have complied with such provisions and will have no liability to the extent the Fiscal Agent materially follows the written directions of the Borrower or the Governmental Lender.

15. Compliance with Yield Reduction and Rebate Requirements; Rebate Fund.

(a) Covenant to Comply with Rebate Requirements. The Governmental Lender and the Borrower covenant to comply with the requirement that (i) if Gross Proceeds of the Governmental Lender Note have been invested at a Yield that is “materially higher” than the Yield on the Governmental Lender Note and Yield Reduction Payments are permitted under section 1.148-5(c)(3) of the Regulations, Yield Reduction Payments be made to the federal government and (ii) “rebateable arbitrage earnings” on the investment of the Gross Proceeds of the Governmental Lender Note, within the meaning of section 148(f) of the Code, be rebated to the federal government.

(b) Rebate Fund. The Funding Loan Agreement established the Rebate Fund, which will be maintained and held in trust by the Fiscal Agent and which will be disbursed and applied only as herein authorized in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph. Notwithstanding anything herein to the contrary, all provisions of the Funding Loan Agreement relating to the general administration of the funds created thereunder will apply to the Rebate Fund, and the Fiscal Agent is afforded all the rights, protections and immunities otherwise accorded to it thereunder as if the provisions set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph were set forth in the Funding Loan Agreement.

(c) Delivery of Documents and Money by Borrower on Computation Dates. The Borrower will deliver to the Fiscal Agent and the Governmental Lender, within 55 days after each Computation Date:

(i) (A) a statement, signed by an officer or other authorized representative of the Borrower, stating the Rebate Amount as of such Computation Date and the amount of any Yield Reduction Payments due, and (B) a copy of the report prepared by the Rebate Analyst in connection therewith;

(ii) (A) 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 percent of the Rebate Amount and Yield Reduction Payments due as of such Installment Computation Date, less any

“previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations), made to the United States of America or (B) 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 and Yield Reduction Payments due as of such Final Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations) made to the United States of America; and

(iii) an IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (“Form 8038-T”) properly signed and completed as of such Computation Date.

(d) Administration of Rebate Fund and Payment of Rebate.

(i) The Fiscal Agent will deposit or transfer to the credit of the Rebate Fund, pursuant to written direction from the Borrower, each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. Within five days after each receipt or transfer of funds to the Rebate Fund, the Fiscal Agent will withdraw such funds from the Rebate Fund and pay such funds to the United States of America. The Fiscal Agent may conclusively rely on the instructions of the Borrower with regard to any actions to be taken by it pursuant to this paragraph and will have no liability for any consequences of any failure of the Borrower to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided herein, the Fiscal Agent will have no duty or responsibility with respect to the Rebate Fund or the Borrower’s duties and responsibilities with respect thereto except to follow the Borrower’s specific written instructions related thereto.

(ii) Moneys and securities held by the Fiscal Agent in the Rebate Fund will not be deemed funds of the Governmental Lender Note and are not pledged or otherwise subject to any security interest in favor of the owners of the Governmental Lender Note to secure the Governmental Lender Note or any other obligations.

(iii) Moneys in the Rebate Fund will be separately invested and reinvested by the Fiscal Agent, at the written direction of the Borrower, in Permitted Investments, subject to the Code. The Fiscal Agent will sell and reduce to cash a sufficient amount of such Permitted Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes. In the absence of written direction from the Borrower, the Fiscal Agent will not be responsible or liable for keeping the moneys held as part of the Rebate Fund fully invested.

(iv) The Borrower will provide to the Fiscal Agent and the Fiscal Agent will keep such records of the results of the computations made pursuant to this paragraph for a period of three years after the last Governmental Lender Note and any tax-exempt obligations issued to refinance the Governmental Lender Note is retired. The Fiscal Agent will keep and make available to the Governmental Lender

and the Borrower such records concerning the investments of Gross Proceeds of the Governmental Lender Note and the investments of earnings from those investments as may be requested by the Governmental Lender or the Borrower in order to enable the Borrower to make the computations required under section 148(f) of the Code.

(e) Correction of Underpayments. If the Borrower discovers or is notified as of any date that any amount required to be paid to the United States of America pursuant to this Agreement has not been paid as required or that any payment paid to the United States of America pursuant to this Agreement has failed to satisfy any requirement of section 148(f) of the Code or section 1.148-3 of the Regulations (whether or not such failure is due to any default by the Borrower, the Governmental Lender, or the Fiscal Agent), the Borrower will (i) deliver to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States of America from the Rebate Fund (A) the Rebate Amount or Yield Reduction Payments due that the Borrower failed to pay, plus any interest specified in section 1.148-3(h)(2) of the Regulations, if such correction payment is delivered to and received by the Fiscal Agent within 175 days after such discovery or notice, or (B) if such correction payment is not delivered to and received by the Fiscal Agent within 175 days after such discovery or notice, the amount determined in accordance with clause (A) of this subparagraph plus the 100 percent penalty required by section 1.148-3(h)(1) of the Regulations, and (ii) deliver to the Fiscal Agent and the Governmental Lender a Form 8038-T completed as of such date. If such Rebate Amount or Yield Reduction Payments, together with any penalty and/or interest due, is not paid to the United States of America in the amount and manner and by the time specified in the Regulations, the Borrower will take such steps as are necessary to prevent the Governmental Lender Note from becoming “arbitrage bonds” within the meaning of section 148 of the Code.

(f) Identification of Rebate Analyst. The initial Rebate Analyst for the Governmental Lender Note is [Rebate Analyst Name]. The contact information for the initial Rebate Analyst is:

Contact Person:
Address:
Telephone:
E-mail:

If the Borrower determines to engage the services of a different Rebate Analyst, the Borrower will provide the name and contact information for such entity to the Governmental Lender within thirty days of engagement.

(g) Fees and Expenses. The Borrower agrees to pay all of the fees and expenses of Bond Counsel, the Rebate Analyst, and any other necessary consultant employed by the Borrower, the Fiscal Agent, or the Governmental Lender in connection with computing the Rebate Amount and the Yield Reduction Payments; provided that nothing herein will be construed as the Fiscal Agent being responsible for creating, preparing or reviewing any of the computations contemplated under this Agreement.

(h) 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 Governmental Lender Note that is not purchased at fair market value (as defined in section 1.148-5(d)(6)(iii) of the Regulations) or includes terms that the Borrower would not have included if the Governmental Lender Note were not subject to section 148(f) of the Code.

(i) Amounts Not Required in Certain Circumstances.

(i) Notwithstanding the foregoing, the Borrower will not be required to perform the obligations set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph, except for the obligation to retain accounting records and the payment of expenses as described herein, if (A) the Gross Proceeds of the Governmental Lender Note have not been invested at a Yield that is “materially higher” than the Yield on the Governmental Lender Note and therefore is not required to pay Yield Reduction Payments and/or (B) the Borrower has not earned any rebatable arbitrage and, therefore, is not subject to the rebate obligation set forth in section 148(f) of the Code. To the extent that the Borrower will not be required to perform such obligations, the Borrower will send written notice to the Fiscal Agent and the Governmental Lender within 55 days after the applicable Computation Date.

(ii) Notwithstanding anything to the contrary in this Agreement requiring a payment to be made based on the Rebate Analyst’s calculations showing a rebate being due, no payment will be made by the Fiscal Agent to the United States of America if the Borrower furnishes to the Governmental Lender and the Fiscal Agent a Favorable Opinion of Bond Counsel. In such event, the Borrower will be entitled to withdraw funds from the Rebate Fund to the extent provided in such Favorable Opinion of Bond Counsel.

(j) Fiscal Agent Reliance on Written Directions. The Governmental Lender and the Borrower agree that, in complying with the provisions set forth under this paragraph, the Fiscal Agent will be deemed to have complied with such provisions and will have no liability to the extent it materially follows the written directions of the Borrower, the Governmental Lender, or the Rebate Analyst.

16. Funds.

(a) Project Fund. All of the Proceeds of the Governmental Lender Note in the Note Proceeds Account of the Project Fund are expected to be invested and disbursed as described in the Funding Loan Agreement to pay Project Costs. The Borrower (i) reasonably expects to allocate at least 85 percent of the Net Proceeds of the Governmental Lender Note to expenditures on capital projects of the Project prior to the date that is three years after the Issue Date of the Governmental Lender Note, (ii) has incurred, or reasonably expects to incur within six months after the Issue Date of the Governmental Lender Note, a binding obligation to a third party that is not subject to any contingencies within the

control of the Borrower pursuant to which the Borrower is obligated to expend at least five percent of the Net Proceeds of the Governmental Lender Note on capital projects of the Project, and (iii) reasonably expects that the acquisition, construction, and equipping of the Project will proceed with due diligence to completion and the Net Proceeds of the Governmental Lender Note are reasonably expected to be expended on the Project with reasonable dispatch; therefore, all of such amounts may be invested without regard to Yield restriction. Any amounts not so expended prior to the applicable dates set forth in the preceding sentence will thereafter be invested at a Yield that is not “materially higher” than the Yield on the Governmental Lender Note, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(b) Payment Fund. Amounts on deposit in the Payment Fund will be used for the purposes set forth in Section 7.4 of the Funding Loan Agreement. The Payment Fund will be used primarily to achieve a proper matching of payments made pursuant to the Borrower Loan Agreement and debt service on the Governmental Lender Note within each Bond Year. Any amounts in the Payment Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Governmental Lender Note, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(c) Expense Fund. Amounts on deposit in the Expense Fund will be used for the purposes and in the order set forth in Section 7.5 of the Funding Loan Agreement. There is no assurance that amounts on deposit in the Expense Fund will be available to pay debt service on the Governmental Lender Note.

(d) Closing Costs Fund. Amounts on deposit in the Closing Costs Fund will be funded by the Borrower at closing and used for the purpose of paying Costs of Issuance. Amounts remaining in the Closing Costs Fund after the payment of all Costs of Issuance, and in any event not later than six months following the Closing Date of the Governmental Lender Note, will be paid to or at the direction of the Borrower. There is no assurance that amounts on deposit in the Closing Costs Fund will be available to pay debt service on the Governmental Lender Note.

(e) Rebate Fund. The Rebate Fund will be used in the event the Borrower is required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the Funding Loan Agreement; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Governmental Lender Note.

17. Replacement Proceeds. The Governmental Lender and the Borrower hereby represent as follows:

(a) No Sinking Funds. Other than the Payment Fund, there is no debt service fund, redemption fund, reserve fund, replacement fund, or similar fund reasonably

expected to be used directly or indirectly to pay principal or interest on the Governmental Lender Note.

(b) No Pledged Funds. Other than amounts in the Payment Fund, there is no amount that is directly or indirectly pledged to pay principal or interest on the Governmental Lender Note, or to a guarantor of the Governmental Lender Note, such that such pledge provides reasonable assurance that such amount will be available to pay principal or interest on the Governmental Lender Note if the Governmental Lender encounters financial difficulty. For purposes of this certification, an amount is treated as so pledged if it is held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the holders or the guarantor of the Governmental Lender Note.

(c) No Other Replacement Proceeds. There are no other Replacement Proceeds allocable to the Governmental Lender Note because the Governmental Lender reasonably expects that the term of the Governmental Lender Note will not be longer than is reasonably necessary for the governmental purpose of the Governmental Lender Note. Furthermore, even if the Governmental Lender Note were outstanding longer than necessary for the purpose of the Governmental Lender Note, no Replacement Proceeds will arise because the Governmental Lender reasonably expects that no amounts will become available during the period that the Governmental Lender Note remains outstanding longer than necessary based on the reasonable expectations of the Governmental Lender as to the amounts and timing of future revenues. The Governmental Lender Note would be issued to achieve the governmental purpose of the Governmental Lender Note independent of any arbitrage benefit as evidenced by the expectation that the Governmental Lender Note reasonably would have been issued if the interest on the Governmental Lender Note were not excludable from gross income (assuming that the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate and that tax credits issued under section 42 of the Code would be available in connection therewith).

18. Not an Abusive Transaction. The Governmental Lender and the Borrower hereby represent as follows:

(a) General. A device has not been and will not be employed in connection with the issuance of the Governmental Lender Note to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Furthermore, no action taken in connection with the Governmental Lender Note is or will be an abusive arbitrage device by having the effect of (i) enabling the Governmental Lender or the Borrower to exploit, other than during an allowable temporary period, the difference between tax-exempt and taxable interest rates to obtain a material financial advantage (including as a result of an investment of any portion of the Gross Proceeds of the Governmental Lender Note over any period of time, notwithstanding that, in the aggregate, the Gross Proceeds of the Governmental Lender Note are not invested in higher yielding investments over the term of the Governmental Lender Note) and (ii) overburdening the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Governmental Lender Note, based on all the facts and

circumstances. Specifically, (A) the primary purpose of each transaction undertaken in connection with the issuance of the Governmental Lender Note is a bona fide governmental purpose; (B) each action taken in connection with the issuance of the Governmental Lender Note would reasonably be taken to accomplish the governmental purposes of the Governmental Lender Note if the interest on the Governmental Lender Note were not excludable from gross income for federal income tax purposes (assuming the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate on the Governmental Lender Note); and (C) the Proceeds of the Governmental Lender Note will not exceed by more than a Minor Portion the amount reasonably anticipated to be necessary to accomplish the governmental purposes of the Governmental Lender Note and will in fact not be substantially in excess of the amount of Proceeds allocated to expenditures for the governmental purposes of the Governmental Lender Note.

(b) No Sinking Fund. No portion of the Governmental Lender Note has a term that has been lengthened primarily for the purpose of creating a sinking fund or similar fund with respect to the Governmental Lender Note.

(c) No Window. No portion of the Governmental Lender Note has been structured with maturity dates the primary purpose of which is to make available released revenues that will enable the Governmental Lender to avoid transferred proceeds or to make available revenues that may be invested to be ultimately used to pay debt service on another issue of obligations.

(d) No Disposition. No portion of the Project is reasonably expected to be disposed of while the Governmental Lender Note is outstanding.

19. The Project. The Borrower hereby represents and covenants as follows:

(a) The Project will be comprised of (i) Units, all of which will be rented to individuals or families for residential occupancy and none of which will be owner-occupied (other than any functionally related and subordinate Units used by management for the purpose of housing any reasonably required resident managers, security personnel or maintenance personnel for the Project) and (ii) facilities, all of which are functionally related and subordinate to the aforementioned Units (i.e., facilities that are of a size and character commensurate with the size and character of such Units). All Units are similarly constructed and offer fixtures of similar quality. All amenities that are part of the Project will be made available to all residential tenants and their guests on an equal basis, regardless of the rent charged for the Unit occupied by the residential tenant.

(b) There has been and will be no substantial deviation from the description and location of the Project and the Borrower, operator or manager set forth in the notice of hearing published with respect to the Governmental Lender Note for purposes of satisfying the requirements of section 147(f) of the Code.

(c) The Project will be designed and equipped and will be owned, maintained and operated on a continuous basis in accordance with the Borrower Loan Agreement and the Regulatory Agreement. For purposes of this subparagraph, each of the enumerated

types of facilities includes the interior furnishings of such facility (including the facility's plumbing, electrical and decorating costs) and the structural components required for the facility (including the facility's walls, ceilings and special enclosures). Each such enumerated type of facility includes only those normal components of the structure in which it is located, such as the structure's structural supports, to the extent that those components are required because of the facility. The recreational facilities, if any, included as part of the Project will be available only to residential tenants and their guests and no separate fee will be required for the use of such facilities.

(d) Except to the extent that any Unit is a single room occupancy unit under section 42 of the Code, each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Specifically, each Unit will contain a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, full-size refrigerator and sink, all of which are separate and distinct from the facilities included in other Units.

(e) Parking spaces included in the Project are functionally related and subordinate to the Units included in the Project in that they are no greater in number than is normally appropriate for a residential rental facility that is of the size of the Project. Only tenants, prospective tenants, guests of tenants, employees of the Borrower, and employees of the manager are expected to use these parking spaces.

(f) If the Project contains a clubhouse, exercise or similar recreational facility, such facility exists as a tenant amenity and may be used by any tenant free of any separate charge and will be constructed for the exclusive use of tenants of the Project and their guests. Such facility, if any, is of a character and size commensurate with the character and size of the Project and will not be open to the general public on a membership basis.

(g) The Project will not include any nonresidential or commercial space, including particularly, without limitation, any other space or facility not described in this paragraph. Costs relating to the acquisition, construction and equipping of any nonresidential or commercial space developed in connection with the Project (including any costs of land acquisition allocable thereto) will be allocated to sources other than the Governmental Lender Note.

(h) No continual or frequent skilled or unskilled nursing services will be available at the Project, although the tenants will be permitted to engage such services from providers that are not affiliated with the Borrower or the manager. Thus, neither the Borrower nor the manager, nor any Related Person to either the Borrower or the manager, will provide any assistance to any tenant in connection with his or her activities of daily living, other than concierge and valet services. The Project will not be licensed as a convalescent or nursing home, continuing care facility, personal care facility, special care facility or other assisted living facility under State law.

20. Tenant Income Certifications. The Borrower hereby represents and covenants as follows:

(a) The Borrower will obtain and maintain tenant income certifications in a form that satisfies the requirements of section 1.103-8(b)(8) of the Regulations demonstrating that the 40-60 Test is met with respect to the occupied Units continuously throughout the Qualified Project Period.

(b) The Borrower will ensure that each person who is intended to be a Qualifying Tenant will sign and deliver to the Borrower or a manager of the Project a tenant income certification in the form required by the Regulatory Agreement. In addition, the Borrower will ensure that such person will provide whatever other information, documents or certifications are deemed necessary to substantiate the tenant income certification.

(c) The Borrower will timely file, or take such actions as are necessary to cause any other person who is properly treated as the “operator” for purposes of section 142(d)(7) of the Code to file timely, the annual certifications described in section 142(d)(7) of the Code (currently, IRS Form 8703, Annual Certificate of Residential Rental Project).

(d) For a period of at least three years after the date the Governmental Lender Note is retired, a tenant income certification in the form required by the Regulatory Agreement will at all times be maintained on file at the applicable location for the Project with respect to each Qualifying Tenant who resides or has resided in a Unit.

21. Form of Lease. The Borrower will ensure that the term of a lease of any Unit will be for a term of not less than six months, subject to the provision that any lease may be terminated if the tenant’s physical condition no longer permits full-time residence in the Project; provided, however, that the form of lease to be utilized by the Borrower in renting any Units to a person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the tenant income certification.

22. Change in Use. The Borrower acknowledges that any failure to satisfy the applicable requirements of sections 103 and 142 through 150, inclusive, of the Code, including the 40-60 Test, with respect to the Project will be treated as a change in use for purposes of section 150(b)(2) of the Code with the result that no deduction will be allowed for federal income tax purposes for interest paid by the Borrower with respect to the portion of the Borrower Loan that is allocable to Proceeds of the Governmental Lender Note that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date that the Project meets such requirements.

On the earlier of (a) the date on which the Borrower reasonably determines that the Project will not be completed or (b) the date on which the Project is Placed in Service, the Borrower will identify the amount of unspent Net Proceeds of the Governmental Lender Note, if any, and will use such amount to redeem or, if not permitted by the terms of the Governmental Lender Note, defease the Governmental Lender Note, all in accordance with the requirements of section 1.142-

2 of the Regulations, the Funding Loan Agreement and the Borrower Loan Agreement, as applicable, including the requirement that, if a defeasance is necessary, timely written notice be provided to the IRS.

23. Cashflow Sufficiency. The Borrower reasonably expects that the cash flow from the Project on an annual basis (excluding cash generated from the investment of nonoperating funds or other investment funds maintained by the Borrower) will be sufficient to pay annual debt service on the Borrower Loan during each year. Accordingly, the Borrower expects that debt service on the Borrower Loan will not be paid, directly or indirectly, from non-operating or other investment funds maintained by the Borrower or any Related Person to the Borrower. Except for the funds described in the “Funds” paragraph above, the Borrower does not expect to create or establish, or otherwise set aside or dedicate, any fund or account that is expected to be used to pay principal of, or interest on, the Governmental Lender Note or to be pledged, directly or indirectly, to the payment of principal of, or interest on, the Governmental Lender Note. Investment Proceeds of the Governmental Lender Note and amounts earned from the investment of such Investment Proceeds will not be commingled with other receipts or revenues of the Borrower.

24. Post-Issuance Compliance Procedures. The Governmental Lender has implemented written post-issuance tax compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code. A copy of the Governmental Lender’s then-current post-issuance tax compliance procedures is and will be available on the Governmental Lender’s website during the term of this Agreement. If the Governmental Lender’s website is not available, a copy of the then-current post-issuance tax compliance procedures will be made available to the Borrower, upon request. The Borrower agrees to take such actions as required therein to be taken by the Borrower to maintain compliance with requirements in the Code. In the event that the terms of the Governmental Lender’s post-issuance tax compliance procedures conflict with the terms of this Agreement, the terms of this Agreement will control.

25. Record Retention. The Borrower and the Fiscal Agent will retain or cause to be retained all pertinent and material records relating to any formal elections made for purposes of federal income tax law; the use of the Project; the investment, use and expenditure of the Proceeds of the Governmental Lender Note; and the calculation of rebate in connection with the Governmental Lender Note until three years after the Governmental Lender Note, including any tax-exempt obligations issued to refinance the Governmental Lender Note, are redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Governmental Lender to retrieve and reproduce such books and records in the event of an examination of the Governmental Lender Note by the IRS.

26. Examination by IRS. The Borrower acknowledges that, in the event of an examination by the IRS of the exclusion of interest on the Governmental Lender Note from the gross income of the owners thereof for federal tax purposes, the Governmental Lender will likely

be treated as the “taxpayer”, and the Borrower agrees to respond in a commercially reasonable manner on behalf of, and at the direction of, the Governmental Lender (and in consultation with the Fiscal Agent, who will have the right to participate in all related proceedings (including tax court challenges and appeals)) to such examination and to pay the costs of the counsel selected by the Governmental Lender to provide a defense regarding the exclusion of the interest on the Governmental Lender Note from the gross income of the owners thereof for federal income tax purposes. THE BORROWER WILL INDEMNIFY AND HOLD HARMLESS THE GOVERNMENTAL LENDER AND THE FISCAL AGENT AGAINST ANY AND ALL COSTS, LOSSES, CLAIMS, DAMAGES, OR LIABILITY OF, OR RESULTING FROM, SUCH AN EXAMINATION AND THE SETTLEMENT THEREOF BY THE GOVERNMENTAL LENDER AND THE FISCAL AGENT (INCLUDING THE COST OF THE GOVERNMENTAL LENDER’S AND THE FISCAL AGENT’S LEGAL COUNSEL), EXCEPT AS A RESULT OF THE WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE GOVERNMENTAL LENDER (WITH RESPECT TO INDEMNIFICATION OF THE GOVERNMENTAL LENDER) OR THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE FISCAL AGENT (WITH RESPECT TO INDEMNIFICATION OF THE FISCAL AGENT).

27. Term. The obligations of the Governmental Lender, the Borrower and the Fiscal Agent under this Agreement will survive the defeasance and discharge of the Governmental Lender Note for as long as such matters are relevant to the exclusion from gross income of interest on the Governmental Lender Note for federal income tax purposes.

28. Amendments.

(a) To the extent any amendments to the Code or the Regulations, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, this Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as will be necessary to document such automatic amendment hereof.

(b) To the extent that the Code or the Regulations, or any amendments thereto, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, the Fiscal Agent and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All reasonable costs, including fees and out-of-pocket expenses actually incurred by the Governmental Lender and the Fiscal Agent, in connection with an amendment to this Agreement will be paid by the Borrower and its successors in interest.

29. Remedies. The Governmental Lender, the Fiscal Agent, and the Borrower each hereby agrees that the remedies available under Article IX of the Funding Loan Agreement and Article VIII of the Borrower Loan Agreement apply upon the occurrence of an Event of Default (as defined under the Funding Loan Agreement or the Borrower Loan Agreement, as applicable) resulting from an action or omission of an action by any party hereunder with respect to any provision of this Agreement.

30. Miscellaneous.

(a) Severability. If any provision of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such provision will not affect any of the remaining provisions hereof.

(b) Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(c) Notices. All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto will be deemed given on the date on which the same will have been mailed by registered or certified mail, postage prepaid, addressed to such parties at the addresses set forth in the Funding Loan Agreement and the Borrower Loan Agreement, as applicable.

(d) Successors and Assigns. The terms, provisions, covenants and conditions of this Agreement bind and inure to the benefit of the respective successors and assigns of the Governmental Lender, the Borrower, and the Fiscal Agent.

(e) Headings. The headings of this Agreement are inserted for convenience only and will not be deemed to constitute a part of this Agreement.

(f) Governing Law. This Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Agreement will lie within the district courts of the State, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Governmental Lender, the Borrower and the Fiscal Agent (but, as for the Fiscal Agent, it is only agreeing to sections 2(c), 14, 15, and 25 through 30) have caused this Agreement to be executed and delivered by duly authorized officers thereof as of the Issue Date of the Governmental Lender Note.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**, as Governmental
Lender

By: _____
Name: Monica Galuski
Title: Director of Bond Finance/Chief Investment
Officer

CAROLINE LOFTS, LP,
a Texas limited partnership

By: Caroline Lofts Advisors, LLC,
its General Partner

By: Mark-Dana Corporation,
its Managing Member

By: _____
David Mark Koogler
President

**ZIONS BANCORPORATION, NATIONAL
ASSOCIATION, as Fiscal Agent**

By: _____
Name: _____
Title: _____
Amegy Bank Division

EXHIBIT A

CERTIFICATE OF FUNDING LENDER

I, the undersigned officer of Zions Bancorporation, N.A. dba Amegy Bank (the “Funding Lender”), make these certifications in connection with \$20,000,000 Texas Department of Housing and Community Affairs Multifamily Housing Governmental Lender Note (Caroline Lofts) Series 2021 (the Governmental Lender Note”). Each capitalized term used but not defined herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement to which this Exhibit A is attached (the “Tax Exemption Agreement”).

1. I hereby certify as follows in good faith as of the Issue Date of the Governmental Lender Note:

(a) I am the duly chosen, qualified and acting vice president of the Funding Lender for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Funding Lender. I am the vice president of the Funding Lender charged, along with other officers of the Funding Lender, with responsibility for the Governmental Lender Note.

(b) The Funding Lender is not acting as an Underwriter with respect to the Governmental Lender Note. The Funding Lender has no present intention to sell, reoffer, or otherwise dispose of the Governmental Lender Note (or any portion of the Governmental Lender Note or any interest in the Governmental Lender Note); provided, however, that the Funding Lender has the right to transfer the Governmental Lender Note as provided in the Funding Loan Agreement. The Funding Lender has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Governmental Lender Note and the Funding Lender has not agreed with the Governmental Lender pursuant to a written agreement to sell the Governmental Lender Note to persons other than the Funding Lender or a Related Party to the Funding Lender.

(c) The Funding Lender has purchased the Governmental Lender Note from the Governmental Lender for an aggregate purchase price of \$20,000,000, which price includes no amount of Pre-Issuance Accrued Interest.

2. Neither the Funding Lender nor any related person to the Funding Lender directly or indirectly owns or will own (except through the exercise of remedies following a default on the Governmental Lender Note or the related Borrower Loan) either (i) 50 percent or more of the capital interests in the Borrower, or (ii) 50 percent or more of the profits interests in the multifamily housing project to be financed by the Governmental Lender Note or in the Borrower.

3. The Funding Lender will act as the initial Servicer for the Project and the Governmental Lender Note and will not charge a fee for its services as initial Servicer. The Funding Lender represents that the initial interest rate on the Governmental Lender Note (applicable for the period during which the Funding Lender will act as initial Servicer) is comparable

to the interest rate the Funding Lender would offer on debt issued by similar credits, taking into account the terms and condition of the Governmental Lender Note.

4. For purposes of this Issue Price Certificate, the following definitions apply:

(a) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(b) “Related Party” means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(c) “Underwriter” means (i) any person that agrees pursuant to a written contract with the Governmental Lender (or with the lead Underwriter to form an underwriting syndicate) to participate in the initial sale of the Governmental Lender Note to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in the initial sale of the Governmental Lender Note to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Governmental Lender Note to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Funding Lender’s interpretation of any laws, including specifically sections 103 and 148 of the Internal Revenue Code. The undersigned understands that the foregoing information will be relied upon by the Governmental Lender and the Borrower with respect to certain of the representations set forth in the Tax Exemption Certificate and Agreement and with respect to compliance with the federal income tax rules affecting the Governmental Lender Note, and by Bracewell LLP in connection with rendering its opinion that the interest on the Governmental Lender Note is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038, and other federal income tax advice it may give to the Governmental Lender from time to time relating to the Governmental Lender Note.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Funding Lender has been duly executed as of the Closing Date.

**ZIONS BANCORPORATION, N.A. DBA
AMEGY BANK**

By: _____

Name: Sara Hale

Title: Senior Vice President

EXHIBIT B

CERTIFICATE OF FINANCIAL ADVISOR

I, the undersigned officer of Stifel, Nicolaus & Company, Incorporated (the “Financial Advisor”), make this certificate in connection with the \$20,000,000 Texas Department of Housing and Community Affairs Governmental Lender Note (Caroline Lofts) Series 2021 (the “Governmental Lender Note”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement to which this Exhibit B is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Governmental Lender Note:

1. I am the duly chosen, qualified and acting officer of the Financial Advisor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Financial Advisor.

2. The combined Issue Price plus any Pre-Issuance Interest on the Governmental Lender Note, based on the representations of the Funding Lender in the Certificate of Funding Lender attached as Exhibit A to the Tax Exemption Agreement, is not more than \$20,000,000.

3. Solely for the purposes of demonstrating the fact that the Yield on the Loan is not more than 1.5 percentage points higher than the Yield on the Governmental Note, the Financial Advisor computed the Yield on the Governmental Note, based on the Issue Price and assuming monthly compounding, a Construction Phase Rate of interest of [] percent per annum, a Conversion Date of May 1, 2024, and a fixed rate of interest of [] percent per annum thereafter to the Maturity Date, to be [] percent and the Yield on the Loan to be [] percent. Accordingly, the Yield on the Loan does not exceed the Yield on the Governmental Note by more than 1.5 percentage points.

4. For purposes of determining the Yields in paragraph 3 above, the Financial Advisor has performed certain calculations relating to the Governmental Lender Note and the Borrower Loan. Such calculations are attached hereto as Schedule I. The Financial Advisor hereby represents that such calculations are based on assumptions and methodologies provided by Bond Counsel and are in all material respects consistent with the assumptions and methodologies set forth in the “Yield on the Governmental Lender Note” and “Yield on the Borrower Loan” paragraphs of the Tax Exemption Agreement. These calculations include calculations based upon assumptions, information, and estimates obtained from the Borrower and the Governmental Lender, which the Financial Advisor, based on its experience with similar transactions, has no reason to believe are not reasonable in light of the relevant facts and circumstances. To the best of the Financial Advisor’s knowledge, as of the Issue Date of the Governmental Lender Note, no fact or circumstance has come to the Financial Advisor’s attention that conflicts with the assumptions, information and estimates described in the preceding sentence.

5. As shown in Schedule I attached hereto, the Financial Advisor computed the combined Weighted Average Maturity of the Governmental Lender Note, calculated in accordance

with the provisions of the Tax Exemption Agreement and taking into account the mandatory prepayment date of June 1, 2039, to be [WAM] years.

6. The Financial Advisor represents that to the best of its knowledge as of the Issue Date of the Governmental Lender Note, the statements set forth in paragraphs (a) through (c) of the “Not An Abusive Transaction” paragraph of the Tax Exemption Agreement are true.

The Governmental Lender may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the conditions imposed by the Code on the exclusion of interest on the Governmental Lender Note from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Governmental Lender Note as excludable from gross income for federal income tax purposes and the preparation of the Form 8038.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Financial Advisor has been duly executed as of the Issue Date of the Governmental Lender Note.

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____
Name: _____
Title: _____

Signature Page to Certificate of Financial Advisor

SCHEDULE I
TO CERTIFICATE OF FINANCIAL ADVISOR

Schedule I to Certificate of Financial Advisor

EXHIBIT C

SCHEDULE OF BORROWER LOAN COSTS

Paid Prior to Closing

Application Fee \$1,900

Paid at Closing

Governmental Lender Issuance Fee \$100,000

Governmental Lender Administration Fee
(first two years, prorated) \$[_____]

Governmental Lender Compliance Fee
(first year) \$2,375

Annual Fees

Governmental Lender Administrative Fee
(beginning May 1, 2023) 0.10% per annum of the aggregate principal
amount of the Governmental Lender Note
outstanding

Governmental Lender Compliance Fee
(beginning May 1, 2024) \$2,375