
LOAN AGREEMENT

between

ROERS WYLIE APARTMENTS OWNER I LIMITED PARTNERSHIP

and

COLLIN COUNTY HOUSING FINANCE CORPORATION

Dated as of December 1, 2022

Relating to

Collin County Housing Finance Corporation
Multifamily Housing Revenue Bonds
(Meridian at Wylie)
Series 2022

The amounts payable to Collin County Housing Finance Corporation (the “*Issuer*”) and other rights of the Issuer (except for Reserved Rights), under this Loan Agreement have been pledged and assigned to Wilmington Trust, National Association, as trustee (the “*Trustee*”) under the Indenture of Trust between the Issuer and the Trustee dated as of December 1, 2022.

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LOAN AGREEMENT

This **LOAN AGREEMENT** (as amended, modified or supplemented from time to time, this “*Agreement*”) made as of December 1, 2022, between **COLLIN COUNTY HOUSING FINANCE CORPORATION**, a housing finance corporation, duly organized and validly existing under the laws of the State of Texas (together with its successors and assigns, the “*Issuer*”) and **ROERS WYLIE APARTMENTS OWNER I LIMITED PARTNERSHIP**, a limited partnership duly organized and validly existing under the laws of the State of Texas (together with its permitted successors and assigns, the “*Borrower*”),

WITNESSETH:

WHEREAS, the Issuer is authorized under the Texas Housing Finance Corporations Act, Chapter 394, Texas Local Government Code, as amended (the “*Act*”) to enter into loan agreements with respect to one or more projects authorized under the Act for such payments and upon such terms and conditions as the Issuer may deem advisable in accordance with the provisions of the Act; and

WHEREAS, the Issuer has determined that the public purposes set forth in the Act will be furthered by the issuance, sale and delivery of its Multifamily Housing Revenue Bonds (Meridian at Wylie) Series 2022 in the original aggregate principal amount of \$[_____] (the “*Bonds*”), pursuant to an Indenture of Trust (as amended, modified or supplemented from time to time, the “*Indenture*”), dated as of December 1, 2022, between the Issuer and Wilmington Trust, National Association, a national banking association, as trustee (together with any successor trustee under the Indenture and their respective successors and assigns, the “*Trustee*”), to provide funds to finance a portion the costs of the acquisition, construction and equipping of the Project Facilities (as hereunder defined); and

WHEREAS, the proceeds of the Bonds are being applied to finance a portion of the costs of the acquisition, construction and equipping of a multifamily housing facility consisting of approximately 200 units and related tangible and intangible personal property and equipment, located in the City Wylie, Collin County, Texas and to be known as “Meridian at Wylie” (the “*Project Facilities*”).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE UNDERTAKINGS HEREIN SET FORTH AND OTHER GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY AND RECEIPT OF WHICH ARE HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND, THE BORROWER AND THE ISSUER HEREBY AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. In this Agreement (except as otherwise expressly provided for or unless the context otherwise requires), any capitalized terms used, but not defined herein, shall have the meanings ascribed to them in the Indenture or the Tax Certificate.

Section 1.2 Rules of Construction; Time of Day. In this Agreement, unless otherwise indicated, (i) defined terms may be used in the singular or the plural and the use of any gender includes all genders, (ii) the words “hereof,” “herein,” “hereto,” “hereby” and “hereunder” refer to this entire Agreement, (iii) all references to particular Articles or Sections are references to the Articles or Sections of this Agreement, (iv) the terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants,” (v) the term “including” shall mean “including, but not limited to,” (vi) the terms “best knowledge” or “knowledge” shall mean the actual knowledge of any Authorized Person of the Borrower after due inquiry, and (vii) consents or approvals shall not be unreasonably withheld or delayed unless a higher standard is provided. References to any time of the day in this Agreement shall refer to Eastern standard time or Eastern daylight saving time, as in effect in New York, New York on such day.

ARTICLE II

LOAN AND PROVISIONS FOR REPAYMENT

Section 2.1 Basic Loan and Repayment Terms.

(a) The Issuer agrees, upon the terms and conditions contained in this Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. The Loan shall be made by depositing the proceeds from the initial sale of the Bonds, in accordance with Article IV of the Indenture. Such proceeds shall be disbursed to or on behalf of the Borrower as provided for in Article IX of this Agreement and the Indenture. The Borrower’s obligation to repay the Loan shall be evidenced by the Bond Note, the form of which is attached hereto as *Exhibit A*.

(b) The Borrower hereby agrees to pay the Bond Note and repay the Loan made pursuant to this Agreement by paying or causing to be paid to the Trustee in immediately available funds for the account of the Issuer for deposit into the Bond Fund or the Redemption Fund, as applicable, on the dates and in the amounts set forth on Schedule 3 hereto, and on any other date that any payment of interest, Early Prepayment Premium, if any, or principal is required to be made in respect of the Bonds pursuant to the Indenture whether at maturity, upon acceleration or by sinking fund redemption or mandatory redemption, until the principal of, Early Prepayment Premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, a sum which will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or upon mandatory redemption or acceleration or otherwise), Early Prepayment Premium, if any, and interest on the Bonds, as provided in the Indenture.

(c) It is understood and agreed that the Bond Note is endorsed and all payments payable by the Borrower under this Section 2.1 are assigned by the Issuer to the Trustee for the benefit of the Bondholders. The Borrower consents to such assignment. The Issuer hereby directs the Borrower and the Borrower hereby agrees to pay to the Trustee, at the address specified in or in accordance with Section 10.1 hereof, all loan re-payments payable to the Issuer pursuant to the Bond Note and this section.

(d) The Borrower shall have, and is hereby granted, the option to prepay the unpaid principal amount of the Loan, together with Early Prepayment Premium, if any, and interest thereon to the date of redemption of the Bonds, but only pursuant to the provisions of Section 2.3(b) hereof and Section 2.12(a) of the Indenture with respect to voluntary prepayment of the Loan and optional redemption of the Bonds.

(e) The Borrower shall notify the Trustee promptly of any prepayment of the Bond Note, whether upon acceleration, by reason of application of insurance or condemnation proceeds, optional prepayment or otherwise. If such prepayment results in revisions to Schedule 3 hereof, the Controlling Person shall provide a revised Schedule 3 to the Trustee and the Issuer in accordance with Section 2.12(e) of the Indenture.

Section 2.2 Fees.

(a) On the Issue Date, the Borrower shall pay, or cause to be paid, to (i) Red Stone A7 III LLC, an origination fee equal to \$[_____] (the “*Origination Fee*”), and (ii) [_____] a construction monitoring fee equal to \$[_____] (the “*Monitoring Fee*”).

(b) The Borrower shall pay (as directed in writing by the Controlling Person) on each Interest Payment Date commencing on [_____, 20__], through Final Completion of the Work in respect of the Project Facilities, an amount equal to the costs of the Engineering Consultant incurred by the Controlling Person in the prior month in an amount not to exceed \$[_____] per month (plus travel and reasonable and necessary expenses). If the Borrower fails to requisition such costs, the Controlling Person may direct the Trustee in writing to disburse such amounts as part of any Advance.

(c) The Borrower shall pay all Trustee Fees as provided in the Indenture.

(d) The Borrower shall pay, or cause to be paid, the Issuance Fee and the portion of the Issuer’s Administrative Fee payable on the Issue Date to the Issuer and shall pay the Issuer’s Administrative Fee as and when due pursuant to the terms hereof and of the Indenture.

(e) On the date the Project Facilities achieve Stabilization, the Borrower shall pay to Red Stone Servicer, LLC a stabilization review fee equal to \$6,000.

Section 2.3 Termination; Voluntary Prepayment and Redemption.

(a) Notwithstanding anything to the contrary contained in this Agreement or the other Bond Documents, the Controlling Person’s and the Majority Owner’s and each Holder’s rights, interests and remedies hereunder and under the other Bond Documents shall not terminate or expire or be deemed to have been discharged or released until the earlier to occur of (i) the payment in full of the Bonds, or (ii) defeasance of all of the Bonds. No such termination, expiration or release shall affect the survival of the indemnification provisions of this Agreement, which provisions shall survive any such termination, expiration or release.

(b) The Loan may be prepaid by the Borrower, and the Bonds shall be optionally redeemed pursuant to Section 2.12(a) of the Indenture, on any Interest Payment Date on or after

[_____, 20__], upon payment of the Redemption Price and interest accrued to, but not including the date of redemption.

(c) Acceleration of the obligations of the Borrower in accordance with the terms of this Agreement and the other Bond Documents upon the occurrence and continuation of an Event of Default prior to [_____, 20__], shall constitute an evasion of the prepayment provisions of this Agreement and any tender of payment of an amount necessary to satisfy the entire indebtedness evidenced by this Agreement shall, subject to Section 10.6 of this Agreement, include an acceleration premium, equal to the amount of interest (for clarity, not at the Default Rate) which would have accrued on the amount of Bonds scheduled to be Outstanding from the date of acceleration to, but not including, [_____, 20__]; provided, any such acceleration premium shall not permit the interest accrued to exceed the amount of interest that would have otherwise been charged or accrued through [_____, 20__] at the Bond Coupon Rate.

(d) The Borrower shall be required to prepay the Loan at the times and in the amounts necessary to provide funds for the payment of the mandatory redemption of the Bonds pursuant to Section 2.12(b) of the Indenture. In addition, on each Interest Payment Date, the Borrower shall pay to the Trustee for deposit into the Redemption Fund the amount set forth for such purpose on Schedule 3 hereto, which amount shall be applied on each Principal Payment Date to the mandatory sinking fund redemption of the Bonds pursuant to Section 2.12(c) of the Indenture.

(e) Notwithstanding the foregoing, the Borrower shall have the right at any time to defease the Bonds in accordance with the provisions of Article V of the Indenture, together with any Early Prepayment Premium owing under Section 2.12(a) of the Indenture, if any.

Section 2.4 Obligations Absolute. The obligations of the Borrower under this Agreement shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, under all circumstances whatsoever, including without limitation the following circumstances: (i) any lack of validity or enforceability of the Bond Documents or any other agreement or document relating thereto; (ii) any amendment or waiver of or any consent to or departure from the Bond Documents or any document relating thereto; or (iii) the existence of any claim, set-off, defense or other right which the Borrower may have at any time against the Issuer or the Trustee (or any persons or entities for whom the Trustee may be acting) or any other person or entity, whether in connection with this Agreement, the transactions described herein or any unrelated transaction. The Borrower understands and agrees that no payment by it under any other agreement (whether voluntary or otherwise) shall constitute a defense to its obligations hereunder, except to the extent that the Loan evidenced hereby has been indefeasibly paid in full, whether owing under this Agreement or under the other Bond Documents.

Section 2.5 Indemnification. THE BORROWER COVENANTS TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE ISSUER, THE SPONSORING POLITICAL SUBDIVISION AND THEIR RESPECTIVE DIRECTORS, OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES (EACH, AN “ISSUER INDEMNIFIED PARTY” AND COLLECTIVELY, THE “ISSUER INDEMNIFIED PARTIES”), THE TRUSTEE, THE CONTROLLING PERSON, THE MAJORITY OWNER, AND EACH OF THEIR RESPECTIVE AFFILIATES AND EACH OF THEIR AND THEIR AFFILIATES’ RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS (EACH AN “INDEMNIFIED PARTY”

AND COLLECTIVELY, THE “*INDEMNIFIED PARTIES*”), EXCEPT AS LIMITED BELOW, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS OR EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES FOR COUNSEL OF EACH OF THE INDEMNIFIED PARTIES’ CHOICE) WHATSOEVER THAT THE INDEMNIFIED PARTIES MAY INCUR (OR WHICH MAY BE CLAIMED AGAINST ANY OF THE INDEMNIFIED PARTIES BY ANY PERSON OR ENTITY WHATSOEVER) BY REASON OF OR IN CONNECTION WITH:

(a) THE BONDS, THE INDENTURE, THE LOAN AGREEMENT, THE REGULATORY AGREEMENT, OR THE TAX CERTIFICATE OR THE EXECUTION OR AMENDMENT HEREOF OR THEREOF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING THE ISSUANCE, SALE OR RESALE, REMARKETING, DEFEASANCE OR REDEMPTION, IN WHOLE OR IN PART, OF THE BONDS;

(b) ANY BREACH BY THE BORROWER OF ANY REPRESENTATION, WARRANTY, COVENANT, TERM OR CONDITION IN, OR THE OCCURRENCE OF ANY DEFAULT UNDER, THIS AGREEMENT OR THE OTHER BOND DOCUMENTS, INCLUDING ALL REASONABLE FEES OR EXPENSES RESULTING FROM THE SETTLEMENT OR DEFENSE OF ANY CLAIMS OR LIABILITIES ARISING AS A RESULT OF ANY SUCH BREACH OR DEFAULT OR ANY DETERMINATION OF TAXABILITY;

(c) THE INVOLVEMENT OF ANY OF THE INDEMNIFIED PARTIES IN ANY LEGAL SUIT, INVESTIGATION, PROCEEDING, INQUIRY OR ACTION AS A CONSEQUENCE, DIRECT OR INDIRECT, OF THE CONTROLLING PERSON OR THE MAJORITY OWNER’S ACTIONS TAKEN IN GOOD FAITH PURSUANT TO THIS AGREEMENT OR ANY OF THE OTHER BOND DOCUMENTS OR ANY OTHER EVENT OR TRANSACTION CONTEMPLATED BY ANY OF THE FOREGOING;

(d) ANY UNTRUE STATEMENT OR ALLEGED UNTRUE STATEMENT MADE BY THE BORROWER CONTAINED OR INCORPORATED BY REFERENCE IN ANY OFFERING OR REOFFERING MATERIALS PREPARED IN RESPECT OF THE BONDS, OR ANY SUPPLEMENT OR AMENDMENT THEREOF, OR THE BORROWER’S OMISSION OR ALLEGED OMISSION TO STATE THEREIN A MATERIAL FACT NECESSARY TO MAKE SUCH STATEMENTS IN LIGHT OF THE CIRCUMSTANCES IN WHICH THEY ARE OR WERE MADE NOT MISLEADING;

(e) THE ACCEPTANCE OR ADMINISTRATION OF THE BOND DOCUMENTS OR THE SECURITY INTERESTS THEREUNDER OR THE PERFORMANCE OF DUTIES UNDER THE BOND DOCUMENTS IN GOOD FAITH OR ANY LOSS OR DAMAGE TO PROPERTY OR ANY INJURY TO OR DEATH OF ANY PERSON THAT MAY BE OCCASIONED BY ANY CAUSE WHATSOEVER PERTAINING TO THE PROJECT FACILITIES OR THE USE THEREOF, INCLUDING WITHOUT LIMITATION ANY LEASE THEREOF OR ASSIGNMENT OF ITS INTEREST IN THIS AGREEMENT;

(f) ANY ACT OR OMISSION OF THE BORROWER OR ANY OF ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES OR LICENSEES IN CONNECTION WITH

THE ADVANCES OR THE PROJECT FACILITIES, THE OPERATION OF THE PROJECT FACILITIES, OR THE CONDITION, ENVIRONMENTAL OR OTHERWISE, OCCUPANCY, USE, POSSESSION, CONDUCT OR MANAGEMENT OF WORK DONE IN OR ABOUT, OR FROM THE PLANNING, DESIGN, ACQUISITION OR CONSTRUCTION OF, THE IMPROVEMENTS OR ANY PART THEREOF;

(g) ANY LIEN (OTHER THAN A PERMITTED ENCUMBRANCE) OR CHARGE UPON PAYMENTS BY THE BORROWER TO THE ISSUER AND THE TRUSTEE HEREUNDER, OR ANY TAXES (INCLUDING, WITHOUT LIMITATION, ALL AD VALOREM TAXES AND SALES TAXES), ASSESSMENTS, IMPOSITIONS AND OTHER CHARGES IMPOSED ON THE ISSUER OR THE TRUSTEE IN RESPECT OF ANY PORTION OF THE PROJECT FACILITIES;

(h) ANY VIOLATION OR ALLEGED VIOLATION OF ANY APPLICABLE LAW OR REGULATION INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAW OR ANY INSPECTION, REVIEW OR TESTING WITH RESPECT TO, OR THE RELEASE OF ANY TOXIC SUBSTANCE FROM, THE PROJECT FACILITIES OR ANY PART THEREOF;

(i) THE ENFORCEMENT OF, OR ANY ACTION TAKEN BY THE ISSUER OR ANY INDEMNIFIED PARTY, RELATED TO REMEDIES UNDER, THIS AGREEMENT, THE INDENTURE AND THE OTHER BOND DOCUMENTS;

(j) ANY ACTION, SUIT, CLAIM, PROCEEDING, AUDIT, INQUIRY, EXAMINATION, OR INVESTIGATION OF A JUDICIAL, LEGISLATIVE, ADMINISTRATIVE OR REGULATORY NATURE CONCERNING OR RELATED TO INTEREST PAYABLE ON THE BONDS NOT BEING EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION OR EXEMPT FROM STATE INCOME TAXATION;

(k) ANY ACTION, SUIT, CLAIM OR DEMAND CONTESTING OR AFFECTING THE TITLE OF THE PROJECT FACILITIES;

(l) ANY DECLARATION OF TAXABILITY OF INTEREST ON THE BONDS, OR ALLEGATIONS (OR REGULATORY INQUIRY) THAT INTEREST ON THE BONDS IS TAXABLE, FOR FEDERAL TAX PURPOSES;

(m) THE INVESTIGATION OF, PREPARATION FOR OR DEFENSE OF ANY LITIGATION, PROCEEDING OR INVESTIGATION IN CONNECTION WITH THE PROJECT FACILITIES OR THE TRANSACTIONS TO BE CONSUMMATED IN CONNECTION THEREWITH OF ANY NATURE WHATSOEVER, COMMENCED OR THREATENED AGAINST THE BORROWER, THE PROJECT FACILITIES OR ANY INDEMNIFIED PARTY; AND

(n) ANY BROKERAGE COMMISSIONS OR FINDERS' FEES CLAIMED BY ANY BROKER OR OTHER PARTY IN CONNECTION WITH THE BONDS OR THE PROJECT.

THE INDEMNIFICATION SHALL INCLUDE THE REASONABLE COSTS AND EXPENSES OF DEFENDING ITSELF OR INVESTIGATING ANY CLAIM OF LIABILITY AND OTHER REASONABLE EXPENSES AND ATTORNEYS' FEES INCURRED BY THE INDEMNIFIED PARTIES, PROVIDED THE BORROWER SHALL NOT BE REQUIRED TO INDEMNIFY ANY OF THE INDEMNIFIED PARTIES FOR ANY CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS OR EXPENSES TO THE EXTENT, BUT ONLY TO THE EXTENT, FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION TO HAVE BEEN CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SUCH INDEMNIFIED PARTY. **THE BORROWER EXPRESSLY INTENDS THAT THE INDEMNIFICATION DESCRIBED IN THIS SECTION 2.5 SHALL RELATE TO INDEMNIFIED OBLIGATIONS ARISING FROM AN INDEMNIFIED PARTY'S OWN NEGLIGENCE.** IF 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, SHALL ASSUME THE INVESTIGATION AND DEFENSE THEREOF, INCLUDING THE EMPLOYMENT OF COUNSEL SELECTED 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. EACH INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY SUCH ACTION OR PROCEEDING AND PARTICIPATE IN THE INVESTIGATION AND DEFENSE THEREOF, AND 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 IN THE JUDGMENT OF SUCH INDEMNIFIED PARTY A CONFLICT OF INTEREST EXISTS BY REASON OF COMMON REPRESENTATION OR IF ALL PARTIES COMMONLY REPRESENTED DO NOT AGREE AS TO THE ACTION (OR INACTION) OF COUNSEL.

THE OBLIGATIONS OF THE BORROWER UNDER THIS SECTION 2.5 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND THE INDENTURE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT OR THE INDENTURE TO THE CONTRARY, THE BORROWER AGREES (I) NOT TO ASSERT ANY CLAIM OR INSTITUTE ANY ACTION OR SUIT AGAINST THE TRUSTEE OR ITS EMPLOYEES ARISING FROM OR IN CONNECTION WITH ANY INVESTMENT OF FUNDS MADE BY THE TRUSTEE IN GOOD FAITH AS DIRECTED BY THE BORROWER, THE CONTROLLING PERSON OR THE MAJORITY OWNER, AND (II) TO INDEMNIFY AND HOLD THE TRUSTEE AND ITS EMPLOYEES HARMLESS AGAINST ANY LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE ARISING FROM OR IN CONNECTION WITH ANY SUCH INVESTMENT. NOTHING IN THIS SECTION 2.5 IS INTENDED TO LIMIT THE BORROWER'S OBLIGATIONS CONTAINED IN SECTION 2.1 AND 2.2 HEREOF. AMOUNTS PAYABLE TO THE ISSUER HEREUNDER SHALL BE DUE AND PAYABLE FIVE (5) DAYS AFTER DEMAND AND WILL ACCRUE INTEREST AT THE DEFAULT RATE, COMMENCING WITH THE EXPIRATION OF THE FIVE (5) DAY PERIOD. WHEN THE ISSUER 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. THE OBLIGATIONS OF BORROWER TO THE INDEMNIFIED PARTIES UNDER THIS SECTION 2.5 SHALL NOT BE SUBJECT TO THE RECOURSE LIMITATIONS OF SECTION 10.13 HEREOF.

Section 2.6 Indemnification; Borrower's Additional Obligations. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE ISSUER INDEMNIFIED PARTIES 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 (THE "*ISSUER INDEMNITY LIABILITIES*"), BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE ISSUER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE ISSUER INDEMNIFIED PARTIES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE ISSUER INDEMNITY LIABILITIES AND PROVIDE COMPETENT COUNSEL REASONABLY SATISFACTORY TO THE ISSUER; *PROVIDED, HOWEVER*, THAT THE ISSUER SHALL HAVE THE ABSOLUTE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE REASONABLE EXPENSE OF THE BORROWER.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE ISSUER INDEMNIFIED PARTIES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE ISSUER INDEMNIFIED PARTIES IN CONNECTION WITH THE ISSUANCE OF THE BONDS, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX CERTIFICATE, THE REGULATORY AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE ISSUER INDEMNIFIED PARTIES BY THIS LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE ISSUER

INDEMNIFIED PARTIES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX CERTIFICATE, THE REGULATORY AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE ISSUER 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 ISSUER INDEMNIFIED PARTIES 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 ISSUER THE BORROWER SHALL DEFEND THE ISSUER INDEMNIFIED PARTIES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE ISSUER AND THE BORROWER SHALL PAY THE ISSUER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE ISSUER OR THE SPONSORING POLITICAL SUBDIVISION; *PROVIDED, HOWEVER*, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE REASONABLE EXPENSE OF THE BORROWER.

NOTWITHSTANDING ANY PROVISION OF THIS LOAN AGREEMENT TO THE CONTRARY, THE ISSUER INDEMNIFIED PARTIES SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY OF THE ISSUER INDEMNIFIED PARTIES, BUT NOT FOR ANY LIABILITIES ARISING FROM THE BAD FAITH, FRAUD OR WILLFUL MISCONDUCT OF THE ISSUER INDEMNIFIED PARTIES.

Section 2.7 Amounts Remaining on Deposit Upon Payment of the Bonds. After payment in full of the principal of, premium, if any, and interest on the Bonds (or defeasance of the Bonds) and upon payment of amounts payable to the United States pursuant to any rebate requirement and the payment of any other amounts owed hereunder or under the Indenture or any other Bond Document or any Note Document, all amounts on deposit with the Trustee pursuant to the Indenture, this Agreement or any other Bond Document shall be paid by the Trustee to the Borrower.

ARTICLE III

SECURITY

Section 3.1 Mortgage and Other Security Documents. To further secure the Borrower's obligations under this Agreement, the Borrower shall, at its sole expense, execute and deliver to the Trustee (and where required, duly record), (a) the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (With Power of Sale) dated as of the date hereof,

made by the Borrower to a deed of trust trustee for the benefit of the Trustee covering the Project Facilities (the “*Mortgage*”); (b) the Environmental Indemnity Agreement dated as of the date hereof, by the Borrower and Guarantor in favor of the Trustee (the “*Environmental Indemnity*”) pursuant to which the Borrower and the Guarantor shall indemnify and hold the Trustee harmless from environmental liabilities subject to the terms thereof; (c) the Assignment of Management Agreement, dated as of the date hereof, by the Borrower to and for the benefit of the Trustee, consented to by the Manager (the “*Assignment of Management Agreement and Consent*”); (d) the Replacement Reserve and Security Agreement, dated as of the date hereof, made by the Borrower in favor of the Trustee (the “*Replacement Reserve Agreement*”); (e) the Assignment of Project Documents, dated as of the date hereof, made by the Borrower in favor of the Trustee (the “*Assignment of Project Documents*”) and consented to by the Architect and the Contractor; (f) the Guaranty of Recourse Obligations, dated as of the date hereof, made by the Guarantor in favor of the Trustee (the “*Guaranty of Recourse Obligations*”); (g) the Guaranty of Completion, dated as of the date hereof made by the Guarantor in favor of the Trustee (the “*Guaranty of Completion*”); (h) the Guaranty of Debt Service and Stabilization dated as of the date hereof made by the Guarantor in favor of the Trustee (the “*Guaranty of Debt Service and Stabilization*”); (i) the Assignment of Leases, Rents and Other Income, dated as of the date hereof, made the Borrower to the Trustee (the “*Assignment of Rents*”); (j) the Assignment of Capital Contributions, dated the date hereof, by the Borrower for the benefit of the Trustee, consented to by the Tax Credit Investor (the “*Assignment of Capital Contributions*”); (k) a Pledge of Membership Interests and Security Agreement, dated the date hereof, by the General Partner, in favor of the Trustee (the “*General Partner Pledge*”); (l) the Assignment of Prime Subcontract, dated as of the date hereof, by the Borrower and the Contractor to the Trustee (the “*Assignment of Prime Subcontract*”) and consented to by the Prime Subcontractor; and (m) a Developer Pledge and Security Agreement dated as of the date hereof from the Developer in favor of the Trustee (the “*Developer Fee Pledge*”).

Section 3.2 Financing Statements. The Borrower shall file, or cause to be filed, on or before the Issue Date, such financing statements and continuation statements, and perform such other acts, under the U.C.C. or other applicable Legal Requirements as are necessary or advisable to perfect and maintain perfection of the Issuer’s and/or the Trustee’s security interests under this Agreement, the Indenture, the Mortgage and the other Bond Documents. The Borrower hereby authorizes the Trustee, without the signature of the Borrower, to file continuation statements with respect to Financing Statements filed at or prior to the issuance of the Bonds for which the Trustee has received the original, filed Financing Statement on which the Trustee is named as the secured party or additional secured party . The Borrower will pay upon demand the costs of and expenses incurred in filing the foregoing continuation statements and the Financing Statements required under Section 7.8 of the Indenture in such public offices as the Controlling Person may designate. Notwithstanding anything to the contrary herein, the Trustee shall not be responsible for any initial filings of any financing statements or the information contained therein (including the exhibits thereto), the perfection of any such security interest, or the accuracy or sufficiency of any description of collateral in such initial filings. Unless the Trustee shall have been notified in writing by the Issuer, the Borrower or the Controlling Person that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto and (b) filing any continuation statements in the same filing offices as the initial filings were made.

ARTICLE IV

REPRESENTATIONS OF ISSUER

Section 4.1 Representation by the Issuer. The Issuer represents and warrants to the Borrower, the Trustee and the Holders from time to time of the Bonds as follows:

(a) The Issuer is a public nonprofit housing finance corporation and is authorized by the Act to execute and to enter into this Agreement and to undertake the transactions contemplated herein and to carry out its obligations hereunder.

(b) The Issuer has all requisite power, authority and legal right to execute and deliver the Bond Documents to which it is a party and all other instruments and documents to be executed and delivered by the Issuer pursuant thereto, to perform and observe the provisions thereof and to carry out the transactions contemplated by the Bond Documents. All action on the part of the Issuer which is required for the execution, delivery, performance and observance by the Issuer of the Bond Documents has been duly authorized and effectively taken, and such execution, delivery, performance and observation by the Issuer do not contravene applicable law or any contractual restriction binding on or affecting the Issuer.

(c) The Issuer has duly approved the issuance of the Bonds and the loan of the proceeds thereof to the Borrower in connection with the acquisition, construction and equipping of the Project Facilities; no other authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required as a condition to the performance by the Issuer of its obligations under the Bond Documents.

(d) This Agreement is, and each other Bond Document to which the Issuer is a party when executed and delivered by the parties thereto will be, legal, valid and binding special obligations of the Issuer enforceable against the Issuer in accordance with their respective terms except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

(e) There is no default of the Issuer in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of the Bond Documents or the ability of the Issuer to perform its obligations thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(f) There are no obligations of the Issuer other than the Bonds that have been, are being or will be (i) sold at substantially the same time, (ii) sold pursuant to the same plan of financing, and (iii) reasonably expected to be paid from substantially the same source of funds.

(g) There is no action, suit, proceeding, inquiry, or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds,

the Indenture or this Agreement or (ii) the excludability of interest on the Bonds from gross income for federal income tax purposes.

(h) In connection with the authorization, issuance and sale of the Bonds, the Issuer has complied in all material respects with all provisions of the laws of the State, including the Act. Except as set specifically set forth in the preceding sentence, no representation is made as to compliance by the Issuer with any state securities or “blue sky” laws.

(i) The Issuer has not assigned or pledged and will not assign or pledge its interest in this Agreement for any purpose other than to secure the Bonds under the Indenture. The Bonds constitute the only bonds or other obligations of the Issuer in any manner payable from the revenues to be derived from this Agreement, and except for the Bonds, no bonds or other obligations have been or will be issued on the basis of this Agreement.

(j) The Issuer is not in default under any of the provisions of the laws of the State, which default would affect the issuance, validity or enforceability of the Bonds or the transactions contemplated by this Agreement or the Indenture.

(k) The Issuer will not take any action inconsistent with its expectations stated in the Tax Certificate and will comply with the covenants and requirements stated therein and incorporated by reference herein. The Issuer covenants and agrees that it will take or cause to be taken all required actions to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds. All of the amounts received upon the sale of the Bonds shall be allocated to, and shall be used, for the purpose of financing the aggregate basis of land and building costs within the meaning of Section 42(h)(4)(B) of the Code. To the extent within the reasonable control of the Issuer, and provided that the Issuer shall be under no duty to enforce compliance, the amounts received upon the sale of the Bonds and interest and other investment earnings on those amounts shall be allocated and used for financing Project Costs of the buildings and related land in the Project Facilities so that the aggregate basis of the buildings and related land, within the meaning of Section 42(h)(4) of the Code, shall be financed fifty percent (50%) or more from those amounts.

(l) No member of the Issuer, nor any other official or employee of the Issuer, has any interest (financial, employment or other) in the Borrower, in the Project Facilities or in the transactions contemplated hereby, by the other Bond Documents or by the Indenture.

(m) The Issuer used no broker in connection with the execution hereof and the transactions contemplated hereby.

(n) THE ISSUER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT FACILITIES 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.

(o) THE ISSUER DOES NOT MAKE ANY WARRANTY, EITHER EXPRESS OR IMPLIED, THAT MONEYS, IF ANY, WHICH WILL BE PAID INTO THE PROJECT FUND OR OTHERWISE MADE AVAILABLE TO THE BORROWER WILL BE SUFFICIENT TO COMPLETE THE PROJECT FACILITIES, AND THE ISSUER SHALL NOT BE LIABLE TO THE BORROWER, THE BONDHOLDERS OR ANY OTHER PERSON IF FOR ANY REASON THE PROJECT FACILITIES ARE NOT COMPLETED.

(p) The Issuer makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the sale of the Bonds, or as to the correctness, completeness or accuracy of such statements.

(q) The Issuer finds and determines that financing the Project Facilities by the issuance of the Bonds will further public purposes under the Act.

Section 4.2 No Liability of Issuer; No Charge Against Issuer's Credit. Any obligation of the Issuer created by, arising out of, or entered into in contemplation of this Agreement, including the payment of the principal of, premium if any, and interest on the Bonds, shall not impose or constitute a debt or pecuniary liability upon the Issuer, the Sponsoring Political Subdivision, the State or any other political subdivision thereof or constitute a charge upon the general credit or taxing powers of any of the foregoing. Any such obligation shall be payable solely out of the revenues and any other moneys derived hereunder and under the Indenture, except (as provided in the Indenture and in this Agreement) to the extent it shall be paid out of moneys attributable to the proceeds of the Bonds or the income from the temporary investment thereof. No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement of the Issuer hereunder against any past, present or future trustee, officer, member, employee or agent of the Issuer, whether directly or indirectly, and all such liability of any such individual as such is expressly waived and released as a condition of and in consideration for the execution of this Agreement, the making of the loan of the proceeds of the Bonds to the Borrower, and the issuance of the Bonds.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants to and for the benefit of the Issuer, the Trustee, the Controlling Person and the Holders from time to time of the Bonds as follows:

Section 5.1 Existence. The Borrower is a limited partnership, duly organized, validly existing and in good standing under the Legal Requirements of the state of its organization and is duly qualified to do business in the State. The Borrower has furnished to the Issuer, the Trustee and the Controlling Person true and complete copies of the Partnership Agreement and its certificate of formation. The Borrower owns and will own no other assets other than the Project. The Borrower has been, is and will be engaged solely in the business of acquiring, constructing, equipping, maintaining, leasing, financing, owning, managing and operating the Project Facilities

and activities incident thereto. The General Partner of the Borrower is Roers Wylie Apartments Partner I LLC, a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Minnesota and is duly qualified to do business in the State. The General Partner has furnished to the Issuer, the Trustee and the Controlling Person true and complete copies of its certificate of organization and company agreement and certificate of existence. The General Partner has and will have no other assets other than its membership interests in the Borrower.

Section 5.2 Power, Authorization and No Conflicts. The Borrower has all requisite power and authority and the legal right to own and operate its properties and to conduct its business and operations as they are currently being conducted and as proposed to be conducted by it in the Partnership Agreement. The execution, delivery and performance by the Borrower of this Agreement and the other Bond Documents to which the Borrower is a party (i) are within the Borrower's powers, (ii) have been duly authorized by all necessary partnership and legal action by or on behalf of the Borrower, and (iii) do not (1) contravene the Partnership Agreement, certificate of formation or organization of the Borrower or the General Partner, as applicable, (2) to Borrower's knowledge, violate any Legal Requirements applicable to the Borrower or the General Partner, or (3) violate any Material Contract or restriction binding on or affecting the Borrower, the General Partner or any of their respective assets, and (iv) do not result in the creation of any mortgage, pledge, lien or encumbrance upon any of its assets other than as provided by the terms thereof or of the Note Documents. This Agreement and the other Bond Documents to which the Borrower is a party and the Note Documents have been duly authorized, executed and delivered by the Borrower.

Section 5.3 Governmental Authorizations and Other Approvals. Except as set forth on Schedule 6 hereto, the Borrower and the General Partner have all necessary Governmental Actions and qualifications, and have complied with all applicable Legal Requirements necessary to conduct their business as it is presently conducted and to own, operate and construct the Project Facilities in accordance with the provisions of the Bond Documents and the Note documents. Except as set forth on Schedule 6 hereto, the Borrower has obtained all Governmental Actions from such Governmental Authorities that are a necessary precondition to acquire, construct, equip, finance, own and operate the Project Facilities and all such Governmental Actions were duly issued, are in full force and effect and are not subject to any pending judicial or administrative proceedings, the period for judicial or administrative appeal or review having expired and no petition for administrative or judicial appeal or review having been filed. The Project Facilities (upon completion of construction of the Project Facilities as contemplated in the Plans and Specifications) will comply with all Governmental Actions and Legal Requirements, including all zoning restrictions (including without limitation, use density, setbacks, parking and other similar requirements) or the Borrower has a valid variance for or exemption from such requirements. All Governmental Actions obtained by the Borrower are listed and described on Schedule 6 hereto and have been validly issued and are in full force and effect. With respect to any Governmental Actions not yet obtained the steps, if any, listed on Schedule 6 are all the steps needed to obtain such Governmental Actions and the Borrower knows of no reason such Governmental Actions will not be timely obtained in the ordinary course of business and as needed in connection with the construction or operation of the Project Facilities. No such Governmental Action will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project Facilities including any transfer pursuant to foreclosure sale under the Mortgage.

Section 5.4 Validity and Binding Effect. This Agreement, the other Bond Documents to which the Borrower is a party and the Note Documents are the legal, valid and binding obligations of the Borrower, enforceable against it in accordance with their respective terms, subject to the application by a court of general principles of equity and to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Legal Requirements affecting creditors' rights generally.

Section 5.5 No Litigation.

(a) Except as disclosed on Schedule 1 attached hereto, there is no pending or, to the best knowledge of the Borrower and the General Partner, threatened action or proceeding, including eminent domain proceedings, before any Governmental Authority or arbitrator against or involving the Borrower, the General Partner or to the Borrower's knowledge after due inquiry, the Project Facilities.

(b) There is no pending or to the best knowledge of the Borrower and the General Partner, threatened action or proceeding, including eminent domain proceedings, affecting the Borrower or the General Partner before any Governmental Authority or arbitrator which, in any case, might materially and adversely affect the business, operations, assets, condition (financial or otherwise) or prospects of the Borrower or the General Partner, or the validity or enforceability of this Agreement, the Bonds or the Bond Documents or the Note Documents or the construction, operation or ownership of the Project Facilities, or the excludability of interest on the Bonds from gross income for federal income tax purposes.

Section 5.6 No Violations. The Borrower and the General Partner are in compliance with, and not in breach of or default under (a) to the Borrower's and the General Partner's knowledge, any applicable Governmental Actions or Legal Requirements with respect to the Project Facilities of any Governmental Authority having jurisdiction, or (b) the Bond Documents, the Note Documents, any Material Contract or any other credit agreement, indenture, mortgage, agreement or other instrument to which it is a party or otherwise subject. To the Borrower's and the General Partner's knowledge, no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute an event of default under any such instrument. The Borrower and the General Partner are not in violation, nor is there any notice or other record of any violation of any Legal Requirements, restrictive covenants or other restrictions applicable to any of the Project Facilities. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been timely 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.

Section 5.7 Compliance. The ownership of the Project Facilities, the construction of the Project Facilities, and the use and operation of the Project Facilities as contemplated hereby and by the Note Documents do and shall, in all material respects, comply with, and are lawful and permitted uses under, the Tax Certificate, the Regulatory Agreement and the Note Documents, all applicable building, fire, safety, zoning, subdivision, sewer, Environmental Laws, health, insurance and other Legal Requirements and plan approval conditions of any Governmental Authority. Except as set forth on Schedule 6, Part B, the Borrower has obtained all Governmental

Actions from such Governmental Authorities which are a necessary precondition to construct, own and operate the Project Facilities and, all such Governmental Actions were duly issued, are in full force and effect and are not subject to any pending judicial or administrative proceedings, the period for judicial or administrative appeal or review having expired and no petition for administrative or judicial appeal or review having been filed. The Project Facilities are located wholly within the boundaries of the Issuer's jurisdiction. The Project Facilities will satisfy all requirements of the Act and the Code with respect to multifamily rental housing and/or qualified residential rental facilities.

Section 5.8 Title to Properties; Liens and Encumbrances. The Borrower has good and indefeasible title in fee simple to the Project Facilities, free and clear of all liens or encumbrances except for the Permitted Encumbrances. All such real property, fixtures and equipment necessary to the conduct of the business of the Borrower and the operation of the Project Facilities are and will be in reasonable working order and are suitable for the purposes for which they are and will be used. There exist no liens, encumbrances or other charges against the Project Facilities (including without limitation statutory and other liens of mechanics, workers, contractors, subcontractors, suppliers, taxing authorities and others), except Permitted Encumbrances. As of the Issue Date and as of the date of the recording of the Mortgage, no construction work or other work requested or authorized by the Borrower or any Affiliate, or of which the Borrower otherwise has knowledge, and that could give rise to a mechanic's or materialman's lien under applicable law has been performed on or with respect to the Project Facilities.

Section 5.9 Utilities and Access. All utility services necessary for the operation of the Project Facilities in the manner contemplated hereby, including water supply, storm and sanitary sewer facilities, gas, electricity and telephone facilities are available within the boundaries of the Project Facilities; and all roads necessary for the full utilization of the Project Facilities in the manner contemplated hereby either have been completed or rights-of-way therefor have been acquired by the appropriate Governmental Authority or others or have been dedicated to public use and accepted by such Governmental Authority.

Section 5.10 Financial Information.

(a) All of the financial information furnished by the Borrower, the Guarantor, and the General Partner, or at the directions of said Persons, to the Controlling Person or the Majority Owner with respect to the Borrower, the Guarantor, and the General Partner in connection with this Agreement (i) is complete and correct in all material respects as of the date hereof; and (ii) accurately presents the financial condition of such party as of the date hereof. None of the Borrower, the Guarantor or the General Partner has any material liability or contingent liability not disclosed to the Controlling Person and the Majority Owner in writing; and

(b) Since its formation, each of the Borrower, the Guarantor, and the General Partner has conducted its operations in the ordinary course, and no material adverse change has occurred in the business, operations, assets or financial condition of the Borrower, the Guarantor, or the General Partner.

Section 5.11 ERISA. No employee pension plan maintained by the Borrower or the General Partner or any ERISA Affiliate which is subject to Part 3 of Title I of the Employee

Retirement Income Security Act of 1974, as amended (“ERISA”) has an accumulated funding deficiency (as defined in Section 302(a) of ERISA), no reportable event (as defined in Section 4043 of ERISA) has occurred with respect to any employee pension plan maintained for employees of the Borrower or any ERISA Affiliate and covered by Title IV of ERISA, no liability has been asserted against the Borrower, the General Partner or any ERISA Affiliate by the Pension Benefit Guaranty Corporation (“PBGC”) or by a trustee appointed pursuant to Section 4042(b) or (c) of ERISA, and no lien has been attached and no person has threatened to attach a lien to any of the Borrower’s, the General Partner’s or any ERISA Affiliate’s property as a result of failure to comply with ERISA or as a result of the termination of any employee pension plan covered by Title IV of ERISA. Each employee pension plan (as defined in Section 3(2) of ERISA) maintained for employees of the Borrower, the General Partner or any ERISA Affiliate which is intended to be qualified under Section 401(a) of the Code, including all amendments to such plan or to any trust agreement, group annuity or insurance contract or other governing instrument, is the subject of a favorable determination by the Internal Revenue Service with respect to its qualification under Section 401(a) of the Code. With respect to any multi-employer pension plan (as defined in Section 3(37) of ERISA) to which the Borrower, the General Partner or any ERISA Affiliate is or has been required to contribute after September 25, 1980, (i) no withdrawal liability (within the meaning of Section 4201 of ERISA) has been incurred by the Borrower, the General Partner or any ERISA Affiliate, (ii) no withdrawal liability has been asserted against the Borrower, the General Partner or any ERISA Affiliate by a sponsor or an agent of a sponsor of any such multi-employer plan, (iii) no such multi-employer pension plan is in reorganization (as defined in Section 4241(a) of ERISA), and (iv) neither the Borrower, the General Partner nor any ERISA Affiliate has any unfilled obligation to contribute to any such multi-employer pension plan. As used in this Agreement, “ERISA Affiliate” means (i) any corporation included with the Borrower or the General Partner in a controlled group of corporations within the meaning of Section 414(b) of the Code, (ii) any trade or business (whether or not incorporated or for-profit) which is under common control with the Borrower, or the General Partner within the meaning of Section 414(c) of the Code, (iii) any member of an affiliated service group of which the Borrower, or the General Partner is a member within the meaning of Section 414(m) of the Code, and (iv) any other entity treated as being under common control with the Borrower or the General Partner under Section 414(o) of the Code.

Section 5.12 Environmental Representations. Except as set forth on the Environmental Audit delivered to the Controlling Person and the Majority Owner (a) the Borrower has no knowledge of any activity at the Project Facilities, or any storage, treatment or disposal of any Hazardous Substances connected with any activity at the Project Facilities, which has been conducted, or is being conducted, in violation of any Environmental Law; (b) the Borrower has no knowledge of any of the following which could give rise to material liabilities, material costs for remediation or a material adverse change in the business, operations, assets, condition (financial or otherwise) or prospects of the Borrower: (i) Contamination present at the Project Facilities, (ii) polychlorinated biphenyls present at the Project Facilities, (iii) asbestos or materials containing asbestos present at the Project Facilities, (iv) urea formaldehyde foam insulation present at the Project Facilities, or (v) lead-based paint at the Project Facilities; (c) no portion of the Project Facilities constitutes an Environmentally Sensitive Area; (d) the Borrower has no knowledge of any investigation of the Project Facilities for the presence of radon; (e) no tanks presently or formerly used for the storage of any liquid or gas above or below ground are present at any of the Project Facilities; (f) no condition, activity or conduct exists on or in connection with the Project

Facilities which constitutes a violation of Environmental Laws; (g) no notice has been issued by any Governmental Authority to the Borrower or the General Partner identifying the Borrower or the General Partner as a potentially responsible party under any Environmental Laws; (h) there exists no investigation, action, proceeding or claim by any Governmental Authority or by any third party which could result in any liability, penalty, sanctions or judgment under any Environmental Laws with respect to the Project Facilities; and (i) the Borrower is not required to obtain any permit or approval from any Governmental Authority or need notify any Governmental Authority pursuant to any Environmental Law with regard to the construction of the Project Facilities.

Section 5.13 Outstanding Obligations and Material Contracts. Attached hereto as Schedule 2 is (i) a complete list of all Obligations of the Borrower and the General Partner as of the date of execution and delivery hereof, together with a description of the instruments evidencing, governing or securing such Obligations (*provided* that no description need be provided of the Obligations hereunder or under the Note Documents) and (ii) a complete list of all other Material Contracts. Except for the Obligations listed on Schedule 2, neither the Borrower nor the General Partner has incurred any Obligations, secured or unsecured, direct or contingent. Each of the Borrower and the General Partner has complied with all provisions of such Material Contracts in all material respects, to the extent such contract is applicable to such party. The Borrower is not in default under any Obligation or Material Contract and, to the Borrower's and the General Partner's knowledge, there exists no default or event which, with the giving of notice or the passage of time, or both, would constitute a default, by any other party under any such Material Contract.

Section 5.14 Solvency. Each of the Borrower, the Guarantor and the General Partner is and, after giving effect to this Agreement and all other agreements of the Borrower, the Guarantor and the General Partner being entered into on the date of execution and delivery of this Agreement, will be solvent (which for this purpose shall mean that it is able to pay its current debts as they come due).

Section 5.15 Full Disclosure. This Agreement, the exhibits hereto and the other documents, certificates, opinions, schedules and statements furnished to the Controlling Person or the Majority Owner by or on behalf of the Borrower, the Guarantor, or the General Partner in connection with the transactions contemplated hereby or by the Bond Documents, do not contain any untrue statement of a material fact with respect to the Borrower, the Guarantor or the General Partner or the Project Facilities and do not omit to state a material fact with respect to the Borrower, the Guarantor or the General Partner or the Project Facilities necessary in order to make the statements contained therein not misleading in light of the circumstances under which they were made. There is no fact known to the Borrower, the Guarantor or the General Partner which materially adversely affects or in the future may adversely affect the business, operations, properties, assets or financial condition of the Borrower, the Guarantor or the General Partner which has not been set forth in this Agreement or in the other documents, certificates, opinions, schedules and statements furnished to the Controlling Person and the Majority Owner on behalf of any such party before the date of execution and delivery of this Agreement in connection with the transactions contemplated hereby.

Section 5.16 Bond Documents. Each of the Borrower, the Guarantor and the General Partner has provided the Controlling Person and the Majority Owner with true, correct and complete copies of: (i) all documents executed by the Borrower, the Guarantor or the General

Partner in connection with the Bonds, including all amendments thereto and compliance reports filed thereunder; (ii) the Note Documents; (iii) all management and service contracts entered into by the Borrower in connection with the Project Facilities, including all amendments thereto; (iv) all correspondence, if any, relating to the Bonds from the Trustee, the Issuer, the Securities and Exchange Commission, the Internal Revenue Service or any state or local securities regulatory body or taxing authority or any securities rating agency; and (v) all documentation, if any, relating to governmental grants, subsidies or loans or any other loans, lines of credit or other subordinate financing relating to the Borrower or the Project Facilities, whether or not secured by the Project Facilities. Each of the representations and warranties on the Borrower's part made in the Bond Documents to which the Borrower is a party and the Note Documents remain true and correct in all material respects and no Default exists under any covenants on the Borrower's part to perform under the Bond Documents to which the Borrower is a party.

Section 5.17 *Illegal Activity.* No portion of any of the Project Facilities has been or will be acquired, constructed, fixtured, equipped or furnished with proceeds of any illegal activity conducted by the Borrower.

Section 5.18 *Executive Order 13224.* Neither the Borrower, the General Partner nor any Person holding any legal or beneficial interest whatsoever in any of those entities is included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described in Executive Order 13224 — Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended. It shall constitute an Event of Default hereunder if the foregoing representation and warranty shall ever become false.

Section 5.19 *No Broker.* The Borrower has used no broker in connection with the execution hereof and the transactions contemplated hereby.

Section 5.20 *Construction Contract; Architect's Agreement.* The Construction Contract, the Prime Subcontract and the Architect's Agreement are each in full force and effect, and the parties thereto are in full compliance with their respective obligations thereunder. The work to be performed by the Contractor under the Construction Contract and by the Prime Subcontractor under the Prime Subcontract is the work called for by the Plans and Specifications, and all Work required to complete the Improvements in accordance with the Plans and Specifications is provided for under the Construction Contract and the Prime Subcontract.

Section 5.21 *Development Budget.* The Development Budget attached hereto as Schedule 4 accurately reflects (i) all anticipated costs of implementing and completing the Work within the Plans and Specifications and (ii) anticipated uses by source allocations for the purpose of complying with Section 142(a) of the Code.

Section 5.22 *Plans and Specifications.* The Borrower has furnished the Controlling Person and the Majority Owner with true and complete sets of the Plans and Specifications. The Plans and Specifications so furnished to the Controlling Person and the Majority Owner comply with all Legal Requirements, all Governmental Actions, and all restrictions, covenants and easements affecting the Project Facilities, and have been approved by the Tax Credit Investor and

such Governmental Authority as is required for construction of the Project Facilities. The Trustee shall have no responsibility or obligation to review such Plans and Specifications, or to confirm compliance with any Legal Requirements set forth in this Section 5.22.

Section 5.23 Survey. The survey for the land and the improvements comprising the Project Facilities delivered to the Controlling Person and the Majority Owner does not fail to reflect any material matter of survey affecting the Project Facilities or the title thereto. The Trustee shall have no responsibility or obligation to review such survey, or to confirm compliance with any requirements set forth in this Section 5.23.

Section 5.24 Flood Plain. No part of the Project Facilities is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazard or to the extent any part of the Project Facilities is an area identified as an area having special flood hazard, flood insurance in an amount equal to 100% of the appraised insurable value of the Project Facilities has been obtained by the Borrower.

Section 5.25 Location of Project Facilities. The Project Facilities will be located entirely within the jurisdiction of the Issuer.

Section 5.26 Requisition. Each Requisition submitted to the Controlling Person shall constitute an affirmation that the representations and warranties of the Borrower contained in this Agreement and in the other Bond Documents and the Note Documents that are not made as to a specific date remain true and correct as of the date thereof unless otherwise noted in writing; and unless the Controlling Person is notified to the contrary, in writing, prior to the requested date of the advance under such Requisition, shall constitute an affirmation that the same remain true and correct on the date of such advance.

ARTICLE VI

GENERAL COVENANTS

So long as any amount is due and owing hereunder, the Borrower covenants and agrees, except to the extent the Controlling Person shall otherwise consent in writing to perform and comply with each of the following covenants:

Section 6.1 Conduct of Business; Maintenance of Existence; Mergers. The Borrower and the General Partner will (i) engage solely in the business of acquiring, financing, constructing, equipping, maintaining, managing, leasing, owning and operating the Project Facilities, and activities incident thereto, (ii) preserve and maintain in full force and effect its existence as a limited partnership or limited liability company, as applicable, under the Legal Requirements of the state of its organization, and its rights and privileges and its qualification to do business in the State, (iii) not dissolve or otherwise dispose of all or substantially all of its assets, (iv) not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, and (v) except for Permitted Transfers, not amend any provision of its articles of organization or its Partnership Agreement, or its certificate of formation or organization, as applicable, relating to its purpose, management, operation or distribution of cash flow and payment of debt without the prior written consent of the Controlling Person, which consent shall not be

unreasonably delayed or withheld, and (vi) promptly and diligently enforce its rights under the Partnership Agreement, and cause the Tax Credit Investor to make its capital contributions as and when required pursuant to the terms and conditions of the Partnership Agreement.

Section 6.2 Compliance with Legal Requirements; Payment of Impositions. The Borrower will comply with all Legal Requirements applicable to the Borrower or the Project Facilities. Except to the extent any Imposition is to be paid by another Person pursuant to the terms of the Bond Documents, this Borrower will pay all Impositions and insurance premiums when due and will make the applicable deposits required by Section 8.2 of this Agreement for such purposes.

Section 6.3 Maintenance of Governmental Authorizations. The Borrower shall timely obtain any Governmental Actions required for the construction of the Project Facilities not obtained prior to the Issue Date and shall provide copies thereof to the Controlling Person and the Trustee upon receipt. The Borrower will maintain in full force and effect all of its Governmental Actions and qualifications necessary for the conduct of its business as it is presently being conducted and the ownership, construction and operation of the Project Facilities as they are presently being operated and as contemplated by the terms of the Bond Documents. The Borrower will promptly furnish copies of all reports and correspondence relating to a loss or proposed revocation of any such qualification to the Controlling Person.

Section 6.4 Maintenance of Insurance.

(a) At all times throughout the term hereof, the Borrower shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as required by the Controlling Person for facilities of the type and size of the Project Facilities and shall pay, as the same become due and payable, all premiums with respect thereto. The initial insurance requirements shall include, but not necessarily be limited to, the requirements set forth on Schedule 13 hereto.

(b) All insurance required by this Section 6.4 shall be produced and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All property and casualty insurance policies required by Section 6.4(a) hereof shall contain a standard non-contributory mortgagee clause showing the interest of the Trustee as first mortgagee and shall provide for payment to the Trustee of the net proceeds of insurance resulting from any claim for loss or damage thereunder. All policies of insurance required by Section 6.4(a) hereof shall provide for at least thirty (30) days' prior written notice of the restriction, cancellation or modification thereof to the Trustee, with a copy to the Controlling Person. The policy evidencing liability insurance required by Section 6.4(a) hereof shall name the Issuer, the Controlling Person, the Majority Owner and the Trustee as additional named insureds. The Borrower acknowledges that a security interest in the policies of property and casualty insurance required by Section 6.4(a) hereof and the net proceeds thereof is being granted to the Trustee pursuant to the Mortgage. Upon request of the Trustee, upon the written direction of the Controlling Person, the Borrower will assign and deliver (which assignment shall

be deemed to be automatic and to have occurred upon the occurrence of an Event of Default hereunder) to the Trustee, the policies of property and casualty insurance required under Section 6.4(a), so and in such manner and form that the Trustee shall at all times, upon such request and until the payment in full of the Bonds, have and hold said policies and the net proceeds thereof as collateral and further security under the Mortgage for application as provided in, and subject to the terms of, the Mortgage. The policies under Section 6.4(a) hereof shall contain appropriate waivers of subrogation.

(c) Copies of the policy or certificate (or binder) of insurance, together with all required endorsements, required by Section 6.4(a) hereof shall be delivered to the Trustee, with a copy to the Controlling Person and Majority Owner on or before the Issue Date. The Borrower shall deliver to the Issuer and the Trustee before the first (1st) Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect insurance of the types and in the amounts required by this Section 6.4. Prior to the expiration of each such policy, the Borrower shall furnish the Trustee, with a copy to the Controlling Person and Majority Owner, with evidence that such policy has been renewed or replaced or is no longer required by this Agreement. The Borrower shall provide such further information with respect to the insurance coverage required by this Agreement as the Controlling Person or Majority Owner may, from time to time, reasonably require.

(d) The net proceeds of the property and casualty insurance carried pursuant to the provisions of Section 6.4(a) hereof shall be applied as provided in the Mortgage and the net proceeds of the liability insurance required by Section 6.4(a) hereof shall be applied, with the prior written consent of the Controlling Person toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.5 Compliance with Material Contracts, Note Documents and Bond Documents. The Borrower will comply with all of its covenants and agreements under the Bond Documents, the Note Documents and all other Material Contracts to which it is a party, as the same may hereafter be amended or supplemented from time to time, and each of such covenants is incorporated herein by reference as if fully set forth herein. The Borrower acknowledges that the Indenture imposes certain obligations upon the Borrower and the Borrower agrees to discharge such obligations as if they were fully set forth herein (notwithstanding that the Borrower is not a party to the Indenture). The Borrower shall comply in all material respects with, or cause to be complied with, all requirements and conditions of the Note Documents and all Material Contracts and insurance policies which relate to the Borrower or the Project Facilities.

Section 6.6 Maintenance of Project Facilities. The Borrower will, at its sole expense and as one of the Expenses (including use of the funds on deposit in the Accounts, in accordance with the terms of the Indenture and the Replacement Reserve Agreement), (i) maintain and preserve the Project Facilities in good working order and repair, fit for the purposes for which they were originally erected, normal wear and tear permitted; (ii) not permit, commit or suffer any waste (other than normal wear and tear) or abandonment of the Project Facilities; (iii) not use (and use reasonable efforts to not permit tenants to use) the Project Facilities for any unlawful purpose and use reasonable efforts to not permit any nuisance to exist thereon; (iv) subject to the terms of the Mortgage with respect to the availability of insurance proceeds and whether such proceeds are being used to reduce the outstanding indebtedness under the Bond Documents and the Note

Documents, promptly make such repairs or replacements (structural or nonstructural, foreseen or unforeseen) as are required for the proper operation, repair and maintenance of the Project Facilities in an economical and efficient manner and consistent with customary and prudent practices, standards and procedures applicable to properties of like size and type; (v) perform all repairs or replacements in a good and workmanlike manner, and in compliance with all applicable Governmental Actions and Legal Requirements; (vi) keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas which may be owned by the Borrower in good and neat order and repair; (vii) not take (or fail to take) any action, which if taken (or not so taken) would increase in any way the risk of fire or other hazard occurring to or affecting the Project Facilities; and (viii) not sell, lease (other than pursuant to residential leases), cause a Sale of or otherwise dispose of any part of the Project Facilities, except as otherwise permitted hereunder and under the other Bond Documents.

Section 6.7 Inspection Rights.

(a) The Borrower will, at any reasonable time and from time to time following receipt of two (2) Business Days' prior notice in the absence of an Event of Default, permit the Controlling Person, the Trustee, the Issuer, and the agents or representatives of the Controlling Person, the Trustee and the Issuer, to examine and copy and make abstracts from the records and books of account of, and visit the properties of, the Borrower, and to discuss the affairs, finances and accounts of the Borrower with the General Partner and the Accountant. Upon reasonable prior notice of two (2) Business Days in the absence of an Event of Default, and subject to the rights of tenants, the Borrower will permit the Engineering Consultant to inspect, or cause to be inspected, the Project Facilities at any reasonable time or times as the Controlling Person may direct. The Borrower shall pay or reimburse the Controlling Person on demand for reasonable fees and expenses incurred in connection with such inspections; *provided* that, absent an Event of Default, the Borrower's obligations to pay or reimburse the Controlling Person for the fees and costs of any such inspection shall be limited to once in any thirty (30) day period.

(b) After the Engineering Consultant shall have inspected or caused to have been inspected the Project Facilities, the Engineering Consultant shall send written notice to the Controlling Person notifying the Controlling Person of the nature and extent of capital needs of the Project Facilities, if any, which are, in the Engineering Consultant's professional judgment, necessary to maintain and preserve the Project Facilities in accordance with the standards set forth in Section 6.6 hereof, and which are not addressed in the Proposed Budget for the Project Facilities. After considering the Engineering Consultant's recommendation, the Controlling Person shall, if work is required, (i) provide the Borrower with a copy of the Consulting Engineer's report and recommendations, and (ii) notify the Borrower in writing of the work which the Engineering Consultant recommends be performed in order to comply with the requirements of Section 6.6 hereof and the time period over which, in its professional judgment, such work should be commenced and completed.

(c) Unless the Borrower reasonably and in good faith objects to the recommended work, the Borrower shall promptly commence and diligently complete the work recommended by the Engineering Consultant within the time period set forth in the report. Unless due to an event of Force Majeure, if the Borrower fails to complete the work within such time period, the Controlling Person, at the Controlling Person's discretion, may complete such work for and on the

Borrower's behalf and may do any act or thing the Controlling Person deems necessary or appropriate to that end. The expenses incurred by the Controlling Person in completing such work shall bear interest at the Default Rate, shall be borne by the Borrower and shall be reimbursed to the Controlling Person immediately upon demand. Subject to Borrower's right to bond and contest liens and encumbrances as provided in the Bond Documents, all work performed by the Borrower shall be performed in a good and workmanlike manner and shall be completely free and clear of any mechanics or materialman's liens and encumbrances and shall be subject to the requirements of Section 6.6 hereof.

Section 6.8 Keeping of Books. The Borrower will keep proper books of record and account, in which full and correct entries shall be made of financial transactions and the assets and operations of the Borrower in accordance with GAAP, and have a complete audit of such books of record and account made by the Accountant for each Fiscal Year.

Section 6.9 Reporting Requirements. The Borrower will furnish or cause to be furnished to the Controlling Person the following in form satisfactory to the Controlling Person and in such number of copies as the Controlling Person may reasonably require:

(a) As soon as available and in any event within forty-five (45) days after the close of each fiscal quarter of each Fiscal Year of the Borrower:

(i) unaudited financial statements for the Borrower and the Project Facilities, including a balance sheet and related statement of income as of the end of such fiscal quarter and for such fiscal quarter and the current Fiscal Year to the end of such fiscal quarter, which shall be internally prepared and presented on a consistent basis;

(ii) a certificate signed by an Authorized Person stating that, except as disclosed in such certificate, (i) during such fiscal quarter the Borrower has observed and performed all of its covenants and agreements set forth in this Agreement and the other Bond Documents (including the rules qualifying the interest payable on the Bonds for federal income tax exemption pursuant to Section 142(d) of the Code and the Regulations issued thereunder), except as disclosed in such certificate, (ii) if the Project Facilities have received a tax credit allocation, during such fiscal quarter the Project Facilities have complied with the requirements of Section 42 of the Code and the Regulations issued thereunder, and (iii) no Event of Default has occurred or exists;

(b) As soon as available and in any event within one hundred twenty (120) days after the close of each Fiscal Year of the Borrower:

(i) audited financial statements for the Borrower, on a consolidated basis, including a balance sheet and related statements of income and changes in financial position as of the end of such Fiscal Year and for such Fiscal Year, which shall be prepared and reported on without qualification by the Accountant in accordance with GAAP, and shall fairly present the financial condition of the Borrower and the Project Facilities as of the end of such Fiscal Year; and

(ii) a certificate signed by an Authorized Person stating that (i) during such Fiscal Year the Borrower has observed and performed all of its covenants and agreements

set forth in this Agreement, the other Bond Documents and the Note Documents, except as disclosed in such certificate, and (ii) to the Borrower's knowledge, no Default or Event of Default has occurred or exists under the Bond Documents or the Note Documents, except as disclosed in such certificate; and

(iii) an occupancy report stating as of the last day of the month prior to the date of delivery thereof, with respect to each lease of all or any part of the Project Facilities, the tenant's name, the date thereof, the premises demised, the term, the rent, the security deposits, any advance rent payments in excess of one month and any defaults by the tenant or the Borrower in respect thereof (including, without limitation, the amounts of arrearages);

(c) As soon as possible and in any event within twenty-five (25) days after the end of each calendar month, operating statements of the Project Facilities certified by an Authorized Person and containing itemized information regarding all items of expense and income as well as occupancy reports, a rent roll and, if required by the Controlling Person, other reports such as reports on concessions, security deposits and advance rents, all in such detail as may be required by the Controlling Person;

(d) Following Stabilization, quarterly, an occupancy report for the Project Facilities, which may be delivered electronically, certified by an Authorized Person, however, the Controlling Person may require monthly occupancy reports if the Project Facilities are deemed to be on a performance watchlist, as determined by the Controlling Person;

(e) Upon receipt thereof by the Borrower, copies of any letter or report with respect to the management, operations or properties of the Borrower submitted to the Borrower by the Accountant in connection with any annual or interim audit of the Borrower's accounts, and a copy of any written response of the Borrower to any such letter or report;

(f) As soon as possible and in any event within fifteen (15) days after receipt of notice thereof, notice of any pending or threatened litigation, investigation or other proceeding involving the Borrower, the General Partner, the Guarantor or the Project Facilities; (i) which could have a material adverse effect on the operations or financial condition of the Borrower, the General Partner, the Guarantor or the Project Facilities; (ii) wherein the potential damages, in the reasonable judgment of the Borrower based upon the advice of counsel experienced in such matters, are not fully covered by the insurance policies maintained by the Borrower (except for the deductible amounts applicable to such policies); or (iii) which challenges the excludability of interest on the Bonds from gross income for federal income tax purposes;

(g) As soon as possible, notice of any material adverse change in the operations, financial condition or prospects of the Borrower, the General Partner, the Guarantor or the Project Facilities;

(h) Upon delivery thereof by the Borrower, copies of any reports, certifications, financial information, compliance documents, rebate information, audits and all other items submitted by or on behalf of the Borrower to the Trustee or the Issuer;

(i) Not later than sixty (60) days after the Completion Date, the certificate of completion and the use of proceeds certificate set forth as Schedules 8 and 9 hereof;

(j) As and when required under the Regulatory Agreement, the monthly compliance certificates, the annual copies of IRS Forms 8703 and other reports and notices required to be delivered under the Regulatory Agreement;

(k) Upon receipt thereof by the Borrower, notice of the cancellation or expiration (without renewal or replacement) of any insurance required to be maintained by this Agreement;

(l) Not later than sixty (60) days after the Stabilization Date, a stabilization certificate in the form set forth on Schedule 10 hereto, with a copy to the Trustee;

(m) As soon as possible and in any event within fifteen (15) days after the occurrence of an Event of Default (to the extent such Event of Default is still continuing), a statement of the General Partner setting forth the details of such Event of Default and the action which the Borrower proposes to take with respect thereto;

(n) Contemporaneously with the delivery to the Trustee copies of any notices, reports or other information provided to the Trustee under the Bond Documents and the Note Documents;

(o) Copies of IRS Forms 8609 as issued and received by the Borrower;

(p) On or before December 1 of each Fiscal Year, the Borrower shall submit to the Controlling Person a proposed capital and operating budget with respect to the Project Facilities to be effective for the next following Fiscal Year (the "*Proposed Budget*"). Each Proposed Budget shall be provided on a form prepared by the Borrower; and

(q) Such other information respecting the operations and properties, financial or otherwise, of the Borrower as the Controlling Person may from time to time reasonably request.

With respect to the reporting requirements contained in this Section 6.9, such requirements shall only be applicable to the Guarantor during such time as the Guarantor's guaranty is in effect.

Section 6.10 Tax-Exempt Status.

(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 Bonds from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Certificate, which is incorporated herein as if set forth fully herein.

(b) The Borrower will, on a timely basis, provide the Issuer 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 Certificate) 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 Issuer 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 Trustee as are required of it under the Tax Certificate. 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 Indenture and this Loan Agreement.

(c) The Borrower covenants that, notwithstanding any other provision of this Loan Agreement or any other instrument, the Borrower will take no action, nor shall it direct the Trustee to take any action, to invest or use of proceeds of the Bonds, or any other moneys that may arise out of or in connection with this Loan Agreement, the Indenture or the Project that would cause the Bonds to be treated as “arbitrage bonds” 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 Bonds or the proceeds derived from the sale of the Bonds or any other moneys that may arise out of, or in connection with, this Agreement, the Indenture or the Project throughout the term of the Bonds. No provision of this Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with Section 148 of the Code.

(d) Neither the Borrower nor any “related party” to the Borrower within the meaning of Section 1.150-1(b) of the Regulations is, or will be, a party to any agreement, formal or informal, pursuant to which it has or will purchase any of the Bonds in an amount related to the amount of the Loan made to the Borrower pursuant to this Agreement unless the Borrower or such related party provides a Favorable Opinion of Bond Counsel to the Issuer, the Trustee and the Controlling Person.

Section 6.11 Single Purpose Entities.

(a) The Borrower and the General Partner shall (i) not engage in any business or activity, other than the ownership, construction, operation and maintenance of the Project Facilities and activities incidental thereto; and (ii) not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Project Facilities and activities incidental thereto and such personal property as may be necessary for the operation of the Project Facilities and shall conduct and operate its business as presently conducted and operated.

(b) The Borrower and the General Partner shall (i) not maintain its assets in a way difficult to segregate and identify; (ii) ensure that business transactions between the Borrower and any Affiliate of the Borrower or any Affiliate of the General Partner shall be entered into upon terms and conditions that are substantially similar to those that would be available on an arms-length basis with a third Person other than the General Partner, or any respective Affiliate thereof; (iii) except for unsecured loans from members of the Borrower (payable solely from available cash flow) pursuant to terms and conditions of the Partnership Agreement and the unsecured deferred developer fee, not incur or contract to incur any Obligations, secured or unsecured, direct or contingent (including guaranteeing any Obligation), other than, in the case of the Borrower, the Obligations evidenced by this Agreement and the other Bond Documents; (iv) not make any loans or advances to any third Person (including any Affiliate of the Borrower or the General Partner) except to the extent permitted by the terms and conditions of the Partnership Agreement; (v) do or cause to be done all things necessary to preserve its existence; (vi) except as otherwise permitted herein and for amendments to the Borrower’s Partnership Agreement which

are necessary to effectuate a Permitted Transfer, not amend, modify or otherwise change its Partnership Agreement, articles of incorporation or other organizational documents or bylaws in any way which would affect the amount, timing or conditions to payment of any equity contributions to the Borrower, which would affect the management or control over the Borrower or the General Partner, or in any other way which would materially adversely affect the interests of the Trustee or the Controlling Person, without obtaining the prior written consent of the Controlling Person which shall not be unreasonably withheld or delayed; (vii) conduct and operate its business as presently conducted and operated; (viii) maintain its books and records and bank accounts separate from those of its Affiliates; (ix) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other Person (including any Affiliate); (x) file its own tax returns; (xi) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and in any event not less than that required under State law in order to remain a separate legal entity; (xii) not seek or consent to the dissolution or winding up, in whole or in part, of the Borrower or the General Partner; (xiii) not (A) consent to the dissolution or liquidation in whole or in part of the Borrower, or (B) permit the General Partner to dissolve, or (C) consent to the dissolution or liquidation of the General Partner; (xiv) not commingle the funds and other assets of the Borrower with those of the General Partner, any Affiliate thereof or any other Person; and (xv) not enter into any transaction with an Affiliate without the prior written consent of the Controlling Person.

Section 6.12 Negative Pledge; No Sale.

(a) The Borrower will not create, incur, assume or permit to exist any mortgage, pledge, security interest, encumbrance or other Lien upon the Project Facilities or any property, tangible or intangible, now owned or hereafter acquired (including without limitation property leased to or being acquired by the Borrower under capital leases or installment sale agreements), by the Borrower (the sale with recourse of receivables or any “sale and lease back” of any fixed assets being deemed to be the giving of a lien thereon for money borrowed), other than Permitted Encumbrances.

(b) Other than Permitted Transfers and the making of residential leases, but only while the Loan or any amounts due under this Agreement are outstanding, the Borrower shall not sell, assign, transfer, convey or otherwise dispose of the Project Facilities, or any part thereof, or permit or consent to a Sale without in each instance (i) obtaining the express prior written consent of the Controlling Person, which consent may be withheld or granted (and be made subject to the payment of such fees and the satisfaction of other conditions as set forth in Section 1.12 of the Mortgage) in the Controlling Person’s sole and absolute discretion; (ii) complying with the applicable requirements of the Regulatory Agreement; and (iii) complying with the applicable provisions of the Note Documents.

Section 6.13 Payment of Indebtedness; Accounts Payable; Restrictions on Indebtedness.

(a) The Borrower will pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all of the Borrower’s Obligations under the Bond Documents, the Note Documents and all of its other Obligations, whether now existing or

hereafter arising, and comply with all covenants and agreements set forth in agreements evidencing Obligations of the Borrower.

(b) The Borrower shall pay or cause to be paid the Expenses, and Capital Expenditures and its other accounts payable with respect to and costs of operation and maintenance of the Project Facilities within the later of thirty (30) days of receipt of an invoice therefor, or when the same shall otherwise be due and payable. The Borrower shall not make any distribution of funds to its partners unless no Default or Event of Default exists, such distribution is in accordance with the provisions of the Partnership Agreement, and all current accounts payable shall have been paid and funds shall have been set aside for the payment of accounts payable becoming due within thirty (30) days of said distribution. In addition, the Borrower shall not make any payment to the General Partner or to any members, managers, officers or members thereof, prior to the required monthly payment (or provision for payment) of the Borrower's Indebtedness under the Bond Documents and the Note Documents, the funding of any required reserves under the Bond Documents and the Note Documents and the payment of any of its other Obligations then due and payable.

(c) Without obtaining the prior written consent of the Controlling Person, the Borrower will not create, incur, assume, guarantee or be or remain liable for any indebtedness or Obligations other than (i) Indebtedness under the Bond Documents; (ii) Indebtedness under the Note Documents; (iii) current liabilities of the Borrower relating to the Project Facilities incurred in the ordinary course of business but not incurred through the borrowing of money or obtaining of credit; and (iv) as contemplated by the terms of the Partnership Agreement.

Section 6.14 Environmental Covenants.

(a) The Borrower will cause all activities at the Project Facilities during the term of this Agreement to be conducted in full compliance with all applicable Environmental Laws. The Borrower will obtain all Governmental Actions and will make all notifications, as required by Environmental Laws, and will, at all times, comply with the terms and conditions of any such Governmental Actions or notifications. During the term of this Agreement, if requested by the Controlling Person, the Borrower will provide to the Controlling Person copies of (i) applications or other materials submitted to any Governmental Authority in compliance with Environmental Laws, (ii) any notifications submitted to any Person pursuant to Environmental Laws, (iii) any Governmental Action granted pursuant to Environmental Laws, (iv) any record or manifest required to be maintained pursuant to Environmental Laws, and (v) any correspondence, notice of violation, summons, order, complaint or other document received by the Borrower, its lessees, sub-lessees or assigns, pertaining to compliance with any Environmental Laws.

(b) The Borrower will, at all times during the term of this Agreement, cause Hazardous Substances used at the Project Facilities to be handled, used, stored and disposed in accordance with all Environmental Laws and in a manner which will not cause an undue risk of Contamination.

(c) The Borrower will cause all construction of new structures at the Project Facilities during the term of this Agreement to use design features which safeguard against or mitigate the accumulation of radon or radon products in concentrations exceeding the Environmental Protection Agency's recommended threshold of 4.0pCi/L.

(d) The Borrower shall not install or permit to be installed any temporary or permanent tanks for storage of any liquid or gas above or below ground, except after obtaining written permission from the Controlling Person to do so and in compliance with Environmental Laws.

(e) The Borrower shall implement a moisture management and control program (the “*Moisture Management Program*”) for the Improvements at the Project Facilities to prevent the occurrence of mold, dangerous fungi, bacterial or microbial matter contamination or pathogenic organisms that reproduces through the release of spores or the splitting of cells (collectively, “*Mold*”), at, on or under the Project Facilities, which Moisture Management Program shall include, at a minimum: (a) periodic inspections of the Improvements at the Project Facilities for Mold, (b) removing or cleaning up any Mold and in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by the Controlling Person, and (c) if the Mold identified at the Improvements at the Project Facilities cannot be removed or cleaned from any impacted building materials (*e.g.*, porous materials such as carpeting, certain types of ceiling materials, etc.) and/or equipment, removing all such impacted building materials and/or equipment from the Project Facilities, all in accordance with the procedures set forth in the United States Environmental Protection Agency’s (“*EPA*”) guide entitled “Mold Remediation in Schools and Commercial Buildings”, EPA No. 402-K-01-001, dated March 2001 and in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by the Controlling Person. The Borrower shall include as part of every residential lease a Mold/Mildew Addendum in the form attached hereto as Exhibit C. The Borrower further covenants and agrees that, in connection with any mold remediation undertaken by or on behalf of the Borrower hereunder, the source (*e.g.*, leaking pipe, water damage, water infiltration, etc.) of any Mold at the Improvements at the Project Facilities shall be promptly identified and corrected to prevent the occurrence or re-occurrence of any Mold.

(f) During the existence of an Event of Default, or if the Controlling Person has reason to believe that there has occurred and is continuing a violation of Environmental Law or that there exists a condition that could give rise to any Governmental Action, the Controlling Person may, at its discretion, commission an investigation at the Borrower’s expense of (i) compliance at the Project Facilities with Environmental Laws, (ii) the presence of Hazardous Substances or Contamination at the Project Facilities, (iii) the presence at the Project Facilities of materials which are described in clause (b) of Section 5.12 hereof, (iv) the presence at the Project Facilities of Environmentally Sensitive Areas, (v) the presence at the Project Facilities of radon products, (vi) the presence at the Project Facilities of tanks of the type described in paragraph (e) of Section 5.12 or in paragraph (d) of Section 6.14 above, or (vii) the presence of Mold at the Project Facilities. In connection with any investigation pursuant to this paragraph, the Borrower, and Borrower will make commercially reasonable efforts to ensure its lessees, sub-lessees and assigns, will comply with any reasonable request for information made by the Controlling Person or its agents in connection with any such investigation. Any response to any such request for information will be full and complete. The Borrower will assist the Controlling Person and its agents to obtain any records pertaining to the Project Facilities or to the Borrower and the lessees, sub-lessees or assigns of the Borrower in connection with an investigation pursuant to this paragraph. Subject to the applicable tenant leases, the Borrower will permit the Controlling Person and its agents to access to all areas of the Project Facilities at reasonable times and in reasonable manners in connection with any investigation pursuant to this paragraph. No investigation commissioned pursuant to this paragraph shall relieve the Borrower from any responsibility for its

representations and warranties under Section 5.12 hereof or under the Environmental Indemnity Agreement.

(g) In the event of any Contamination affecting the Project Facilities, whether or not the same originates or emanates from the Project Facilities or any contiguous real estate, or if the Borrower otherwise shall fail to comply with any of the requirements of Environmental Laws, the Controlling Person may, at its election, but without the obligation so to do, give such notices, cause such work to be performed at the Project Facilities and take any and all other actions as the Controlling Person shall deem necessary or advisable in order to remedy said Contamination or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the Default Rate from the date of payment by the Controlling Person, shall be immediately due and payable by the Borrower and until paid shall be added to and become a part of the Indebtedness under the Bond Documents and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Project Facilities attaching or accruing subsequent to the lien of the Mortgage on the Project Facilities.

Section 6.15 Controlling Person. The Borrower acknowledges and agrees that (i) the Majority Owner has the sole and exclusive right to arrange for servicing of the Loan and to appoint another person or entity to serve as its representative hereunder, under the other Bond Documents, under the Indenture and under the Note Documents; (ii) the Majority Owner has appointed Red Stone Servicer, LLC to serve in the capacity of Controlling Person hereunder, under the other Bond Documents, under the Indenture and under the Note Documents; and (iii) the Majority Owner retains the sole and exclusive right to appoint, remove or replace the Controlling Person, without the consent or approval of the Borrower. The Borrower shall comply with the reasonable directions of the Controlling Person made on behalf of the Majority Owner.

Section 6.16 Tax Returns. The General Partner will timely file all tax returns for itself and for the Borrower, pay or cause to be paid when due all taxes imposed on their operations, assets, income or properties, and, upon request, provide to the Controlling Person copies of such returns and receipts for payment of such taxes.

Section 6.17 Leases. The Borrower hereby represents that there are no leases or agreements to lease all or any part of the Project Facilities now in effect except for leases to residential tenants in compliance with the Regulatory Agreement. Except for leases to residential tenants in compliance with the Regulatory Agreement and leases for services associated with residential rental properties (such as laundry and cable lease), the Borrower shall not enter into or become liable under, any leases or agreements to lease all or any part of the Project Facilities without the prior written approval thereof and of the prospective tenant by the Controlling Person. Each lease of residential units in the Project Facilities to a residential tenant shall be on a form of lease approved by the Controlling Person and shall be in compliance with the requirements of the Bond Documents and the Regulatory Agreement.

Section 6.18 Further Assurances. The Borrower will promptly and duly execute, acknowledge and deliver from time to time such further instruments and take such further actions as may be reasonably required by the Issuer, the Trustee or the Controlling Person to carry out the purposes and provisions of this Agreement and the other Bond Documents, to confirm the priority and/or perfection of any lien, pledge, assignment or security interest created or intended to be

created by this Agreement or the other Bond Documents and to assure the Controlling Person and the Majority Owner of the subrogation and security rights in favor of the Trustee for the benefit of the Holders of the Bonds contemplated by this Agreement, by the other Bond Documents and by the Indenture. The Borrower shall obtain any approvals required under the Bond Documents in connection with any of the foregoing.

Section 6.19 Management Agreement. The Borrower has entered into a property management agreement in a form approved by the Controlling Person with the Manager (together with any extension and replacements thereof and as the same may be amended, modified or supplemented from time to time the “*Management Agreement*”). Under the Management Agreement, the Manager shall provide certain management services and shall be entitled to receive as compensation for those services an amount not in excess of [five percent ([5.0]%) of the gross income received from the Project Facilities on account of rents, service fees, late charges and penalties and other charges received under leases. Any amounts due the Manager in excess of [three] percent ([3.0]%) of such gross revenue shall be permitted so long as such excess amounts are subordinated to the payment by the Borrower of all principal of, Early Prepayment Premium, if any, and interest due on the Bonds, all amounts due and owing under the Note Documents, all Third Party Costs and all required deposits into the Accounts. For avoidance of doubt, so long as no Event of Default has occurred and is continuing, the Borrower may pay the Manager fees in excess of such amount from cash flow pursuant to the terms of the Partnership Agreement. The Borrower shall not replace the Manager for the Project Facilities without the Controlling Person’s prior written approval (which approval shall not be unreasonably withheld, conditioned or delayed), and the Management Agreement shall not be terminated or modified in any material respect without the Controlling Person’s prior written approval, such approval not to be unreasonably delayed, withheld, or conditioned. If the Manager resigns or is removed, the Borrower shall promptly seek a replacement Manager and submit such Manager and its proposed form of Management Agreement to the Controlling Person for approval; if the Borrower has not done so within thirty (30) days of becoming aware of such resignation or removal, the Controlling Person may (but shall not be required to) engage a new Manager on terms satisfactory to the Controlling Person in its sole discretion and at the expense of the Borrower. The sole and exclusive compensation (exclusive of reimbursement for expenses pursuant to the applicable Management Agreement) paid to manage the Project Facilities under the Management Agreement shall be as described in this Section 6.19. The Borrower shall have no employees whatsoever. The Manager shall execute a consent to the Assignment of the Management Agreement pursuant to which the Manager shall confirm the subordination provisions described above and agree that the Management Agreement shall be terminable by the Controlling Person, with or without cause, on thirty (30) days’ notice following and during the existence of an Event of Default.

Section 6.20 Determination of Taxability. Neither the Borrower nor the General Partner shall admit in writing to the Issuer or the Trustee or to any Governmental Authority that interest on the Bonds has become includable in gross income for federal income tax purposes without first providing reasonable advance notice to the Controlling Person and the Majority Owner and permitting the Controlling Person or the Majority Owner, at its sole discretion and at its expense, to contest such conclusion. Promptly after the Borrower first becomes aware of any Determination of Taxability or an event that could trigger a Determination of Taxability, the Borrower shall give written notice thereof to the Issuer, the Trustee, the Controlling Person and the Majority Owner.

Section 6.21 Reserved.

Section 6.22 Use of Proceeds. The Borrower agrees that the proceeds of the Bonds will be allocated exclusively to pay Project Costs and that, for the greatest possible number of buildings, the Bond proceeds will be allocated on a pro rata basis to each building in the Project Facilities and the land on which such building is located, so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code.

Section 6.23 Compliance With Anti-Terrorism Regulations. Neither the Borrower, the General Partner nor any Person holding any legal or beneficial interest whatsoever in the Borrower shall at any time while the Bonds are Outstanding be described in, covered by or specially designated pursuant to or be affiliated with any Person described in, covered by or specially designated pursuant to Executive Order 13224 — Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended, or any similar list issued by OFAC or any other department or agency of the United States of America. Notwithstanding the foregoing, the Borrower and the General Partner hereby each confirm that if it becomes aware or receives any notice of any violation of the foregoing covenant and agreement (an “OFAC Violation”), the Borrower or the General Partner, as applicable, will immediately (i) give notice to the Controlling Person of such OFAC Violation, and (ii) comply with all Legal Requirements applicable to such OFAC Violation, including, without limitation, Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701-06; the Iraqi Sanctions Act, Pub. L. 101-5 13, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S.C. Section 287c; the Antiterrorism and Effective Death Penalty Act, (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa-9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Governments Sanctions Regulations, 31 C.F.R. Part 596; and the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597 (collectively, the “Anti-Terrorism Regulations”), and the Borrower and the General Partner hereby authorize and consent to the Controlling Person’s taking any and all reasonable steps the Controlling Person deems necessary, in its sole discretion, to comply with all Legal Requirements applicable to any such OFAC Violation, including the requirements of the Anti-Terrorism Regulations. Notwithstanding anything to the contrary in this Section 6.23, the Borrower shall not be deemed to be in violation of the covenants and agreements set forth in the first sentence of this Section 6.23 if the Borrower timely complies with all requirements imposed by the foregoing sentence and all requirements of the Antiterrorism Regulations and all other applicable Legal Requirements relating to such OFAC Violation.

Section 6.24 Reserved.

Section 6.25 Borrower’s Approval of Indenture. The Borrower understands that the Issuer will, pursuant to the Indenture and as security for the payment of the principal of, Early Prepayment Premium, if any, and the interest on the Bonds, assign and pledge to the Trustee, and create a security interest in favor of the Trustee in certain of its rights, title and interest in and to this Agreement (including all payments hereunder) reserving, however, the Reserved Rights; and the Borrower hereby agrees and consents to such assignment and pledge. The Borrower acknowledges that it has received a copy of the Indenture for its examination and review. By its

execution of this Agreement, the Borrower acknowledges that it has approved, has agreed to and is bound by the applicable provisions of the Indenture. The Borrower agrees that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Agreement that relate to it notwithstanding the fact that it is not a signatory hereto.

Section 6.26 Conditions Precedent; Payment of Certain Fees, Deposits and Expenses. On the date of execution and delivery hereof, (a) the Controlling Person shall have received, in immediately available funds, an amount equal to the fees set forth in Section 2.2(a) hereof, and the fees of the Engineering Consultant set forth in Section 2.2(b) hereof incurred as of the date of the execution and delivery hereof, and (b) the Trustee shall have received the deposits required to be made in the Accounts on such date pursuant to Article VIII hereof.

Section 6.27 Additional Conditions Precedent. The rights of the Borrower to draw the initial advance of funds from the Project Fund under this Agreement shall be subject to the conditions precedent set forth in Article IX hereof and on Schedule 7 hereof.

Section 6.28 No Amendments. The Borrower shall not amend, modify or otherwise change the other Bond Documents without the prior written consent of the Issuer, the Trustee and the Controlling Person.

Section 6.29 Construction of Improvements. The Borrower shall construct the Project Facilities in a true, thorough and workmanlike manner and substantially in accordance with the Plans and Specifications and in compliance with all applicable Governmental Actions and Legal Requirements. The Borrower shall provide, at the Borrower's expense all manner of materials, labor, implements and cartage of every description required for the due completion of construction of the Project Facilities. The Borrower shall take all necessary steps to assure that commencement of construction of the Project Facilities shall begin within forty-five (45) days following the receipt of necessary permits, shall proceed continuously and diligently and in a commercially reasonable manner, and shall be completed lien free in a timely manner substantially in accordance with the Plans and Specifications and in all instances in compliance with all applicable Governmental Actions and Legal Requirements, on or before the Completion Date, subject to delays caused by a Force Majeure. The Borrower shall not consent to any mining or drilling on the premises of the Project Facilities.

Section 6.30 Evidence of Payment of Costs. If requested by the Controlling Person, the Borrower shall furnish, before each advance agreed to be made and on completion of construction, all receipted bills, certificates, affidavits, conditional releases of lien and other documents which may be reasonably required by the Controlling Person, as evidence of full payment for all labor and materials incident to the construction of the Project Facilities for each requested draw with copies of unconditional releases of lien from each prior draw and will promptly secure the release of the Project Facilities from all liens by payment thereof or transfer to bond or other security.

Section 6.31 Correction of Deficiencies in Improvements. The Borrower agrees that it will correct any work performed and replace any materials that do not comply with the Plans and Specifications in any material respect. In the event of any dispute between the Borrower and the Controlling Person with respect to the interpretation and meaning of the Plans and Specifications,

the same shall be determined by an independent engineer selected by the Borrower from the list of engineers approved by the Controlling Person.

Section 6.32 Sufficiency of Loan and Note Proceeds. If, for any reason, the Controlling Person shall, in the reasonable exercise of the Controlling Person's judgment, determine that the combined total of (i) the remaining undisbursed proceeds of the Loan and the Notes (including, without limitation, unfunded installments of the proceeds of the Notes), and (ii) any other sums on deposit by the Borrower with the Trustee, (iii) the capital contributions from Borrower's partners, and (iv) often available sources reasonably acceptable to the Controlling Person, are insufficient to complete construction of the Project Facilities, the Controlling Person may require the Borrower to deposit with the Trustee for deposit into the Project Fund, within ten (10) Business Days after written request by the Controlling Person, the projected deficiency, and such deposit shall be first disbursed in the same manner as the Loan is to be disbursed as provided herein before any further disbursements of the proceeds of the Loan shall be made.

Section 6.33 Use of Loan and Note Proceeds. All labor and materials contracted for and in connection with the construction of the Project Facilities shall be used and employed solely for the Improvements and in said construction and only in accordance with the Plans and Specifications (as amended). Proceeds of the Bonds and the Notes disbursed from Accounts held under the Indenture to or for the account of the Borrower under this Agreement shall constitute a trust fund in the hands of the Borrower or other payee and, in the case of the proceeds of the Bonds, shall be used solely by such payee for the payment of the Qualified Project Costs and for no other purpose unless another use is specifically provided for in this Agreement or consented to in writing by the Controlling Person. Nothing in this paragraph shall be deemed to impose a trust on the undisbursed portion of the proceeds of the Bonds or the Notes or any other amounts held under the Indenture or to impose any duty on the Controlling Person with respect thereto.

Section 6.34 Special Servicing Costs. In accordance with industry standards and as set forth on Exhibit D hereto, the Controlling Person, as servicer of the Loan, may charge the Borrower additional servicing fees and costs for special servicing requests. The Borrower shall pay as and when due all such special servicing fees or costs.

Section 6.35 Permits. No developer fee shall be requisitioned by the Borrower or paid to the Developer until the will issue letter for the necessary site plan permit required to commence the construction of the Project Facilities have been received by the Borrower and copies delivered to the Controlling Person, which may be delivered electronically.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1 Defaults. Each of the following shall constitute an event of default hereunder ("*Event of Default*"):

(a) Failure by the Borrower to pay any amount required to be paid by the Borrower under this Agreement, the Bond Note or any of the other Bond Documents when the same shall become due and payable;

(b) Failure by the Borrower to perform or comply with any of the terms or conditions contained in Section 6.1, 6.11 or 6.12 hereof;

(c) Failure by the Borrower to perform or comply with any of the terms or conditions contained in this Agreement and any of the other Bond Documents to which the Borrower is a party, other than as described in any other subsection of this Section 7.1, and continuation of such failure for thirty (30) days after written notice from the Trustee or the Controlling Person to the Borrower, or such longer period to which the Controlling Person may agree in the case of a default not curable by the exercise of due diligence within such thirty (30) day period, if the Borrower, the General Partner, the Special Limited Partner or the Tax Credit Investor shall have commenced a cure of such default within such thirty (30) day period and shall be diligently pursuing such cure as quickly as reasonably possible;

(d) Any of the representations or warranties of the Borrower set forth in this Agreement, any of the other Bond Documents, any Note Documents or any other document furnished to the Issuer, the Trustee the Controlling Person or the Majority Owner pursuant to the terms hereof proves to have been false or misleading in any material respect when made and such representation or warranty shall remain false or misleading for a period of ten (10) days after written notice thereof has been given to the Borrower by the Trustee or the Controlling Person;

(e) Any provision of this Agreement or any of the other Bond Documents or any of the Note Documents to which the Borrower, the General Partner or any Guarantor is a party for any reason ceases to be valid and binding on the Borrower, the General Partner or the Guarantor, is declared to be null and void, or is violative of any applicable Legal Requirements relating to a maximum amount of interest permitted to be contracted for, charged or received, and neither the Borrower, the General Partner, nor any Guarantor takes the appropriate actions to resolve the same in a manner reasonably acceptable to the Controlling Person in its sole but reasonable discretion; or the validity or enforceability thereof is contested by the Borrower, the General Partner or any Guarantor or any Governmental Authority, or the Borrower, the General Partner or any Guarantor denies that it has any or further liability or obligation under this Agreement or any of the Bond Documents to which the Borrower, the General Partner or any Guarantor is a party;

(f) The occurrence of an Event of Default as defined in the Indenture or the other Bond Documents or the Note Documents (which shall mean in any event that all applicable notice, grace and cure periods have expired without cure);

(g) The Borrower, any Guarantor or the General Partner (i) applies for or consents to the appointment of a receiver, trustee, liquidator or custodian or the like of the Borrower, any Guarantor or the General Partner, as applicable, or of property of any such party or (ii) admits in writing the inability of the Borrower, any Guarantor or the General Partner to pay its debts generally as they become due, or (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated bankrupt or insolvent, (v) commences a voluntary case under the Bankruptcy Code or files a voluntary petition or answer seeking reorganization, an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or files an answer admitting the material allegations of a petition filed against the Borrower, any Guarantor or the General Partner in any bankruptcy, reorganization or insolvency proceeding, or action of the Borrower, any Guarantor or the General Partner is taken for the purpose of effecting any of the

foregoing, or (vi) has instituted against it, without the application, approval or consent of the Borrower, any Guarantor or the General Partner, as applicable, a proceeding in any court of competent jurisdiction, under any Legal Requirements relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking in respect of the Borrower, any Guarantor or the General Partner an order for relief or an adjudication in bankruptcy, reorganization, dissolution, winding up or liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of the Borrower, any Guarantor or the General Partner or of all or any substantial part of the assets of such party or other like relief in respect thereof under any Legal Requirements relating to bankruptcy or insolvency law, and, if such proceeding is being contested by the Borrower, such Guarantor or the General Partner, as applicable, in good faith, the same (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed and undischarged for a period of ninety (90) days;

(h) The Borrower fails to maintain in full force and effect any insurance required pursuant to this Agreement;

(i) The Project Facilities suffer a loss by fire or other casualty and such loss is not fully insured and any deficiency in the amount of insurance proceeds paid with respect to such loss is not posted with the Trustee within thirty (30) days of the determination of such deficiency;

(j) Subject to delays caused by Force Majeure, the Project Facilities and the Borrower: (i) fail to achieve Final Completion on or before the Completion Date (as may be extended) or fail to deliver all necessary supporting documentation (including, but not limited to, the Completion Certificate set forth on Schedule 8 hereto and the Use of Proceeds Certificate set forth on Schedule 9 hereto) evidencing the achievement of Final Completion not later than sixty (60) days following the Completion Date, or (ii) fail to achieve Stabilization on or before the Stabilization Date (as may be extended) or fail to deliver all necessary supporting documentation (including, but not limited to, the Stabilization Certificate set forth on Schedule 10 hereto) evidencing the achievement of Stabilization and effectuate any Bond redemption required under Section 2.12(b)(iii) of the Indenture not later than sixty (60) days following the Stabilization Date;

(k) Any litigation or administrative proceeding ensues, and is not dismissed within ninety (90) days, involving the Borrower, the General Partner, any Guarantor or any instrument, contract or document delivered by the Borrower to the Controlling Person or the Trustee in compliance with this Agreement, and the adverse result of such litigation or proceeding would have, in the Controlling Person's reasonable opinion, a materially adverse effect on the Borrower's, the General Partner's or any Guarantor's ability to pay its obligations and comply with the covenants under this Agreement or any of the other Bond Documents;

(l) Any one or more judgments or orders (in excess of \$150,000) are entered against the Borrower, any Guarantor or the General Partner, and (1) continue unsatisfied and unstayed for sixty (60) days or (2) a judgment lien on any property of the Borrower, any Guarantor or the General Partner is recorded in respect thereof and is not stayed pending appeal within sixty (60) days by a bond or other arrangement given or obtained by the Borrower, any Guarantor or the General Partner on terms which do not violate any of the Borrower's covenants under this Agreement;

(m) Failure by the Borrower or the Guarantor (1) to make any payment or payments in respect of any Obligation or Indebtedness (unless a bona fide dispute exists as to whether such payment is due), when such payment or payments are due and payable (after the lapse of any applicable grace or cure period), (2) to perform any other obligation or covenant under any such Obligation or Indebtedness or (3) to pay or perform any obligation or covenant under the Note Documents or under any Material Contract, any of which (x) results in the acceleration of such Obligation or Indebtedness or enables the holder or holders of such Obligation or Indebtedness or any person acting on behalf of such holder or holders to accelerate the maturity of such obligation or (y) would have, in the Controlling Person's reasonable opinion, a materially adverse effect on either the Borrower's or the Guarantor's ability to pay its obligations and comply with the covenants under this Agreement or any of the other Bond Documents;

(n) Construction of the Improvements shall have been discontinued for thirty (30) consecutive working days for any reason whatsoever, except for Force Majeure and/or such reason as the Controlling Person shall deem reasonable;

(o) The Prime Subcontractor shall have defaulted under the Prime Subcontract, which default the Controlling Person, in its sole opinion, shall deem to be substantial, and the Borrower, within ten (10) Business Days after receipt of written notice from the Controlling Person, shall have failed to exercise any right or remedy to which it shall be entitled; or .

(p) The Contractor shall have defaulted under the Construction Contract, which default the Controlling Person, in its sole opinion, shall deem to be substantial, and the Borrower, within ten (10) Business Days after receipt of written notice from the Controlling Person, shall have failed to exercise any right or remedy to which it shall be entitled.

Section 7.2 Remedies. If an Event of Default has occurred and is continuing uncured, the Trustee, acting solely at the written direction of the Controlling Person, shall:

(a) Declare the principal of all Bonds then Outstanding and the interest accrued thereon to be due and payable;

(b) Declare the Borrower's obligations hereunder, under the Bond Note and under the other Bond Documents to be, whereupon the same shall become, immediately due and payable, provided, no such declaration shall be required, and acceleration shall be automatic, upon occurrence of an event set forth in Section 7.1(g) hereof;

(c) Enter upon the Project Facilities and take possession thereof, together with the Improvements in the course of construction or completed, and all of the Borrower's materials, supplies, tools, equipment and construction facilities and appliances located thereon, and proceed either in the name of the Trustee or in the name of the Borrower as the attorney-in-fact of the Borrower (which authority is coupled with an interest and is irrevocable by the Borrower) as the Controlling Person shall elect, to complete the construction of the Improvements at the cost and expense of the Borrower; if the Controlling Person elects to complete or cause the construction of the Improvements to be so completed, it may do so according to the terms of the Plans and Specifications and as the Controlling Person shall deem expedient or necessary, and the Trustee may enforce or cancel all contracts entered into as aforesaid or make other contracts which in the

Controlling Person's reasonable opinion may seem advisable, and the Borrower shall be liable, under this Agreement and under the Bond Note or any other note given by it pursuant to the provisions hereof, to pay the Trustee or the Controlling Person upon demand any amount or amounts expended by the Trustee or the Controlling Person or its representatives for such performance, together with any costs, charges or expenses incident thereto or otherwise incurred or expended by the Trustee or the Controlling Person or their respective representatives on behalf of the Borrower in connection with the Improvements, and the amounts so expended shall bear interest at the Default Rate specified in the Bond Note, and shall be considered part of the indebtedness evidenced by the Bond Note and secured by the Mortgage;

(d) If the Contractor shall have defaulted as aforesaid, and the Contractor has no surety, the Controlling Person shall proceed to negotiate or invite bidding to procure, within an additional fifteen (15) days, a successor Contractor to complete the Improvements under a performance bond and labor and material payment bond approved by the Controlling Person in the full amount of the new contract price; if the Contractor has a surety, but the surety refuses or fails to commence completion of the Improvements within fifteen (15) days after notice from the Borrower to do so, the Controlling Person shall proceed, within ten (10) days, to negotiate or invite bidding as herein provided or to take action against the entity;

(e) (1) Enter upon or take possession of the Project Facilities and call upon or employ suppliers, agents, managers, maintenance personnel, security guards, architects, engineers and inspectors to complete, manage or operate the Project Facilities or to protect the Project Facilities from injury; (2) pay out additional sums (which sums shall be immediately due and payable by the Borrower to the Trustee) and use any property of the Borrower associated with the Project Facilities, or any property of the Borrower in which the Trustee has or obtains an interest for application to or as a reserve for payment of any or all of the following with respect to the protection, management, operation or maintenance of the Project Facilities or the protection of the Trustee's interest therein, and in such connection deliver or disburse the same to such entities in such amounts and with such preferences and priorities as the Controlling Person in its sole discretion shall determine, either with or without vouchers or orders executed by the Borrower: (A) all sums due from the Borrower to the Trustee; (B) premiums and costs of title and any other insurance; (C) leasing fees and brokerage or sales commissions; (D) fees, costs and expenses of the Trustee and the Controlling Person and Majority Owner and their respective counsel in connection with the enforcement and performance of this Agreement, the other Bond Documents and the other documents contemplated hereby; (E) any taxes (including federal, state and local taxes) or other governmental charges; (F) any sums required to indemnify and hold the Trustee harmless from any act or omission of the Trustee (except such as are grossly negligent or due to its willful misconduct) under Section 2.5 hereof, or the other Bond Documents; (G) architectural and engineering costs or any sums due to contractors, subcontractors, mechanics or materialmen for work or services actually furnished on or for the Project Facilities; (H) claims of any Governmental Authority for any required withholding of taxes on wages payable or paid by the Borrower; and (I) other costs and expenses which are required to complete, manage or operate the Project Facilities or to protect the Project Facilities from injury or maintain the Trustee's security position before the rights of all others; (3) place additional encumbrances upon the Project Facilities; and (4) employ leasing and sales agents and negotiate and execute leases, sales contracts and financing undertakings in connection with all or any part of the Project Facilities;

(f) Subject to all Legal Requirements, require the Borrower to transfer all security deposits to the Trustee; and

(g) Exercise, or cause to be exercised, any and all such remedies as it may have under this Agreement, the other Bond Documents or at law or in equity.

Notwithstanding anything to the contrary contained in this Section 7.2 so long as no Event of Default exists, other than an Event of Default that is caused solely by the Guarantor (each, a “*Guarantor Default*”), a Guarantor Default shall not be an Event of Default if the Borrower, within thirty (30) days after the date of the Guarantor Default, finds a substitute guarantor acceptable to the Controlling Person in its sole discretion and such substitute guarantor enters into a guaranty agreement acceptable to the Controlling Person in its sole discretion.

Section 7.3 No Waivers; Consents. No waiver of, or consent with respect to, any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed by the Trustee at the written direction of the Controlling Person (or by the Issuer if the same relates to Reserved Rights), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

Section 7.4 No Waiver; Remedies Cumulative. No failure on the part of the Issuer, the Trustee, the Controlling Person or any Bondholder to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; and no single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies available under any other document or at law or in equity.

Section 7.5 Set-Off. Upon the occurrence and during the continuation of an Event of Default hereunder, the Trustee is hereby authorized at any time and from time to time without notice to the Borrower or the General Partner (any such notice being expressly waived by the Borrower and the General Partner) and, to the fullest extent permitted by applicable Legal Requirements, to set off and to apply any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or moneys at any time held (including any amounts in the Accounts except for the Rebate Fund and the Tax and Insurance Escrow Fund) and other indebtedness at any time owing by the Issuer to or for the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement, the Bond Documents or any other agreement or instrument delivered by the Borrower to the Issuer in connection therewith, whether or not the Issuer shall have made any demand hereunder or thereunder and although such obligations may be contingent or unmatured. The rights of the Trustee under this Section 7.5 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that the Trustee may have.

Section 7.6 Issuer and Borrower to Give Notice of Default. The Issuer and the Borrower severally covenant that they will, at the expense of the Borrower, promptly give to the Trustee, the Controlling Person, the Majority Owner and the Tax Credit Investor and to each other written notice of the occurrence of any Event of Default under this Agreement, and any act, event or circumstance which, with the passage of time, or notice, or both, would constitute such an Event

of Default of which they shall have actual knowledge or written notice, but the Issuer shall not be liable for failing to give such notice.

Section 7.7 Cure by Guarantor, Tax Credit Investor and/or Special Limited Partner.

Notwithstanding anything to the contrary contained herein, the Issuer hereby agrees that any timely cure of any default made or tendered by the Guarantor, the Tax Credit Investor and/or the Special Limited Partner shall be deemed to be a cure by the Borrower, and shall be accepted or rejected on the same basis as if made or tendered by the Borrower and the Guarantor, the Tax Credit Investor and/or the Special Limited Partner shall be granted the same cure period, if any, granted to the Borrower; *provided, however*, that neither the Tax Credit Investor nor the Special Limited Partner shall have any obligation or duty to take any action to cure any default or to cause any default to be cured.

Section 7.8 Default Rate; Acceleration Premium. If there shall have occurred an acceleration of the obligations of the Borrower hereunder and under the Bond Note following an Event of Default on or before [_____, 20__], any tender of payment of an amount necessary to satisfy the indebtedness evidenced by this Agreement and the Bond Note shall include the acceleration premium set forth in Section 2.3(c) hereof. In addition, if principal or interest payable hereunder is not paid when due, there shall be payable on the amount not timely paid, interest at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

Section 7.9 Reserved Rights; Regulatory Agreement Defaults.

(a) Notwithstanding anything to the contrary contained herein, the Issuer may enforce its Reserved Rights under the Bond Documents and exercise the permitted remedies with respect thereto against the Borrower, subject to the provisions of subparagraph (c) below.

If there shall have occurred and be then continuing an Event of Default under and as defined in the Regulatory Agreement which would, in the reasonable judgment of the Issuer, the Controlling Person or the Trustee, jeopardize the excludability of interest on the Bonds from gross income for federal tax purposes (a “*Regulatory Agreement Default*”) and such Regulatory Agreement Default remains uncured or unwaived for a period of sixty (60) days after the Borrower, the Controlling Person and the Majority Owner receive written notice from the Trustee or the Issuer stating that a Regulatory Agreement Default has occurred and specifying the nature of such default, then, if authorized by the Bond Documents, the Issuer and the Trustee may, without the consent of the Controlling Person or the Majority Owner, exercise the remedy of pursuing specific performance of the Bond Documents on account of such default, unless:

(i) The Issuer and the Trustee, prior to the end of such sixty (60) day period, are provided with a Favorable Opinion of Bond Counsel (which opinion may be requested and obtained by the Controlling Person or the Majority Owner and obtained at the expense of the Borrower);

(ii) The Controlling Person, the Majority Owner or the Borrower institutes action to cure such Regulatory Agreement Default within such sixty (60) day period and

diligently pursues such action thereafter until such Regulatory Agreement Default is cured;
or

(iii) If such Regulatory Agreement Default is not reasonably curable by the Controlling Person or the Majority Owner without the Trustee's first securing possession of the Project Facilities and/or operational control of the Borrower and the Controlling Person or the Majority Owner (subject to extension during any stay on account of the bankruptcy of the Borrower) (x) instructs the Trustee, subject to the terms of the Indenture, to institute, within such sixty (60) day period, proceedings or other action for the purposes of obtaining such possession or control pursuant to the Bond Documents; (y) thereafter instructs the Trustee, pursuant to the terms of the Indenture, to pursue diligently such proceedings until such possession or control is obtained; and (z) diligently pursues action to cure such default after the Trustee or other designee of the Controlling Person or the Majority Owner obtains possession or control of the Project Facilities, until such default is cured; *provided, however*, that any extension, of the period within which a Regulatory Agreement Default must be cured shall only be effective if and to the extent that a Favorable Opinion Bond Counsel is provided with respect to such extension; and *provided, further*, that the Trustee, upon five (5) Business Days' prior written notice to the Controlling Person and the Majority Owner following any such Regulatory Agreement Default, may reduce the 60-day period provided above to such shorter period of time as is specified in such notice (but in no event less than fifteen (15) Business Days), but only if there shall have been provided a Favorable Opinion of Bond Counsel with respect to such reduction of such period, and provided that such reduction is necessary to preserve the excludability of interest on the Bonds from gross income for federal income tax purposes.

(b) In the event of a default in respect of Reserved Rights or a Regulatory Agreement Default which remains uncured after written notice thereof to the Borrower, the Controlling Person and the Majority Owner, nothing in this Section 7.9 shall restrict or in any way limit the right of the Issuer or the Trustee to take any action for specific performance available under the Regulatory Agreement or at law or in equity in order to enforce the terms of the Regulatory Agreement or to enforce Reserved Rights hereunder, so long as the Trustee has not taken, or been directed by the Controlling Person to take any action (i) to declare the outstanding balance of the Bonds or the Loan to be due on account of such default, (ii) to have a receiver appointed in respect of the Project Facilities, (iii) to foreclose any liens upon or security interests or to enforce any other similar remedy against any of the property described in the Mortgage, or (iv) to enforce any other similar remedy which would cause such liens or security interests to be discharged or materially impaired thereby.

ARTICLE VIII

DEPOSITS TO AND DISBURSEMENTS FROM FUNDS

Section 8.1 Deposits to and Disbursements from the Replacement Reserve Fund.
Pursuant to the Replacement Reserve Agreement, the Borrower shall pay or cause to be paid to the Trustee, for deposit into the Replacement Reserve Fund established by the Indenture, the amounts described in the Replacement Reserve Agreement. The sums contained in the

Replacement Reserve Fund from time to time, shall be maintained, disbursed, and applied as provided in the Replacement Reserve Agreement and pursuant to Section 4.5(d) of the Indenture.

Section 8.2 Deposits to Tax and Insurance Escrow Fund.

(a) Contemporaneously with the Stabilization Date, the Borrower shall pay, or cause to be paid, to the Trustee, to be deposited in the Tax and Insurance Escrow Fund, an amount which, when added to an amount equal to the sum of:

(i) the product of the Impositions component of the Monthly Tax and Insurance Amount for the Project Facilities and the number of months from and including the Stabilization Date, until and including the month in which occurs the date that the Impositions on the Project Facilities are due and payable before penalty; and

(ii) the product of the insurance component of the Monthly Tax and Insurance Amount and the number of months from and including the Stabilization Date, until and including the month in which occurs the date that the annual insurance premiums for the insurance on the Project Facilities required hereunder are due and payable, will be sufficient to pay in full the Impositions and insurance premiums for the Project Facilities when the same become due and payable before penalty.

(b) Thereafter, on the first (1st) Business Day of each month following the Stabilization Date, the Borrower shall pay, or cause to be paid, to the Trustee an amount equal to the Monthly Tax and Insurance Amount for the Project Facilities to be deposited in the Tax and Insurance Escrow Fund.

Section 8.3 Reserved.

Section 8.4 Deposits to Redemption Fund. On the first (1st) Business Day of each month commencing on [_____, 20__] until the date on which the Bonds are no longer Outstanding or have been defeased, the Borrower shall pay to the Trustee the monthly amount shown on Schedule 3 attached hereto for deposit into the Redemption Fund pursuant to Section 4.5(a) of the Indenture. Following any partial redemption of Bonds (other than pursuant to Section 2.12(c) of the Indenture), the Controlling Person shall adjust the monthly amount due pursuant to this provision to account for any partial redemption of the Bonds in the manner set forth in Section 2.12(e) of the Indenture and shall provide the Borrower and the Trustee with the revised Schedule 3. The Borrower shall also pay to the Trustee for deposit in the Redemption Fund all amounts required to redeem the Bonds pursuant to Section 2.12(b)(vi) of the Indenture on or before the Interest Payment Date specified in the notice of the Controlling Person as provided in Section 2.12(b)(vi) of the Indenture. The Borrower shall also pay to the Trustee for deposit in the Redemption Fund all other amounts required to redeem Bonds pursuant to Section 2.12 of the Indenture, as provided therein.

Section 8.5 Deposits to Operating Reserve Fund.

(a) In connection with the Project Facilities achieving Stabilization, the Borrower shall pay or cause to be paid to the Trustee, to be deposited in the Operating Reserve Fund, the sum of \$[_____] pursuant to Section 4.1 of the Indenture. Following any disbursement, payment or

transfer of moneys from the Operating Reserve Fund, the Borrower shall replenish the Operating Reserve Fund monthly, from and to the extent of revenue from the operation of the Project Facilities available after payment of Expenses, Capital Expenditures and amounts then due and owing under the Bond Documents, and prior to the payment of any distributions to the Borrower's partners, until such time as the balance on deposit in the Operating Reserve Fund equals \$[_____]. Amounts on deposit in the Operating Reserve Fund shall be applied as set forth in Section 4.5(e) of the Indenture

(b) In lieu of the deposit of funds by the Borrower in the Operating Reserve Fund as described in Section 8.5(a) above, *provided* that no Default of Event of Default shall have occurred and is continuing, the Borrower may deliver an Operating Reserve Letter of Credit meeting the requirements of Section 4.5(e)(i) of the Indenture. The Operating Reserve Letter of Credit, under the circumstances described below, must provide that the Trustee may draw upon the Operating Reserve Letter of Credit as provided for in 4.5(e)(iii) of the Indenture and must otherwise be acceptable to the Controlling Person in its sole discretion.

(c) Following any draw on the Operating Reserve Letter of Credit, the Trustee shall deposit the proceeds of such draw into the Operating Reserve Fund and the requirements of Section 8.5(a) shall become applicable in all respects to the Operating Reserve Fund.

Section 8.6 Reserved.

Section 8.7 Investment. Funds in the Accounts shall be invested in Permitted Investments upon the written direction of the Borrower with the written consent of the Controlling Person (which consent shall not be unreasonably withheld, conditioned or delayed), as set forth in Section 4.7 of the Indenture. Earnings on the Accounts hereunder shall be held or disbursed as set forth in Article IV of the Indenture. The Trustee shall have the right to invest or withdraw any deposited funds or to direct the liquidation of any investments held in order to pay the amounts required under the Indenture. The Trustee shall not be liable for any loss sustained as a result of any liquidation of any collateral prior to its maturity. Any income or gain realized on such investments shall be credited to and become part of the respective Account and reinvested and applied as provided in the Indenture. *Provided* that no Default or Event of Default exists, the Borrower from time to time may request the Controlling Person to consent to the disbursement to or upon the order of the Borrower of the investment income previously credited to the Accounts, which consent by the Controlling Person shall not be unreasonably withheld or delayed.

Section 8.8 Security Interest in Accounts. The Borrower hereby assigns and pledges to the Issuer, and grants the Issuer a security interest in, as additional collateral security for the Borrower's obligations to the Issuer hereunder (and the Borrower acknowledges and agrees that the Issuer shall have a continuing security interest in) all of the Borrower's right, title and interest, if any, in all Accounts, all cash, cash equivalents, instruments, investments and other securities at any time held in the Accounts, all proceeds of the foregoing, and all of the Borrower's rights associated with such Accounts, if any. The Issuer hereby directs the Trustee to hold all moneys in the Accounts from time to time as assignee of the Issuer as provided in the Indenture.

Section 8.9 Reports. The Trustee shall provide to the Borrower and the Issuer detailed monthly reports on or before the fifth (5th) day of the month following the month to which such

report relates showing receipts, disbursements, balances and investments of each Account. Within ten (10) days of a written request of the Borrower to such effect, the Trustee shall deliver to the Borrower an accounting of receipts, disbursements and balances in one or more of the Accounts as necessary and appropriate to assist the Borrower in complying with its covenants to calculate and pay any rebate amount or yield reduction payments due and owing to the United States of America with respect to the Bonds.

Section 8.10 No Liability of Trustee. In performing any of its duties hereunder, the Trustee shall not incur any liability to anyone for any damages, losses or expenses, except for its gross negligence or willful misconduct; and the Trustee shall not incur any liability with respect to any action taken or omitted in good faith in the performance of its duties and responsibilities under this Agreement. Any provisions governing the rights, immunities and protections of the Trustee under the Indenture are incorporated by reference into this Agreement as being applied to this Agreement as though fully set forth herein.

ARTICLE IX

CONSTRUCTION AND FUNDING OF ADVANCES

Section 9.1 Construction of Project Facilities; Final Completion. The Borrower shall commence performance of the Work in respect of the Improvements no later than forty-five (45) days following the receipt of necessary permits, and shall achieve Final Completion of such Work substantially in accordance with the Plans and Specifications on or before the Completion Date (subject to delays caused by Force Majeure); *provided, however*, that the Completion Date may be extended as set forth in the definition of "Completion Date" contained in the Indenture; and *provided, further*, that, while the items needed for Final Completion (as set forth in the definition thereof contained in the Indenture) must occur prior to the Completion Date, the Borrower shall have a period of not more than sixty (60) days following Final Completion to submit to the Controlling Person the completion certificate and use of proceeds certificate in the forms set forth on Schedules 8 and 9 hereto and the necessary supporting documentation evidencing the achievement of Final Completion before an Event of Default shall occur as a result of failure to achieve Final Completion.

Section 9.2 Making the Advances.

(a) At such time as the Borrower desires to obtain an Advance from the Project Fund, an Authorized Person shall complete, execute and deliver a Requisition to the Controlling Person for its approval; no Requisition shall be delivered to the Trustee until it has been approved by the Controlling Person, and each Advance by the Trustee of the amounts in the Project Fund shall be subject to the prior approval of the Requisition by the Controlling Person (such approval not to be unreasonably delayed, withheld, or conditioned). The Controlling Person shall endeavor to approve or object to any Requisition within ten (10) Business Days of its submission and the submission of all additional information required in connection with such Requisition and shall endeavor to provide specific information concerning the nature of any objection it may have.

(b) Each Requisition shall be submitted to the Controlling Person at least fifteen (15) Business Days prior to the date of the requested advance, and no more frequently than once each

month (excluding the month in which the initial advance is requested). The Borrower shall open and maintain a checking account with a financial institution reasonably satisfactory to the Controlling Person. Except as otherwise provided for herein, the Controlling Person shall direct the Trustee to deposit the proceeds of each Requisition into such account, or, at the Borrower's election, direct the Trustee to deposit the proceeds of each Requisition with the Title Company to be further disbursed by the Title Company as provided for in the Requisition.

Section 9.3 Advances to Contractors; to Others. At its option during the existence of any Default or Event of Default, the Controlling Person may direct the Trustee to make any or all advances: (a) for costs incurred under any construction contract directly to a contractor, subcontractor or vendor, (b) through the Title Company, or (c) to any Person to whom the Controlling Person in good faith determines payment is due. To the extent the Controlling Person elects any of the foregoing options, the Controlling Person shall obtain invoices, and where applicable, lien waivers from any person to whom proceeds of the Loan are disbursed, to the same extent as would otherwise be required of the Borrower hereunder.

Section 9.4 Requisition. Each Requisition shall be in the form set forth on Exhibit B hereto, shall be signed on behalf of the Borrower by an Authorized Person, shall be subject to approval by the Controlling Person (such approval not to be unreasonably delayed, withheld, or conditioned) prior to payment and shall state with respect to each disbursement to be made: (a) the number of the Requisition; (b) the amount to be disbursed; (c) that each obligation therein for which such disbursement is being requested has been properly incurred and has not been the basis for any previous disbursement; and (d) that the expenditure of such disbursement attributable to the Bonds, when added to all previous disbursements, of proceeds of the Bonds, will result in (i) not less than ninety-five percent (95%) of all disbursements of the proceeds of the Bonds having been used to pay or reimburse the Borrower for Qualified Project Costs and (ii) one hundred percent (100%) of all disbursements have been used to pay or reimburse the Borrower for Project Costs. In lieu of a Requisition in the form set forth on Exhibit B, the Borrower and Issuer agree that the first Requisition shall be in the form of the Closing Memo.

Section 9.5 Project Costs. The Development Budget reflects the purposes and the amounts for which funds to be advanced by the Trustee from the Project Fund are to be used. Subject to Section 9.7 hereof, the Controlling Person shall not be required to approve any Requisition requiring disbursement of funds from the Project Fund for any item of Work in an amount exceeding the amount specified for any item in the Development Budget. Subject to Section 9.7 hereof, and except as otherwise provided for herein, in no event shall the Controlling Person have any obligation to approve any Advance in an amount exceeding (a) the total cost (as determined by the Controlling Person) of the labor, materials, fixtures, machinery and equipment completed, approved and incorporated into the Project Facilities prior to the date of such Requisition, less (b) Retainage (if required) less (c) the total amount of any Advances previously made by the Trustee from the Project Fund for such costs.

Section 9.6 Retainage. The Controlling Person shall approve disbursement of Retainage upon completion of the Work or category of Work by the contractor or subcontractor under the contract for which the Retainage was held. No advance of funds from the Project Fund shall be approved unless all Work done at the date the Requisition for such Advance is submitted

is done in a good and workmanlike manner and without defects, as confirmed by the report of the Engineering Consultant.

Section 9.7 Contingency Reserve. The amount allocated to “contingency” in the Development Budget is not intended to be disbursed without, and will only be disbursed upon, the prior approval of the Controlling Person (such approval not to be unreasonably delayed, withheld, or conditioned); *provided, however*, that an amount not to exceed \$100,000 per draw request, and \$500,000 in the aggregate may be disbursed without the prior approval of the Controlling Person as long as (1) the normal requisition process is followed with respect to the other criteria for disbursement, and (2) such use of amounts allocated to “contingency” will not result in a material deviation from the Plans and Specifications. Approval of a draw request submitted by the Borrower shall constitute approval of any request for use of any portion of the contingency reflected in such draw request and subject to the foregoing limitations. The disbursement of a portion of the contingency reserve shall in no way prejudice the Controlling Person from directing the Trustee to withhold disbursement of any further portion of the contingency reserve.

Section 9.8 Stored Materials. The Controlling Person shall approve Requisitions for funds for materials, furnishings, fixtures, machinery or equipment not yet incorporated into the Improvements, *provided* that any such disbursement shall be subject to and shall be contingent upon the Controlling Person’s receiving satisfactory evidence that:

- (a) such materials are components in a form ready for incorporation into the Improvements and shall be so incorporated within a period of nine (9) months; and
- (b) such materials are insured and stored at the Project Facilities, or at such other site as the Controlling Person shall reasonably approve, and are protected against theft and damage.

Section 9.9 Cost Overruns and Savings.

(a) If the Borrower becomes aware of any change in the costs of the Work which will increase or decrease the projection of the costs of a line item reflected on the Development Budget by \$50,000 or more, or the Development Budget in the aggregate by \$100,000 or more, the Borrower shall immediately notify the Controlling Person in writing and promptly submit to the Controlling Person for its approval a revised Development Budget. Approval by the Controlling Person of any revised Development Budget shall constitute approval of the Controlling Person of any such change in any line item reflected in the Development Budget requiring such approval. If the Controlling Person otherwise becomes aware of any such change in costs of the Work, the Controlling Person shall have the right to prepare and to authorize disbursements on the basis of a revised Development Budget.

(b) If the revised Development Budget indicates an increase in costs of the Work for the Project Facilities (in excess of the aggregate contingency amount and savings), no further Requisitions for the Work at the Project Facilities need be approved by the Controlling Person unless and until the Borrower has deposited with the Trustee any required funds necessary to cause the amount remaining on deposit in the Project Fund and any Required Equity Funds yet to be deposited with the Trustee to be sufficient to complete fully the construction of the Improvements

in accordance with the Plans and Specifications to the extent applicable, and to pay all other projected costs in connection with the Work.

(c) If the revised schedule indicates a decrease in costs of the Work for the Project Facilities, no savings may be reallocated by the Borrower unless and until the Borrower has furnished the Controlling Person and the Engineering Consultant with evidence satisfactory to them that the labor performed and materials supplied in connection with such line item of costs have been satisfactorily completed and paid for in full. At such time, such savings may be reallocated by the Borrower to other line items and may be used for the Project Costs with the written consent of the Controlling Person, which will not be unreasonably withheld, conditioned or delayed.

(d) The Issuer does not make any warranty, either express or implied, that the moneys paid into the Project Fund and available for payment of the Project Costs will be sufficient to pay all of the Project Costs. The Borrower agrees that if after exhaustion of the moneys in the Project Fund, the Borrower should pay any portion of the Project Costs as required herein, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, nor shall the Borrower be entitled to any diminution of the amounts payable under this Agreement or under the Bond Note.

Section 9.10 Right to Retain the Engineering Consultant.

(a) The Trustee shall have the right to retain, at the direction of the Controlling Person and at the Borrower's cost and expense (except as otherwise provided herein), the Engineering Consultant to perform various services on behalf of the Controlling Person, including, without limitation, to make periodic inspections for the purpose of ensuring that construction of the Improvements to date is substantially in accordance with the Plans and Specifications, to advise the Controlling Person of the anticipated cost of and time for completion of construction of the Improvements and to review all construction contracts and subcontracts.

(b) The fees of the Engineering Consultant during the performance of the construction shall be paid by the Borrower in accordance with Section 2.2(b) hereof.

(c) Neither the Trustee, the Controlling Person nor the Engineering Consultant shall have any liability to the Borrower on account of (i) the services performed by the Engineering Consultant, (ii) any neglect or failure on the part of the Engineering Consultant to properly perform its services (except for any gross negligence or willful misconduct, for which the Consulting Engineer may have liability to the Borrower), or (iii) any approval by the Engineering Consultant of construction of the Improvements. Neither the Trustee, the Controlling Person nor the Engineering Consultant assumes any obligation to the Borrower, the General Partner or any other Person concerning the quality of the Work performed or the absence of defects from the Improvements.

Section 9.11 Inspections. The Borrower agrees to provide and cause to be provided to the Controlling Person and its authorized agents, at all times, facilities commonly made available by responsible general contractors for the inspection of the Improvements, and to afford full and free access to the Controlling Person and its authorized agents to all plans, drawings and records with respect to the construction of the Improvements. The Borrower further agrees to promptly

send to the Controlling Person a copy of all construction inspection reports made by the Borrower's Architect or engineer, if any.

Section 9.12 Initial Advance. The right of the Borrower to draw the initial Advance on the Issue Date shall be subject to the satisfaction of the following conditions precedent (which shall be deemed satisfied upon the Trustee making the initial Advance on the Issue Date):

- (a) The Borrower shall have delivered the items listed on Schedule 7 attached hereto;
- (b) The Borrower shall have delivered evidence as to the status, which shall be reasonably satisfactory to the Controlling Person, obtaining of all approvals, permits (or approved will-issue letter) and licenses which are then required, if any, or necessary for the commencement of the construction of the Improvements at the Project Facilities, together with copies of all such approvals, permits (or approved will-issue letters) and licenses or evidence that no such permits or licenses are required;
- (c) The Borrower shall have delivered copies of the Borrower's contracts with the Architect and the Contractor, duly executed by the parties thereto, and to the extent applicable, a list of all subcontractors and materialmen who have been or, to the extent identified by the Borrower, will be, supplying labor or materials for the construction of the Project Facilities in an amount in excess of \$2,000,000;
- (d) The Borrower shall have delivered to the Controlling Person an electronic copy of a complete set of the Plans and Specifications, together with evidence of their approval by all Governmental Authorities having jurisdiction;
- (e) The Borrower shall have delivered a contractor guaranty in respect of the Construction Contract;
- (f) The Controlling Person shall have received a report or written confirmation from the Engineering Consultant that (i) the Engineering Consultant has reviewed the Plans and Specifications identified on Schedule 5, (ii) the Construction Contract satisfactorily provides for the construction of the Project Facilities, and (iii) in the opinion of the Engineering Consultant construction of the Project Facilities can be completed on or before the Completion Date for an amount not greater than the amount allocated for such purpose on the Development Budget;
- (g) The Borrower shall have delivered to the Controlling Person evidence as to:
 - (i) the methods of access to and egress from the Project Facilities, and nearby or adjoining public ways, meeting the reasonable requirements of the Project Facilities and the status of completion of any required improvements to such access;
 - (ii) the availability of water supply and storm and sanitary sewer facilities meeting the reasonable requirements of the Project Facilities;
 - (iii) the availability of all other required utilities, in location and capacity sufficient to meet the reasonable needs of the Project Facilities; and

(iv) the obtaining of all Governmental Actions which are required, necessary or desirable for the commencement of construction of the Improvements and the access thereto, together with copies of all such Governmental Actions as listed on Schedule 6;

(h) The first installment of the Borrower's Required Equity Funds, the proceeds of the Bonds and the first installment of the proceeds of the Notes shall have been delivered to the Trustee and the other deposits required under Section 4.1(c) of the Indenture shall have been made; and

(i) The Controlling Person, the Borrower and the Trustee shall have executed a closing statement for the Bonds in form and substance satisfactory to the Controlling Person and, if any portion of the initial Advance shall be for hard costs of construction, a completed Requisition executed by the Borrower and the Controlling Person as described in Section 9.13(d)(i) hereof and the Engineering Consultant approval described in Section 9.13(d)(iii) hereof.

Section 9.13 Subsequent Advances. The right of the Borrower to draw any subsequent Advances from the Project Fund shall be subject to the satisfaction of the following conditions:

(a) The Borrower shall have delivered the items listed on Part B of Schedule 7 attached hereto.

(b) If the Improvements shall have been materially injured or damaged by fire, explosion, accident, flood or other casualty, such Improvements are able to be and are diligently being restored in accordance with the terms of the Mortgage;

(c) There shall not be a continuing Default or Event of Default;

(d) The Controlling Person and the Trustee shall have received:

(i) a completed Requisition in the form set forth on Exhibit B hereto, accompanied by the certificates, applications, invoices and other materials required thereby;

(ii) a "date down" endorsement to the Title Policy indicating no change in the state of title not approved by the Controlling Person; and

(iii) approval of the portion of the Requisition applicable to the Work for such Advance by the Engineering Consultant, accompanied by a certificate or report from the Engineering Consultant to the effect that in its opinion, based on site observations and submissions by the Contractor, the Work for which the advance is requested to the date thereof was performed in a good and workmanlike manner and stating that the remaining non-disbursed portion of the Bond proceeds and other available funds and funds projected to be deposited in the Project Fund established under the Indenture is adequate to complete construction of the Improvements in substantial accordance with the Plans and Specifications.

(e) Notwithstanding anything to the contrary set forth in this Agreement, no sums shall be disbursed until the Borrower has delivered a conditional waiver or release of liens from all contractors, subcontractors, materialmen or others who may be entitled to a lien, as permitted by

law for the work for which payment is requested (or the same are bonded and being contested in accordance with the terms of the Bond Documents).

(f) The Controlling Person may withhold or refuse to approve any Requisition hereunder if any mechanic's lien is filed or notice of intention to record or file a mechanic's lien has been filed or given, and the same is not bonded and being contested in accordance with the terms of the Bond Documents.

(g) In addition to the conditions set forth in this Section 9.13, the Controlling Person's obligation to approve any Requisition for Retainage shall be subject to receipt by the Controlling Person of the Engineering Consultant's certification of completion as to the Work performed under any contract or subcontract for which the Retainage will be disbursed.

(h) Reserved.

(i) All installments of Required Equity Funds then due and payable pursuant and subject to the terms of the Partnership Agreement shall have been deposited with the Trustee.

(j) If at any time during the construction of the Project Facilities, the Controlling Person shall in its sole, but reasonable, discretion determine that the remaining undisbursed portion of the Project Fund, any other sums previously deposited by Borrower with the Trustee, and any Required Equity Funds yet to be deposited with the Trustee prior to or upon Final Completion (other than Required Equity Funds which have not been deposited due to a default by the Borrower under the applicable provisions of the Partnership Agreement), is or will be insufficient to complete fully the construction of the Improvements in accordance with the Scope of Work, and to pay all other projected costs in connection with the Work, the Borrower will, within seven (7) days after written notice of such determination from the Controlling Person deposit with the Trustee (for deposit into the Equity Account of the Project Fund) such sums of money in cash as the Controlling Person may reasonably require, in an amount sufficient to remedy the condition described in such notice, and sufficient to pay any liens for labor and materials alleged to be due and payable at the time in connection with the Improvements (to the extent not already bonded over or reserved for), and, at the Controlling Person's option, the Controlling Person shall not be obligated to authorize any further Advances of the amounts held in the Project Fund by Trustee until the provisions of this Section 9.13(j) have been fully complied with.

(k) No Material Change Order shall have been made without the written approval of the Controlling Person, such approval not to be unreasonably delayed, withheld, or conditioned.

(l) Within five (5) days after receiving notice from the Controlling Person (or the Engineering Consultant), unless the Borrower reasonably objects in good faith to such removal, the Borrower will commence or cause to be commenced the removal of all materials, whether worked or unworked, and all portions of the construction which the Controlling Person (or the Engineering Consultant) may identify as failing in a substantial way to conform with the Plans and Specifications, and will prosecute diligently or cause to be prosecuted diligently such removal. The Borrower further agrees to make good all portions of the construction and other materials damaged by such removal.

Section 9.14 Effect of Approval. Approval of any Requisition by the Controlling Person shall not constitute an approval or acceptance of the Work or materials, nor shall such approval give rise to any liability or responsibility relating to: (i) the quality of the work, the quantity of the work, the rate of progress in completion of the Work, or the sufficiency of materials or labor being supplied in connection therewith; and (ii) any errors, omissions, inconsistencies or other defects of any nature in the Plans and Specifications. Any inspection of the work that the Controlling Person may choose to make, whether through any consulting engineer or architect, agent or employee or officer, during the progress of the work shall be solely for the Controlling Person's information and under no circumstances will they be deemed to have been made for the purpose of supervising or superintending the Work, or for the information or protection of any right or interest of any person or entity other than the Controlling Person and the Majority Owner.

ARTICLE X

MISCELLANEOUS

Section 10.1 Notices. All notices and other communications provided for hereunder shall be in writing and sent by electronic mail (with the original delivered via overnight mail) and by reputable overnight mail service or private delivery service addressed as follows:

| | |
|------------------|---|
| To the Borrower: | Roers Wylie Apartments Owner I Limited Partnership c/o Roers Companies Two Carlson Parkway #400 Plymouth, Minnesota 55447 Attention: Brian Roers, Ross Stiteley, and Logan Schmidt Email: brian@roerscompanies.com ross@roerscompanies.com and logan.schmidt@roerscompanies.com Telephone: 952-210-7460 |
| With a copy to: | Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, Minnesota 55402 Attention: Joe Phelps Email: jphelps@winthrop.com Telephone: 612-604-6755 |
| To the Issuer: | Collin County Housing Finance Corporation 2300 Bloomdale Road; Suite 4192 McKinney, Texas 75071 Attention: Bill Bilyeu Email: bbilyeu@collincountytx.gov |
| With a copy to: | Bracewell LLP 1445 Ross Avenue, Suite 3800 |

Dallas, Texas 75202
Attention: George Rodriguez
Email: george.rodriguez@bracewell.com
Telephone: 214-758-1069

To the Trustee: Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Annmarie Warren
Email: awaren@wilmingtontrust.com
Telephone: 612-217-5669

To the Majority Owner: At the address provided to the Trustee
in writing by the Majority Owner

To the Controlling Person: Red Stone Servicer, LLC
666 Old Country Road, Suite 603
Garden City, New York 11530
Attention: Kiki Mastorakis
Telephone: 516-750-2243
Email: kmastorakis@redstoneco.com

With a copy to Greenberg Traurig, LLP
1717 Arch Street, Suite 400
Philadelphia, Pennsylvania 19103
Attention: Dianne Coady Fisher, Esquire
Email: fisherd@gtlaw.com

If to Tax Credit Investor: WNC Holding, LLC
c/o WNC & Associates, Inc.
17782 Sky Park Circle
Irvine, CA 92614-6404
Attention: Melanie Wenk
Email: mwenk@wncinc.com

With a copy to: Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, Massachusetts 02116
Attention: Jonathan I. Sirois, Esq.
Email: Jonathan.sirois@hkllaw.com

The above parties may change the address to which notices to it are to be sent by written notice given to the other persons listed in this Section 10.1. All notices shall, when sent as aforesaid, be effective when received.

Section 10.2 Successors and Assigns; Third Party Beneficiaries. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, including, without limitation, the Trustee. The Controlling Person and the Majority Owner are express third party beneficiaries of this Agreement and the rights of the Trustee (as assignee of the Issuer) hereunder, with full rights of enforcement thereof. The Borrower may not assign its interests in or its rights, duties or obligations under this Agreement without the prior written consent of the Controlling Person. The Borrower and the Issuer intend that no Person other than the parties hereto, the Trustee, the Majority Owner, the Controlling Person, and their respective successors and assigns as permitted hereunder, shall have any claim or interest under this Agreement or right of action hereon or hereunder.

Section 10.3 Survival of Covenants. All covenants made by the Borrower herein and in any document delivered pursuant hereto shall survive the issuance, sale and delivery of the Bonds, the delivery of this Agreement and the payment of any amounts under the Bond Documents.

Section 10.4 Counterparts; Electronic Signature. The execution hereof by each party hereto shall constitute a contract between them for the uses and purposes herein set forth, and this Agreement may be executed in any number of counterparts, with each executed counterpart constituting an original and all counterparts together constituting one agreement. To the fullest extent permitted by applicable law, facsimile or electronically transmitted signatures shall be treated as original signatures for all purposes hereunder.

Section 10.5 Costs, Expenses and Taxes. The Borrower agrees to pay (i) on the Issue Date all reasonable costs and expenses of the Issuer, the Trustee, the Controlling Person and the Majority Owner (with respect to the legal fees of the Controlling Person, the initial Bondholder and Majority Owner, in an amount not to exceed \$[____]) in connection with the preparation, execution and delivery of this Agreement, the other Bond Documents and any other documents that may be delivered by the Borrower or on behalf of the Borrower in connection with this Agreement and the other Bond Documents, and (ii) thereafter within thirty (30) days after demand, all reasonable costs and expenses of the Issuer, the Trustee, the Controlling Person and the Majority Owner in connection with the administration of this Agreement, the other Bond Documents and any other documents that may be delivered by Borrower or on behalf of Borrower in connection with this Agreement or the other Bond Documents or any amendments or supplements thereto, including, without limitation, the fees and expenses of the Engineering Consultant, the cost of an annual appraisal (but only upon the occurrence and during the continuation of an Event of Default) of the Project Facilities by an appraiser selected by the Controlling Person, and the reasonable fees and expenses of counsel for the Majority Owner and the Controlling Person with respect thereto and with respect to advising the Majority Owner and the Controlling Person as to their respective rights and responsibilities under this Agreement, the other Bond Documents and such other documents, and all costs and expenses, if any, (including, without limitation, reasonable counsel fees and expenses of the Controlling Person and the Majority Owner) in connection with the enforcement of this Agreement, the other Bond Documents and such other documents.

Section 10.6 Severability; Interest Limitation. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction, it shall be ineffective as to such jurisdiction only to the extent of such prohibition or unenforceability, and

such prohibition or unenforceability shall not invalidate the balance of such provision as to such jurisdiction to the extent it is not prohibited or unenforceable, nor invalidate such provision in any other jurisdiction, nor invalidate the other provisions hereof. Notwithstanding anything to the contrary herein contained, the total liability of the Borrower for payment of interest pursuant hereto shall not exceed the maximum amount, if any, of such interest permitted by applicable Legal Requirements to be contracted for, charged or received, and if any payments by the Borrower to the Trustee include interest in excess of such a maximum amount, the Trustee shall apply such excess to the reduction of the unpaid principal amount due pursuant hereto, or if none is due, such excess shall be refunded to the Borrower; *provided* that, to the extent permitted by applicable Legal Requirements, if the interest is not collected, is applied to principal or is refunded pursuant to this sentence and interest thereafter payable pursuant hereto shall be less than such maximum amount, then such interest thereafter so payable shall be increased up to such maximum amount to the extent necessary to recover the amount of interest, if any, theretofore uncollected, applied to principal or refunded pursuant to this sentence. Any such application or refund shall not cure or waive any Event of Default. In determining whether or not any interest payable under this Agreement exceeds the highest rate permitted by applicable Legal Requirements, any non-principal payment (except payments specifically stated in this Agreement to be “interest”) shall be deemed, to the extent permitted by applicable Legal Requirements, to be an expense, fee, premium or penalty rather than interest.

Section 10.7 Conflicts. Insofar as possible the provisions of this Agreement shall be deemed complementary to the terms of the other Bond Documents, but in the event of conflict the terms hereof shall control to the extent such are enforceable under applicable Legal Requirements.

Section 10.8 Complete Agreement. Taken together with the other Bond Documents and the other instruments and documents delivered in compliance herewith, this Agreement is a complete memorandum of the agreement of the Borrower, the General Partner, the Guarantor, the Controlling Person, the Trustee, the Issuer and the Holders from time to time of the Bonds, with respect to the subject matter hereof.

Section 10.9 Consent to Jurisdiction; Venue; Waiver of Jury Trial. The parties hereby irrevocably (i) agree that any suit, action or other legal proceeding arising out of or relating to this Agreement or the other Bond Documents may be brought in any federal court located in Sponsoring Political Subdivision, and consents to the jurisdiction of such court in any such suit, action or proceeding; (ii) agree that any suit, action or other legal proceeding relating to the Bond Documents shall be brought solely in a federal or state court located in the Sponsoring Political Subdivision, and (iii) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The parties agree 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 applicable legal requirements. Nothing in this Section 10.9 shall affect the right of the Controlling Person and the Majority Owner to serve legal process in any other manner permitted by applicable Legal Requirements.

Section 10.10 Governing Law. This Agreement shall be governed by, and construed in accordance with, the Legal Requirements of the State without reference to its principles of conflicts of law.

Section 10.11 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 10.12 Sale of Bonds and Secondary Market Transaction.

(a) At the Controlling Person's or Majority Owner's request (to the extent not already required to be provided by the Borrower under this Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Controlling Person or Majority Owner customarily adheres or which may be reasonably required in the marketplace or by the Controlling Person or Majority Owner in connection with one or more sales or assignments of all or a portion of the Bonds 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 Bonds (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); *provided* that neither the Borrower nor the Issuer shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs including, without limitation, any costs associated with receiving a rating on the Bonds, shall be paid by the Controlling Person or Majority Owner, and shall not materially modify Borrower's rights or obligations under this Agreement and the other Bond Documents. Without limiting the generality of the foregoing, the Borrower and the Issuer, as applicable, shall, upon reasonably specific request by the Controlling Person, to the extent in Borrower's and Issuer's possession or within their respective control, and so long as the Loan is still outstanding:

(i) (1) provide financial and other information with respect to the Bonds, and with respect to the Project Facilities, the Borrower, the General Partner, the Manager, or the contractor of the Project Facilities, (2) provide financial statements, audited, if available, relating to the Project Facilities with customary disclaimers for any forward looking statements or lack of audit, and (3) at the expense of the Controlling Person or Majority Owner, 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, termite and other insect infestation reports and other due diligence investigations of the Project Facilities, as may be reasonably requested from time to time by the Controlling Person or Majority Owner 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 Controlling Person or Majority Owner pursuant to this paragraph (i) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Controlling Person or Majority Owner and the Rating Agencies;

(ii) make such reasonable representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project Facilities, the Borrower and the Bond Documents reasonably acceptable to the Controlling Person or Majority Owner, consistent with the facts covered by such representations and warranties as they exist on the date thereof, including a "bring down" of the representations and warranties

contained in the Bond Documents as of the date thereof and a representation that no Default or Event of Default has occurred and is continuing; and

(iii) execute such amendments to the Bond Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect any economic terms of the Bond Documents and is not otherwise adverse to such party in its reasonable discretion.

(b) 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. If the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 10.12(c) hereof, at the sole cost of the Controlling Person, with the Controlling Person and Majority Owner 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 Facilities 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.

(c) 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 Controlling Person or the Majority Owner pertaining to the Borrower, the Project Facilities or such third party (and portions of any other sections reasonably requested by the Controlling Person or the Majority Owner pertaining to the Borrower, the Project Facilities or the third party). The Borrower shall, if requested by the Controlling Person or the Majority Owner, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project Facilities or the third party, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project Facilities or the third party) 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 third parties. Furthermore, the Borrower hereby indemnifies the Majority Owner, the Controlling Person, the Trustee, the Issuer and their respective affiliates, officers, directors, partners, members, agents, attorneys, and controlling persons and the underwriter group for any securities (collectively, the “*Securities Group*”) and their respective affiliates, officers, directors, partners, members, agents, attorneys and controlling persons for any actual out of pocket damages suffered as a result of the use of the Provided Information (excluding Provided Information obtained from a third party and not provided to such third party by the Borrower) in a Secondary Market Disclosure Document.

(d) In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) defend and indemnify the Controlling Person, the Majority Owner, the Trustee, the Issuer, its members, and the Securities Group for any actual out of pocket damages suffered by the Majority Owner, the Controlling Person, the Issuer, the Trustee or the Securities Group may become subject insofar as such damages arise out of or are based upon the willful 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 Controlling Person, the Majority Owner, the Trustee, the Securities Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Controlling Person, the Majority Owner, the Trustee or the Securities 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. Borrower shall also have no liability under Section 10.12 for any misuse or misrepresentation made by the Securities Group with respect to the Provided Information.

(e) Promptly after receipt by an indemnified party under this Section 10.12 of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower in accordance with the terms of this Agreement, 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. If any action is brought against any indemnified party for which the Borrower is to provide indemnification pursuant to the terms of this Section 10.12, 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 reasonable discretion. After notice from the Borrower to such indemnified party under this Section 10.12 and provided that the Borrower duly provides the defense and indemnity herein described, including payment of all reasonable fees, expenses and liabilities, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof. 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.

(f) In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in this Section 10.12 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 this Section 10.12, 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 11(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.

Section 10.13 Nonrecourse; Recourse Exceptions.

(a) Notwithstanding anything to the contrary contained in this Agreement (other than Sections 10.13(b) through (e) hereof) or the other Bond Documents, the Issuer agrees that, in connection with the exercise of any rights or remedies available to the Issuer under this Agreement or any of the other Bond Documents (other than the Environmental Indemnity and the other guaranty agreements of the Guarantors), the Issuer shall look solely to the enforcement of the lien and security interests created by this Agreement and the other Bond Documents and to the collateral and other security held by the Trustee and all assets of the Borrower.

(b) Notwithstanding the preceding subsection, the Borrower and the Guarantor shall have full recourse and personal liability for, and be subject to, judgments and deficiency decrees arising from and to the extent of any loss or damage actually incurred by the Issuer, the Trustee, the Majority Owner, the Controlling Person or the Bondholders as a result of the occurrence of any of the following events:

(i) the Borrower fails to pay to the Trustee upon written demand during the existence of an Event of Default all Rents to which the Trustee is entitled under Article 2 of the Mortgage and the amount of all security deposits collected by the Borrower from tenants then in residence. However, the Borrower will not be personally liable for any failure described in this Section 10.13(b)(i) if the Borrower is unable to pay to the Trustee all Rents and security deposits as required by the Mortgage because of a valid order issued in a bankruptcy, receivership, or similar judicial proceeding;

(ii) the Borrower fails to apply all insurance proceeds or casualty or condemnation proceeds as required by the Bond Documents. However, Borrower will not be personally liable for any failure described in this Section 10.13(b)(ii) if Borrower is unable to apply insurance or casualty or condemnation proceeds as required by the Bond Documents because of a valid order issued in a bankruptcy, receivership, or similar judicial proceeding;

(iii) if an Event of Default has occurred and is continuing, the Borrower fails to deliver all books and records relating to the Project Facilities or its operation in accordance with the provisions of Section 6.8 or 6.9 of this Agreement;

(iv) the Borrower engages in any willful act of material waste of the Project Facilities;

(v) the Borrower or the General Partner fails to comply with any provision of Section 6.11(b) hereof;

(vi) the occurrence of any of the following transfers:

(1) any Person that is not an Affiliate creates a mechanic's lien or other involuntary lien or encumbrance against the Project Facilities and Borrower has not

complied with the provisions of this Agreement;

(2) a transfer of the Project Facilities by devise, descent or operation of law occurs upon the death of a natural person in violation of the requirements set forth in the Bond Documents;

(3) the Borrower grants an easement, except as commercially reasonable with respect to the development of the Project Facilities, that does not meet the requirements set forth in the Bond Documents; or

(4) Borrower executes a Lease that does not meet the material requirements set forth in the Bond Documents;

(vii) any act of fraud or willful misconduct or any criminal act of the Borrower, the General Partner or the Guarantor;

(viii) the Borrower's misappropriation of funds or other Collateral; or

(ix) any litigation or other legal proceeding related to the Obligations filed by any of the Borrower, the Guarantor or any of their Affiliates, or any other action of any such Person that delays, opposes, impedes, obstructs, hinders, enjoins or otherwise interferes with or frustrates the efforts of Trustee to exercise any rights and remedies available to Trustee as provided herein or in the other Bond Documents.

(c) The Borrower and the Guarantor shall have full recourse and personal liability for all of the Indebtedness (and the limitation on liability in the first sentence of Section 10.13(a) hereof shall be null and void) as a result of the occurrence of any of the following:

(i) a violation of Section 6.11(a), 6.12(b) or 6.13(c) hereof;

(ii) the Borrower's taking any action which adversely affects the excludability of interest on the Bonds from gross income for federal income tax purposes, or the Borrower's omitting or failing to take any action required to maintain the excludability of interest on the Bonds from gross income for federal income tax purposes;

(iii) the Borrower or the General Partner fails to comply with any provision of Section 6.11(b) hereof and a court of competent jurisdiction holds or determines that such failure or combination of failures is the basis, in whole or in part, for the substantive consolidation of the assets and liabilities of the Borrower or the General Partner with the assets and liabilities of a debtor pursuant to Title 11 of the Bankruptcy Code;

(iv) a transfer that is an Event of Default under Section 7.1 hereof occurs (other than a transfer described in Section 10.13(b)(vi)(2) above, for which Borrower will have personal liability for any loss or damage); *provided, however*, that Borrower will not have any personal liability for a transfer consisting solely of the involuntary removal or involuntary withdrawal of the General Partner;

(v) there was fraud or written material misrepresentation by the Borrower or any officer, director, partner, member or employee of the Borrower in connection with the application for or creation of the Indebtedness or there is fraud in connection with any request for any action or consent by the Issuer, Trustee, Controlling Person or the Bondholders;

(vi) the Borrower or the General Partner voluntarily files for bankruptcy protection under the Bankruptcy Code;

(vii) the Borrower or the General Partner voluntarily becomes subject to any reorganization, receivership, insolvency proceeding, or other similar proceeding pursuant to any other federal or state law affecting debtor and creditor rights;

(viii) the Project Facilities or any part of the Project Facilities becomes an asset in a voluntary bankruptcy or becomes subject to any voluntary reorganization, receivership, insolvency proceeding, or other similar voluntary proceeding pursuant to any other federal or state law affecting debtor and creditor rights;

(ix) an order of relief is entered against the Borrower or the General Partner pursuant to the Bankruptcy Code or other federal or state law affecting debtor and creditor rights in any involuntary bankruptcy proceeding initiated or joined in by a Related Party; or

(x) an involuntary bankruptcy or other involuntary insolvency proceeding is commenced against the Borrower or the General Partner (by a party other than the Trustee or the owner of any Bonds) but only if the Borrower or the General Partner, as applicable, has failed to use commercially reasonable efforts to dismiss such proceeding or has consented to such proceeding. "Commercially reasonable efforts" will not require any direct or indirect interest holders in the Borrower or the General Partner to contribute or cause the contribution of additional capital to the Borrower or the General Partner.

(d) The Borrower and the Guarantor shall have full recourse and personal liability for all of the following:

(i) the performance of and compliance with all of Borrower's obligations under Sections 5.12 and 6.14 of this Agreement (relating to environmental matters) or the Borrower's failure to comply with the provisions of the Environmental Indemnity;

(ii) the costs of any audit under Section 6.8 of this Agreement;

(iii) any costs and expenses incurred by the Issuer, Trustee, the Controlling Person and the Majority Owner in connection with the collection of any amount for which Borrower is personally liable under this Section 10.13, including reasonable attorneys' fees and costs and the reasonable costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability; and

(iv) Borrower's indemnity obligations pursuant to Section 2.5, Section 2.6 and Section 10.12 hereof.

(e) Further, nothing contained in this Section shall be deemed to limit, vary, modify or amend any obligation owed under any guaranty or indemnification agreement, including the Environmental Indemnity and the other guaranty agreements of the Guarantors, furnished in connection with financing of the acquisition, construction and equipping of the Project Facilities, recourse under which is not, by its terms, expressly limited in accordance with this Section 10.13.

(f) Notwithstanding anything to the contrary in this Agreement, the Bond Note or any of the Bond Documents, Issuer and Trustee shall not be deemed to have waived any right which Issuer or Trustee may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Borrower's and Guarantor's Indebtedness under the Bond Documents or to require that all collateral shall continue to secure all of the Indebtedness under the Bond Documents.

Section 10.14 Publicity. The Borrower hereby authorizes the Controlling Person or the Majority Owner and their respective affiliates, without further notice or consent, to use the Borrower's and its affiliates' name(s), logo(s) and photographs related to the Project Facilities in its advertising, marketing and communications materials on a national and/or international basis. Such materials may include web pages, print ads, direct mail and various types of brochures or marketing sheets, and various media formats other than those listed (including without limitation video or audio presentations through any media form). This authorization shall remain in effect unless the Borrower notifies the Controlling Person and the Majority Owner in writing in accordance with the notice provisions set forth herein that such authorization is revoked. The Controlling Person or the Majority Owner shall also have the right to publicize its involvement in the financing of the Project Facilities, including the right to maintain a sign indicating such involvement at a location at the Project Facilities reasonably acceptable to the Borrower and Controlling Person and Majority Owner, as applicable.

Section 10.15 Determinations by the Majority Owner and Controlling Person. Subject to specific provisions in this Agreement to the contrary, in any instance under this Agreement where the consent or approval of the Controlling Person or the Majority Owner may be given or is required, or where any determination, judgment or decision is to be rendered by the Controlling Person or the Majority Owner under this 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 Controlling Person or the Majority Owner (or its designated representative) at its sole and absolute discretion.

Section 10.16 Issuer May Rely; Limitation on Liability of the Issuer.

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

(i) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Bondholder or the Borrower as to the existence of a fact or state of affairs required under this Agreement to be noticed by the Issuer;

(ii) the Issuer 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 or such other appropriate party; and

(iii) none of the provisions of this Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Bonds issued under the Indenture) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this 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.

(b) No provision, representation, covenant or agreement contained in this Agreement or in the Indenture, the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability (except to the extent of any loan repayments, revenues and receipts derived by the Issuer pursuant to this Agreement and other moneys held pursuant to the Indenture, other than in the Administration Fund and the Rebate Fund). No provision hereof shall be construed to impose a charge against the general credit of the Issuer, the State, the Sponsoring Political Subdivision or any other political subdivision or public body 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 director, officer, agent or employee of the Issuer or the Sponsoring Political Subdivision.

(c) All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture 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 director, officer, agent or employee of the Issuer in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds 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 Issuer contained in this Agreement or in the Indenture. No provision, covenant or agreement contained in this Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Agreement or in any Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project Facilities or the issuance and sale of the Bonds, against any member of the board of directors of the Issuer, its officers, counsel, financial advisor, 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 board, officers, counsel, financial advisors, or agents, as such, in his or her individual capacity, past, present, or future, of the Issuer or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Trustee 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, or agent, is, by the execution of the Bonds, this Agreement, and the Indenture, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Agreement, and the Indenture, expressly waived and released.

[signature pages follow]

IN WITNESS WHEREOF, the Issuer, the Controlling Person and the Borrower have caused this Agreement to be duly executed and delivered on the day and year first above written.

**COLLIN COUNTY HOUSING FINANCE
CORPORATION**

By: _____
Chris Hill, President

**ROERS WYLIE APARTMENTS OWNER I
LIMITED PARTNERSHIP**, a Texas limited
partnership

By: Roers Wylie Apartments Partner I LLC, a
Minnesota limited liability company, its
General Partner

By: _____
Brian J. Roers, Authorized Signer

EXHIBIT A

FORM OF PROMISSORY NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS NOTE, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH REFERRED TO HEREIN.

December [___], 2022

FOR VALUE RECEIVED, Roers Wylie Apartments Owner I Limited Partnership, a Texas limited partnership (the “*Borrower*”), by this promissory note hereby promises to pay to the order of the Collin County Housing Finance Corporation (the “*Issuer*”) the principal sum of [_____] DOLLARS (\$[_____]), together with interest on the unpaid principal amount hereof, from the Issue Date (as defined in the Indenture referenced below) until paid in full, at a rate per annum equal to the rate of interest borne by the Bonds (as hereinafter defined) and premium, if any, on the Bonds. All such payments of principal, interest and premium, if any, shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America at the designated corporate trust office of Wilmington Trust, National Association, or its successor as trustee (the “*Trustee*”) under the Indenture (as hereinafter below).

The principal amount and interest shall be payable on the dates and in the amounts set forth on Schedule 3 to the Agreement (as hereinafter defined) and on any other date that any payment of interest, premium, if any, or principal is required to be made in respect of the Bonds pursuant to the Indenture whether at maturity, upon acceleration or by sinking fund redemption or mandatory redemption, until the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, a sum which will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or upon mandatory redemption or acceleration or otherwise), premium, if any, and interest on the Bonds, as provided in the Indenture, subject to prepayment as provided in the Indenture and the Agreement.

This promissory note is the “Bond Note” referred to in the Loan Agreement, dated as of December 1, 2022 (as the same may be amended, modified or supplemented from time to time, the “*Agreement*”) between the Borrower and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Bond Note is evidence of indebtedness and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture of Trust dated as of December 1, 2022 (as the same may be amended, modified or supplemented from time to time, the “*Indenture*”), between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of \$[_____] in original aggregate principal amount of the Issuer’s Multifamily Housing Revenue Bonds (Meridian at Wylie) Series 2022 (the “*Bonds*”), issued by the Issuer pursuant to

the Indenture. All the terms, conditions and provisions of the Indenture, the Agreement and the Bonds are hereby incorporated as a part of this Bond Note.

Under certain circumstances, the Borrower may at its option and may be required to, prepay all or any part of the amount due on this Bond Note, together with accrued interest thereon, as provided in the Agreement.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

Time is of the essence under this Bond Note and in the performance of every term, covenant and obligation contained herein.

On and subject to the terms and exceptions set forth in Section 10.13 of the Agreement, the obligations under this Bond Note are non-recourse to the Borrower and its partners.

The Borrower hereby promises to pay reasonable costs of collection and reasonable attorneys' fees in case of an Event of Default on this Bond Note, as set forth in the Agreement.

This Bond Note shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to conflict of laws principles.

**ROERS WYLIE APARTMENTS OWNER I
LIMITED PARTNERSHIP**, a Texas limited
partnership

By: Roers Wylie Apartments Partner I LLC, a
Minnesota limited liability company, its
General Partner

By: _____
Authorized Signer

ENDORSEMENT

Pay to the order of Wilmington Trust, National Association, without recourse, as Trustee under the Indenture referred to in the within mentioned Agreement, as security for such Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Bond Note.

**COLLIN COUNTY HOUSING FINANCE
CORPORATION**

By: _____
Chris Hill, President

Dated: December ____, 2022

EXHIBIT B

FORM OF REQUISITION

BORROWER: Roers Wylie Apartments Owner I Limited Partnership

PROJECT: Meridian at Wylie

REQUISITION NO.: _____

In the Amount of \$ _____

TO: Wilmington Trust, National Association, as trustee
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Annmarie Warren

Red Stone Servicer, LLC, as Controlling Person
666 Old Country Road, Suite 603
Garden City, New York 11530
Attention: Kiki Mastorakis

The Borrower hereby requests payments in the following amounts, from the following sources and to be made to the following parties, all as set forth on the Borrower's Request for Payment attached to this Requisition:

| <u>Amount</u> | <u>Source</u> | <u>Payable to:</u> |
|---------------|-----------------------------------|--|
| | [identify name of Account & Fund] | [Borrower's account #] [third party payment/wire instructions must be attached] |

Requisition – Contents and Attachments

- Borrower's Representations and Warranties
- Contractor's Application and Certification for Payment (AIA Form G-702)
- Requisitions and Invoices Supporting Application
- Contractor's Requisition Form (AIA)
- Borrower's Request for Payment
- Lien Waivers

REPRESENTATIONS AND WARRANTIES

1. No changes have been made in the Plans and Specifications which require and have not received the prior approval of (i) the Controlling Person under the terms of the Loan Agreement dated as of December 1, 2022 (the “*Agreement*”), (ii) any Governmental Authority having jurisdiction over the Project Facilities or (iii) any other parties from whom such approval is required.
2. Construction of the Improvements has been performed substantially in accordance with the Plans and Specifications (other than any changes that did not constitute Material Change Orders).
3. As of the date hereof, the Borrower has executed change orders (increasing/decreasing) the cost of construction of the Improvements by \$[_____] in the aggregate, has notified the Engineering Consultant of such changes and, to the extent necessary, has received any and all necessary approvals from the Controlling Person.
4. Funding of this Requisition shall be in accordance with the terms and provisions of the (i) Agreement, and (ii) the Indenture of Trust dated as of December 1, 2022, with respect to the Bonds.
5. All money requisitioned by the Borrower for construction of the Improvements and disbursed by the Trustee under previously approved requisitions have been paid to the Contractor or other payees and, to the Borrower’s best knowledge, all subcontractors, vendors and suppliers; all other funds requisitioned by the Borrower and disbursed by the Trustee under previously approved requisitions have been expended for the purpose for which they were requisitioned.
6. All of the information submitted to the Controlling Person and the Trustee in connection with this Requisition is true and accurate in all material respects as of the date of submission.
7. The representations and warranties set forth in the Bond Documents and the Note Documents are true and correct in all material respects as of the date hereof with the same effect as if made on this date.
8. The Borrower represents and warrants that (i) there has occurred no Event of Default or, to Borrower’s knowledge, any event which, with the passage of time or the giving or notice or both, would constitute an Event of Default on the part of the Borrower or the Guarantor under the terms of the Bond Documents or the Note Documents, (ii) except as previously disclosed by the Borrower to the Controlling Person, the Borrower has not received written notice from or been informed in writing by any Governmental Authority or the Engineering Consultant of any alleged deficiencies in the work performed to date or any deviation of such work from Plans and Specifications or notice of any assertion of a claim that the Improvements have not been constructed in accordance with all applicable Legal Requirements, (iii) with the exception of any Permitted Encumbrances and those being contested by the Borrower in accordance with the terms of the Bond Documents or the Note Documents, there are no liens against any portion of the Project Facilities or any other

asset of the Borrower, and (iv) the Bond Documents and the Note Documents are in full force and effect.

9. The Borrower represents and warrants that this Requisition is in the form of requisition required by the Controlling Person.
10. The Borrower represents and warrants that, following payment of the amounts requested under this Requisition, not less than 95% of amounts paid from proceeds of the Bonds have been applied to the payment of or otherwise allocated to the payment of Qualified Project Costs.
11. Attached hereto are copies of conditional lien waivers from all such subcontractors and materialmen requisitioning payment under this Requisition.
12. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto under the Loan Agreement.

Executed this ____ day of _____, 20__.

**ROERS WYLIE APARTMENTS OWNER I
LIMITED PARTNERSHIP**, a Texas limited
partnership

By: Roers Wylie Apartments Partner I LLC, a
Minnesota limited liability company, its
General Partner

By: _____
Authorized Signer

Approved:

RED STONE SERVICER, LLC,
as Controlling Person

By: _____
Name: _____
Title: _____

Dated: _____

CONTRACTOR'S APPLICATION FOR PAYMENT

REQUISITIONS AND INVOICES

CONTRACTOR'S REQUISITION FORM (AIA)

[Attach form provided by Contractor]

BORROWER'S REQUEST FOR PAYMENT

[Attach spreadsheets in form provided by Red Stone]

LIEN WAIVERS

EXHIBIT C
MOLD/MILDEW ADDENDUM

[Attached]

EXHIBIT D

SCHEDULE OF SERVICING FEES

[To Come]

SCHEDULE 1
SCHEDULE OF LITIGATION

[None]

SCHEDULE 2

SCHEDULE OF OBLIGATIONS AND MATERIAL CONTRACTS

1. Partnership Agreement
2. Development Agreement
3. Management Agreement
4. Architect's Agreement
5. Construction Contract
6. Bond Documents
7. Note Documents
8. Prime Subcontract

SCHEDULE 3
SCHEDULE OF DEBT SERVICE PAYMENTS

[Attached]

SCHEDULE 4
DEVELOPMENT BUDGET

[Attached]

SCHEDULE 5

PLANS AND SPECIFICATIONS

On File with the Engineering Consultant

SCHEDULE 6

PERMITS AND APPROVALS

A. GOVERNMENTAL ACTIONS ALREADY OBTAINED —

[List to be provided]

B. GOVERNMENTAL ACTIONS NOT YET OBTAINED —

[List to be provided, with steps needed to obtain approval included]

SCHEDULE 7

CONDITIONS TO ADVANCES

A. **CONDITIONS TO INITIAL ADVANCE.** The right of Borrower to draw the initial advance shall be subject to the fulfillment of the following conditions precedent in a manner, and by documentation, satisfactory to the Controlling Person all of which shall be deemed satisfied as of the date the initial Advance is disbursed:

1. *Construction Documents.* Each of the Architect's Agreement and the Construction Contract shall have been duly executed and delivered by the respective parties thereto and shall be in full force and effect. The Architect and the Contractor shall have duly executed and delivered to the Controlling Person a consent to the assignment of the Architect's Contract, the Engineer's Agreement and the Construction Contract in form and substance satisfactory to the Controlling Person.

2. *Subcontracts; Other Contracts.* The Borrower shall have delivered to the Controlling Person, and the Controlling Person shall have approved, a list of all subcontractors and materialmen who have been or, to the extent identified by the Borrower, will be supplying labor or materials for the Project Facilities in the amount of \$100,000 or more. The Borrower shall have delivered to the Controlling Person correct and complete photocopies of all other executed contracts with contractors, subcontractors, engineers or consultants for the Project Facilities in an amount of \$50,000 or more, and of all development, management, brokerage, sales or leasing agreements for the Project Facilities.

3. *Validity of Liens.* The Mortgage, the Assignment of Project Documents, the Assignment of Capital Contributions, the Assignment of Rents, the Developer Fee Pledge and the General Partner Pledge shall be effective to create in the Trustee a legal, valid and enforceable lien and security interest in the collateral identified therein. All filing, recordings, deliveries necessary to create, maintain and perfect such liens and security interests shall have been duly effected.

4. *Deliveries.* The following items or documents shall have been delivered to the Controlling Person by the Borrower and shall be in form and substance satisfactory to the Controlling Person.

(a) *Plans and Specifications.* Two complete sets of the Plans and Specifications and approval thereof by any necessary Governmental Authority, with a certification from the Architect that the Improvements to be constructed comply with all Legal Requirements and Governmental Actions and that the Construction Contract satisfactorily provides for the construction of the Improvements.

(b) *Title Policy.* The Title Policy, or a pro forma policy that constitutes a commitment to issue the Title Policy in the form of such pro forma policy,

together with proof of payment of all fees and premiums for such policy and true and accurate copies of all documents listed as exceptions under such policy.

(c) *Other Insurance.* Copies of all policies of insurance required hereunder to be obtained and maintained during the construction of the Improvements.

(d) *Evidence of Sufficiency of Funds.* Evidence that the proceeds of the Bonds, together with Required Equity Funds delivered to the Trustee on the Issue Date or to be delivered after the Issue Date pursuant to the Partnership Agreement, will be sufficient to cover all Project Costs reasonably anticipated to be incurred to complete the Improvements prior to the Completion Date and to carry the Project Facilities through to Stabilization.

5. *Evidence of Access, Availability of Utilities, Project Approvals.*
Evidence as to:

(a) the methods of access to and egress from the Project Facilities, and nearby or adjoining public ways, meeting the reasonable requirements of the Project Facilities and the status of completion of any required improvements to such access;

(b) the availability of water supply and stone and sanitary sewer facilities meeting the reasonable requirements of the Project Facilities;

(c) the availability of all other required utilities, in location and capacity sufficient to meet the reasonable needs of the Project Facilities; and

(d) the obtaining of all Project Approvals which are required, necessary or desirable for the commencement of construction of the Improvements and the access thereto, together with copies of all such Governmental Actions.

6. *Environmental Report.* An environmental site assessment report or reports of one or more qualified environmental engineering or similar inspection firms approved by the Controlling Person, which report or reports shall indicate a condition of the Land and any existing improvements thereon in compliance with all Requirements and in all respects satisfactory to the Controlling Person in its sole discretion and upon which report or reports the Controlling Person, the Trustee and the initial Majority Owner shall be expressly entitled to rely.

7. *Soils Report.* A soils report for the Project Facilities prepared by a soils engineer approved by the Controlling Person, which report shall indicate that based upon actual surface and subsurface examination of the Project Facilities, the soils conditions are fully satisfactory for the proposed construction and operation of the Improvements and upon which report or reports the Controlling Person, the Trustee and the initial Majority Owner shall be expressly entitled to rely. A termite or other insect

infestation report prepared by a firm approved by the Controlling Person, which report shall indicate that based upon actual inspection of the Project Facilities either (i) that no termite or other insect infestation at the Project Facilities, or (ii) that termite or insect infestation is present and recommended steps for extermination and remediation of the conditions at the Project Facilities, and upon which report or reports the Controlling Person, the Trustee and the initial Majority Owner shall be expressly entitled to rely.

8. *Survey and Taxes.* A Survey of the Land (and any existing improvements thereon) and Surveyor's Certificate, and evidence of payment of all real estate taxes and municipal charges on the Land (and any existing improvements thereon) which were due and payable prior to the Issue Date.

9. *Deposit of Funds.* The initial installment of Required Equity Funds shall have been delivered to the Trustee and deposited in the Project Fund.

10. *Requisition.* A Requisition complying with the provisions of this Agreement and the Indenture.

11. *Form Lease.* The standard form of lease to be used by the Borrower in connection with the Improvements.

12. *Engineering Consultant Report.* The Controlling Person shall have received a report or written confirmation from the Engineering Consultant that (i) the Engineering Consultant has reviewed the Plans and Specifications, (ii) the Plans and Specifications have been received and approved by each Governmental Authority to which the Plans and Specifications are required under applicable Legal Requirements to be submitted, (iii) the Construction Contract satisfactorily provides for the construction of the Improvements, and (iv) in the opinion of the Engineering Consultant, construction of the Improvements can be completed on or before the Completion Date for an amount not greater than the amount allocated for such purpose in the Development Budget.

13. *Searches.* The Controlling Person shall have received searches from a recognized search firm (which shall be updated from time to time at Borrower's expense upon request by the Controlling Person) that searches of the public record disclosed (a) no conditional sales contracts, security agreements, chattel mortgages, leases of personalty, financing statements or title retention agreements which affect the collateral, (b) no bankruptcy filings on the part of any of the Borrower, the General Partner and the Guarantor (collectively, the "*Obligors*"), and (c) no litigation with respect to the Project Facilities or any of the Obligors that would materially adversely affect the obligations of the Obligors hereunder.

14. *Mechanics' Liens.* If for any reason the initial advance is not funded on the Issue Date, the Controlling Person may withhold or refuse to approve the initial advance if any mechanic's lien or notice of intention to record or file a mechanic's lien has been filed or given.

15. *Notices.* All notices required by any Governmental Authority under applicable Legal Requirements to be filed prior to commencement of construction of the Improvements shall have been filed.

16. *Appraisal.* The Controlling Person shall have received an Appraisal, in form and substance satisfactory to the Controlling Person, showing that the original face amount of the Bonds does not exceed ninety percent (90%) of the value of the Project Facilities, assuming completion in accordance with the Plans and Specifications and including the value of the low income housing tax credits and favorable financing.

17. *Performance; No Default.* The Borrower shall have performed and complied with all terms and conditions herein required to be performed or complied with by it on or prior to the date of the initial advance, and on the date of the initial advance there shall exist no Event of Default.

18. *Representations and Warranties.* The representations and warranties made by the Obligors in the Bond Documents, the General Partner Pledge, the Developer Fee Pledge or the documents executed by the Guarantor or otherwise made by or on behalf of the Obligors in connection therewith or after the date thereof shall have been true and correct in all material respects when made and shall be true and correct in all material respects on the date of the initial advance.

19. *Proceedings and Documents.* All proceedings in connection with the transactions contemplated by this Agreement and the other Bond Documents shall be satisfactory to the Controlling Person and their counsel in form and substance, and the Controlling Person shall have received all information and such counterpart originals or certified copies of such documents and such other certificates, opinions or documents as they or their counsel may reasonably require.

B. CONDITIONS TO SUBSEQUENT ADVANCES. The right of the Borrower to draw each advance after the initial advance shall be subject to the following conditions precedent in a manner, and by documentation, satisfactory to the Controlling Person:

1. *Prior Conditions Satisfied.* All conditions precedent to any prior disbursement shall continue to be satisfied as of the date of the Requisition of such subsequent advance.

2. *Performance; No Default.* The Borrower shall have performed and complied with all terms and conditions herein required to be performed or complied with by it on or prior to the date of such Requisition, and on such date there shall exist no Default or Event of Default.

3. *Representations and Warranties.* Each of the representations and warranties made by the Borrower in the Bond Documents or otherwise made by or on behalf of the Borrower in connection therewith after the date thereof shall have been true and correct in all material respects on the date on when made and shall also be true and

correct in all material respects on the Borrower on the date of such Requisition (except to the extent of changes resulting from transactions contemplated or permitted by the Bond Documents).

4. *No Damage.* The Improvements shall not have been injured or damaged by fire, explosion, accident, flood or other casualty.

5. *Receipt by Controlling Person.* The Controlling Person shall have received:

(a) *Requisition.* A Requisition in meeting the requirements of this Agreement and the Indenture;

(b) *Endorsement to Title Policy.* At the time of each advance to update the date of and increase the amount of coverage by the amount of such advance, such endorsements (a “*Down Date Endorsement*”) shall be delivered by the Title Insurer, increasing the coverage under the Title Policy by the amount of the approved Requisition plus the amount of any Bond proceeds disbursed from the Capitalized Interest Account of the Project Fund;

6. *Current Survey.* An updated Survey if required by the Title Insurance Company or the Controlling Person.

7. *Approval by Engineering Consultant.* Approval of the Requisition for such disbursement by the Engineering Consultant, accompanied by a certificate or report from the Engineering Consultant to the effect that in its opinion, based on site observations and submissions by the Contractor, the construction of the Improvements to the date thereof was performed in a good and workmanlike manner and in substantial accordance with the Plans and Specifications, stating the estimated total cost of construction of the Improvements, stating the percentage of in-place construction of the Improvements, and stating that the remaining non-disbursed portion of the Project Fund and Required Equity Funds allocated for such purpose in the Development Budget is adequate to complete the construction of the Improvements.

8. *Contracts.* Evidence that one hundred percent (100%) of the cost of the remaining Work is covered by firm fixed price or guaranteed maximum price contracts or subcontracts, or orders for the supplying of materials, with contractors, subcontractors, materialmen or suppliers satisfactory to the Controlling Person.

9. *Mechanics’ Liens.* The Controlling Person may withhold or refuse to fund any advance hereunder if any mechanic’s lien has been filed or recorded and not bonded over or otherwise collateralized to the satisfaction of the Controlling Person, or if notice of intention to record or file any such lien has been received.

10. *Required Equity Funds.* All installments of Required Equity Funds which shall be then due and payable under the Partnership Agreement shall have been deposited with the Trustee.

11. *Release of Retainage.* In addition to the conditions set forth in this Section, the Controlling Person's obligation to authorize any advance of Retainage shall be subject to receipt by the Controlling Person of evidence of Final Completion.

SCHEDULE 8

FORM OF COMPLETION CERTIFICATE

_____, 20__

Wilmington Trust, National Association, as trustee
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Annmarie Warren

Red Stone Servicer, LLC, as Controlling Person
666 Old Country Road, Suite 603
Garden City, New York 11530
Attention: Kiki Mastorakis

Re: Meridian at Wylie (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities, hereby certifies to Wilmington Trust, National Association, as trustee (the “Trustee”), and Red Stone Servicer, LLC as Controlling Person, acting on behalf of the Majority Owner of the Bonds issued in connection with the Project Facilities (the “Controlling Person”) that “Final Completion” of the Project Facilities (as defined in the Indenture of Trust dated as of December 1, 2022 (the “Indenture”) between the Trustee and Collin County Housing Finance Corporation (the “Issuer”)) has been attained as of the date hereof and all conditions relating thereto as set forth in the Loan Agreement dated as of December 1, 2022 between the undersigned and the Issuer (the “Loan Agreement”) have been satisfied. Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Indenture or the Loan Agreement.

The undersigned hereby represents and warrants that:

1. Attached hereto is an original, executed Architect’s certificate as required by clause (iv) of the definition of “Final Completion” contained in the Indenture.
2. Attached hereto are true, complete and correct copies of all use and occupancy permits issued in connection with the Project Facilities (the “Permits”) as referenced in clause (ii) of the definition of “Final Completion” contained in the Indenture. The Permits are all of the permits, licenses or approvals required for the occupancy of the Project Facilities as a multifamily residential facility. No appeal, action or proceeding challenging any of the Permits has been filed; there is no pending claim, litigation or governmental proceeding challenging the Permits.
3. Attached hereto is a complete schedule of all Punchlist Items referenced in clause (ii) of the definition of “Final Completion” contained in the Indenture. This schedule of Punchlist Items meets the requirements and limitations set forth in the definition of “Final Completion” contained in the Indenture for Punchlist Items. The undersigned will promptly complete all Punchlist Items.

4. Attached are lien waivers required by clause (vii) of the definition of "Final Completion" contained in the Indenture.

5. Attached hereto is an endorsement down dating the Title Policy insuring the Mortgage in favor of the Trustee, subject only to Permitted Encumbrances, as required by clause (ix) of the definition of "Final Completion" contained in the Indenture.

6. Attached hereto is an as-built ALTA/NSPS Urban Class Survey, certified to the Trustee and the Controlling Person and meeting the requirements of clause (ix) of the definition of "Final Completion" contained in the Indenture.

7. Attached hereto is evidence of insurance meeting the requirements of Section 6.4 of the Loan Agreement.

8. Attached hereto is evidence of payment of all Impositions which are due and payable.

**ROERS WYLIE APARTMENTS OWNER I
LIMITED PARTNERSHIP**, a Texas limited
partnership

By: Roers Wylie Apartments Partner I LLC, a
Minnesota limited liability company, its
General Partner

By: _____
Roers, Authorized Signer

Accepted and agreed to by:

RED STONE SERVICER, LLC,
as Controlling Person

By: _____
Name: _____
Title: _____

Schedule of Attachments to Completion Certificate

Architect's Completion Certificate

Occupancy Permits

Schedule of Punchlist Items

Lien Waivers

Endorsement to Title Policy

As-Built Survey

Insurance Certificates

Evidence of Payment of Impositions

SCHEDULE 9

FORM OF USE OF PROCEEDS CERTIFICATE

_____, 20__

Wilmington Trust, National Association, as trustee
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Annmarie Warren

Red Stone Servicer, LLC, as Controlling Person
666 Old Country Road, Suite 603
Garden City, New York 11530
Attention: Kiki Mastorakis

Re: Meridian at Wylie (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities hereby certifies to Wilmington Trust, National Association, as trustee (the “Trustee”), and Red Stone Servicer, LLC, as Controlling Person, acting on behalf of the Majority Owner of the bonds issued in connection with the Project Facilities (the “Controlling Person”) that [(i)] no less than 95% of the Net Proceeds of the Bonds has been spent or otherwise allocated for Qualified Project Costs of the Project Facilities as required by **Section 142(a)** of the Internal Revenue Code. Attached hereto is a schedule of expenditures showing all costs of the Project Facilities, the amounts expended for each category of cost, the source of funds therefor, and a calculation of the percentage of the net proceeds of the Bonds expended or otherwise allocated in compliance with the requirements of the Internal Revenue Code; [and (ii) the undersigned has expended, within two (2) years of the later of the date the Project Facilities were acquired or the date of issuance of the Bonds, from proceeds of the Bonds or other sources, an amount equal to at least 15% of the “portion of the cost of acquiring such building (and equipment) financed with the net proceeds of the Bonds” for “construction expenses” within the meaning of Section 147(b) of the Code.] Capitalized terms used herein and not defined shall have the meanings ascribed to such terms in the Indenture of Trust dated as of December 1, 2022 between the Trustee and the Collin County Housing Finance Corporation.

WITNESS WHEREOF, the undersigned has duly executed this Use of Proceeds Compliance Certificate as of the day and year first above written.

**ROERS WYLIE APARTMENTS OWNER I
LIMITED PARTNERSHIP**, a Texas limited
partnership

By: Roers Wylie Apartments Partner I LLC, a
Minnesota limited liability company, its
General Partner

By: _____
Authorized Signer

**SCHEDULE OF ATTACHMENTS TO
USE OF PROCEEDS COMPLIANCE CERTIFICATE**

Evidence of Use of Proceeds

SCHEDULE 10

FORM OF STABILIZATION CERTIFICATE

_____, 20__

Wilmington , National Association, as trustee
Dallas, Texas 75248
Attention: Annmarie Warren

Red Stone Servicer, LLC, as Controlling Person
666 Old Country Road, Suite 603
Garden City, New York 11530
Attention: Kiki Mastorakis

Re: Meridian at Wylie (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities, hereby certifies to Wilmington Trust, National Association, as trustee (the “Trustee”) and Red Stone Servicer, LLC, as Controlling Person, acting on behalf of the Majority Owner of the bonds issued in connection with the Project Facilities (the “Controlling Person”) that the date of Final Completion was _____, 20__ and:

The undersigned hereby represents and warrants that:

1. The Improvements have averaged ____% occupancy by tenants meeting the requirements of the Bond Documents over the prior ____ (____) consecutive months.
2. The average for the prior ____ (____) consecutive month period of the ratio of Stabilized NOI to maximum principal, interest, Issuer fees and Trustee fees payable [other than the month in which the Maturity Date occurs] on the amount of Bonds Outstanding is ____ to 1.0.
3. No Event of Default or, to the undersigned’s knowledge, no event which, with the passage of time or the giving of notice or both, would constitute an Event of Default, has occurred and is continuing under the Bond Documents, the General Partner Pledge, the Developer Fee Pledge or the Guarantor Documents.
4. The Borrower has at all times been and is currently in compliance with all requirements set forth in the Regulatory Agreement.
5. The Borrower has deposited funds or a letter of credit into the Operating Reserve Fund as required by Section 8.5 of the Loan Agreement, or will be made contemporaneously herewith.
6. There have been no disbursements from [insert names of any required reserves] which have not been replenished.

7. Stabilization [has/has not] occurred.
8. Attached hereto is _____ showing the calculation of Stabilization.
9. A portion of the Bonds shall have been redeemed as required under Section 2.12(b)(iii) of the Indenture and the full principal amount of the Notes shall have been redeemed as required under Section 2.12(b)(ii) of the Note Indenture.

Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Indenture of Trust dated as of December 1, 2022 between the Trustee and Collin County Housing Finance Corporation.

ROERS WYLIE APARTMENTS OWNER I LIMITED PARTNERSHIP, a Texas limited partnership

By: Roers Wylie Apartments Partner I LLC, a Minnesota limited liability company, its General Partner

By: _____
Authorized Signer

Accepted and agreed to by:

RED STONE SERVICER, LLC,
as Controlling Person

By: _____
Name: _____
Title: _____

STABILIZATION SPREADSHEET

SCHEDULE 11

ANNUAL EXPENSES

[To be Provided]

SCHEDULE 12

[RESERVED]

SCHEDULE 13

RED STONE INSURANCE REQUIREMENTS

NAMED INSURED

The Named Insured on each policy must be the Borrower or the Borrower Principal. If the Borrower Principal is the Named Insured, the Borrower must be named as an Additional Named Insured.

MORTGAGEE AND ADDITIONAL INSURED

Each property damage policy must contain a Standard Mortgagee or Lender's Loss Payable clause in favor of, and in a form acceptable to, the Trustee.

Each General Liability policy must name the Trustee as **Additional Insured–Mortgagee, Assignee, or Receiver** (form CG2018 or equivalent), and must name each of the following entities as **Additional Insured–Designated Person or Organization** (form CG2026 or equivalent):

- Red Stone Servicer, LLC, ISAOA 666 Old Country Road, Suite 603, Garden City, NY 11530, Attn: Kiki Mastorakis
- Red Stone A7 III, LLC, ISAOA, as investor 666 Old Country Road, Suite 603, Garden City, NY 11530

CANCELLATION CLAUSE

Unless required otherwise by State law, each Property damage policy must provide that the insurer will notify the named mortgagee in writing at least 10 days before cancellation of the policy by the insurer for nonpayment of the premium or nonrenewal, and at least 30 days before cancellation by the insurer for any other reason.

Unless required otherwise by State law, each General Liability and Umbrella/Excess Liability policy must provide that the insurer will notify at least the named insured in writing at least 10 days before cancellation of the policy by the insurer for nonpayment of the premium or nonrenewal, and at least 30 days before cancellation by the insurer for any other reason.

PROOF OF PREMIUM PAYMENT

Annual premiums for all required policies must be paid in full prior to or at the time of loan closing. Premiums cannot be financed. Please provide an invoice for payment of the premiums or a paid receipt showing premiums have been paid in full.

ACCEPTABLE EVIDENCE OF INSURANCE

Acord 28 – Evidence of Commercial Property Insurance and Acord 25 – Certificate of Liability Insurance must accompany complete copies of the policies. Binders can be accepted only if policies have not yet been issued by the carriers.

ACCEPTABLE INSURERS

Each insurance carrier providing property damage and/or liability insurance, whether admitted or non-admitted, must comply with the minimum rating requirements below based on the carrier's aggregate exposure as follows:

| INSURANCE CARRIER RATINGS AND FINANCIAL SIZE CATEGORIES | | | | | |
|---|---|-----|---|----|---|
| AGGREGATE CARRIER EXPOSURE | MINIMUM A.M. BEST FINANCIAL STRENGTH RATING | AND | MINIMUM A.M. BEST FINANCIAL SIZE CATEGORY | OR | MINIMUM FITCH INC., S&P, OR MOODY'S |
| ≤ \$5 million | A- | AND | VII | OR | <ul style="list-style-type: none"> • A- by Fitch Inc. • A- by Standard & Poors • A3 by Moody's |
| > \$5 million & ≤ \$25 million | A- | AND | VIII | | |
| > \$25 million | A- | AND | IX | | |

Insurance carrier rating requirements and minimum financial size categories are based on the aggregate carrier exposure, which is defined in the chart below.

| AGGREGATE CARRIER EXPOSURE (FOR EACH INDIVIDUAL CARRIER) | | |
|--|---|---|
| INSURANCE TYPE | | AGGREGATE CARRIER EXPOSURE |
| Property damage insurance | Specific Insurance or policy for one Property | Required building coverage limits + required Business Income/Rental Value Insurance |
| | Blanket Insurance or master program from one carrier | Blanket Insurance or master program limit |
| | An individual policy, Blanket Insurance or master program with more than one carrier participating with layered limits | Total limit provided by the carrier in all layers in which the carrier participates |
| Liability insurance | Specific Insurance or policy for one Property | Total aggregate limits (general liability + excess/umbrella) |
| | Liability insurance for multiple properties, or master program from one carrier | Total aggregate limits (general liability + excess/umbrella) |
| | An individual policy, liability insurance policy for multiple properties or master program with more than one carrier participating with layered limits | Total limit provided by the carrier in all layers in which the carrier participates |

CAUSES OF LOSS – SPECIAL FORM/"ALL RISK" PROPERTY POLICY

Property damage insurance is required for all Mortgages to ensure the improvements are protected against loss or damage from fire and other perils covered within the scope of a policy known as a "Causes of Loss – Special Form" or "All Risk" policy. Such insurance must:

- Be written in an amount not less than 100 percent of the estimated Replacement Cost of the insurable improvements without any deduction for depreciation, and

- Either not contain a Coinsurance Clause or contain a Coinsurance Clause that is offset by an Agreed Amount provision. If an Agreed Amount provision is used, the Agreed Amount must be no less than the estimated Replacement Cost.

Additionally, Freddie Mac recommends that the policy contain a Joint Loss Agreement if Boiler and Machinery insurance is required and the insurance carrier providing Boiler and Machinery insurance is different from the carrier providing property damage insurance.

Freddie Mac recommends that the policy contain an Inflation Guard endorsement (where available).

PROPERTY DEDUCTIBLE

The maximum deductible per occurrence (other than National Flood Insurance Program (NFIP), windstorm and earthquake insurance) for property damage insurance for Specific Insurance is:

| REPLACEMENT COST | MAXIMUM DEDUCTIBLE |
|-------------------|---|
| < \$10 million | \$50,000 |
| ≥ \$10 million | \$75,000 |
| Blanket Insurance | 1% of the aggregate Replacement cost of the covered properties, subject to a maximum of \$250,000 |

BLANKET INSURANCE

Freddie Mac permits Blanket Insurance policies insuring multiple properties, including the Property and other properties that may or may not be encumbered by Mortgages purchased by Freddie Mac, *provided* that:

- The insurance documentation clearly identifies the collateral Property, including the complete street address of the Property;
- All properties insured on the blanket policy have common ownership by a single borrower, sponsor or parent company, or are managed by the same property management company;
- The Seller/Serviceicer must obtain and review sufficient information to evaluate the Borrower's portfolio covered by the Blanket limits including a Schedule of Locations and Values showing concentrations of insurable value in geographical locations or with respect to any applicable peril, including catastrophic perils such as windstorm, flood, earthquake, etc.

BLANKET LIMIT MINIMUM REQUIREMENTS

- The "All-Risk" limit must be no less than the greater of the following:

- The largest individual TIV for properties covered by the Blanket Insurance policy limit, or
 - 10% of the aggregate TIV of the entire portfolio covered by the Blanket Insurance policy limit.
- If Windstorm coverage is provided on a blanket limit basis, the windstorm limits must, at a minimum, be no less than the following:
 - For all properties located in Tier 1 Windstorm Risk counties, blanket windstorm limits must be no less than the greater of the following:
 - The largest individual TIV for properties covered by the blanket limit, or
 - 40% of the aggregate TIV within the State covered by the blanket limit (*e.g.*, for Florida, 40% of the aggregate TIV of all properties within Tier 1 Windstorm Risk counties in Florida covered by the policy; for Texas, 40% of aggregate TIV of all properties in Texas covered by the policy that are located in Tier 1 Windstorm Risk counties in Texas).
 - For all other properties located outside Tier 1 Windstorm Risk counties, blanket windstorm limits must be no less than the greater of the following:
 - The largest individual TIV for properties covered by the blanket limit, or
 - 10% of the aggregate TIV of the entire portfolio covered by the blanket limit.
 - If the Blanket Insurance policy provides coverage for Boiler and Machinery insurance or Ordinance and Law insurance, the per occurrence limit(s) for the applicable coverage must, at a minimum, provide the coverage required by a policy providing Specific Insurance for the property.

BUSINESS INCOME/RENTAL VALUE INSURANCE

Business Income/Rental Value Insurance is required for all applicable property damage perils within the scope of the “Causes of Loss – Special Form” or “All Risk” policy, including windstorm, flood, earthquake and terrorism, regardless of whether the coverage is provided on an All-Risk or separate policy.

The Business Income/Rental Value Insurance must be sufficient to cover the minimum number of months of effective gross income (EGI) based on underwritten EGI or the most recent year-end financials, and the minimum extended period of indemnity in accordance with the following:

| MORTGAGE UNPAID PRINCIPAL BALANCE (UPB) | MINIMUM NUMBER OF MONTHS EGI | MINIMUM EXTENDED PERIOD OF INDEMNITY |
|---|------------------------------|--------------------------------------|
| \$50 million or less | 12 months | None required |
| Greater than \$50 million | 18 months | 90 days |

The waiting period (also known as the deductible for Business Income coverage) may not exceed seven days (168 hours).

WINDSTORM INSURANCE

If Wind/Hail and/or Named Storm (referred to as “*Windstorm Coverage*”) are excluded from the primary property damage insurance policy, separate Windstorm Coverage must be obtained, either through an endorsement or a separate policy.

WINDSTORM COVERAGE REQUIREMENTS

Windstorm Coverage must:

- Be written in an amount no less than 100 percent of the estimated Replacement Cost of the insurable improvements without any deduction for depreciation, and
- Either not contain a Coinsurance Clause or contain a Coinsurance Clause that is offset or suspended by an Agreed Amount provision. If an Agreed Amount provision is used, the Agreed Amount must not be less than the estimated Replacement Cost.

If separate Windstorm Coverage is required, the Borrower must ensure that Business Income/Rental Value Insurance relevant to Windstorm Coverage is also in place.

WINDSTORM DEDUCTIBLE

The maximum deductible when Windstorm Coverage is provided by Specific Insurance is as follows:

- When expressed as a percentage, the maximum deductible per occurrence is 5% of the TIV of the Property.
- When expressed as a dollar amount, the maximum deductible is as follows:

| REPLACEMENT COST | MAXIMUM DEDUCTIBLE |
|------------------|--------------------|
| < \$10 million | \$50,000 |
| ≥ \$10 million | \$75,000 |

| | |
|-------------------|---|
| Blanket Insurance | 5% of the aggregate Replacement cost of the covered properties, subject to a maximum of \$250,000 |
|-------------------|---|

WINDSTORM COVERAGE PROVIDED BY BLANKET INSURANCE

If Windstorm coverage is provided on a blanket limit basis, the windstorm limits must, at a minimum, be no less than the following:

- For all properties located in Tier 1 Windstorm Risk counties, 40% of the aggregate TIV within the State covered by the Blanket Windstorm limit (*e.g.*, for Florida, 40% of the aggregate TIV of all properties within Tier 1 Windstorm Risk counties in Florida covered by the policy; for Texas, 40% of aggregate TIV of all properties in Texas covered by the policy that are located in Tier 1 Windstorm Risk counties in Texas).
- For all other properties located outside Tier 1 Windstorm Risk counties, blanket windstorm limits must be no less than the greater of the following:
 - The largest individual TIV for properties covered by the Blanket windstorm limit, or
 - 10% of the aggregate TIV of the entire portfolio covered by the Blanket windstorm limit.

WINDSTORM COVERAGE THROUGH A STATE WINDPOOL

If Windstorm Coverage is only available from a State Windpool, the policy must meet the requirements in 1, 2, or 3 below:

1. If the policy issued by the State Windpool does not contain a Coinsurance Clause, the policy must be written in an amount no less than 100 percent of the estimated Replacement Cost of the insurable improvements without any deduction for depreciation.
2. If the policy issued by the State Windpool contains a Coinsurance Clause that is offset or suspended by an Agreed Amount provision:
 - The policy must be written in an amount no less than 100 percent of the estimated Replacement Cost of the insurable improvements without any deduction for depreciation, and
 - The Agreed Amount must equal the estimated Replacement Cost.
3. If the policy issued by the State Windpool contains a Coinsurance Clause that is not offset or suspended by an Agreed Amount provision, then all of following are required:

- The policy must be written in an amount no less than 100 percent of the estimated Replacement Cost of the insurable improvements without any deduction for depreciation.
- The Replacement Cost estimate must meet the requirements of the Guide.
- The Servicer must document in the Mortgage File that there is a Replacement Cost estimate dated within 12 months of the request for Coinsurance.
- The policy must contain a Coinsurance Clause less than or equal to 90 percent (such as 70 percent or 80 percent).

In addition, the guarantor must sign an additional guaranty of any losses incurred by Freddie Mac associated with the Borrower's failure to maintain the required Windstorm Coverage.

If at expiration of the policy the Borrower is unable to obtain a policy that complies with Section 31.7(a), and the Borrower is only able to obtain a policy from a State Windpool, the Borrower must obtain a new policy in compliance with this section.

If the Business Income/Rental Value Insurance required in Section 31.6 is not included in the State Windpool insurance policy, the Borrower must obtain separate Business Income/Rental Value Insurance relevant to Windstorm Coverage.

FLOOD INSURANCE REQUIREMENTS

Flood insurance is required for any building that is part of the Property that is fully or partially located in a Special Flood Hazard Area (SFHA) Zon A or V, as defined by the Federal Emergency Management Agency (FEMA).

Specific coverage requirements are identified below; however, the Seller/Servicer must ensure the coverage meets the minimum mandatory purchase requirements identified in the following Federal flood insurance statutes, as well as any applicable Federal agency rulemaking and publication:

- National Flood Insurance Act of 1968 (1968 Act)
- Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert Waters)
- Flood Disaster Protection Act of 1973 (FDPA)
- Homeowner Flood Insurance Affordability Act of 2014

Freddie Mac may require flood insurance for buildings located outside of a SFHA Zone A or V, if it determines that flood insurance is warranted, such as for buildings with a history of prior flooding or subject to risk of storm surge flooding.

For each building that is fully or partially located in a SFHA, Freddie Mac requires flood insurance equal to at least the following:

- The replacement cost value of the first two floors of the building above grade, plus
- The replacement cost value of any floors below grade, plus
- 12 months of business income/rental value associated with the building, and
- The insurable value of Borrower-owned contents or business personal property within the building.

The above coverage requirements can be met by obtaining flood insurance from private flood insurers or from insurers providing policies under the NFIP, or any combination thereof. Policies issued by private flood insurers must meet the minimum requirements for Acceptable Insurers identified in Section 31.3. Policies issued by insurers participating in the NFIP, as well as those insurers authorized to participate in the NFIP's Write Your Own program, are acceptable.

Contents or business personal property generally includes equipment and inventory owned by the Borrower which are used in connection with the ownership, management or operation of the Property that do not otherwise constitute fixtures. Seller/Serviceers are responsible for having a process in place to obtain inventory and the insurable value of Borrower-owned contents or business personal property within buildings located in SFHAs in order to determine the required coverage.

Private flood insurance policies must be issued on a replacement cost basis and must provide coverage and terms at least as broad as or better than the coverage and terms provided under a standard flood insurance policy issued under the NFIP.

When an NFIP policy is used, the Seller/Serviceer should consider the extent of recovery allowed under the NFIP policy for the type of building being insured in order to avoid creating a situation in which a Borrower would pay for more coverage than a NFIP policy would pay out in the event of a loss.

Freddie Mac does not require flood insurance for low-value, non-residential structures located in a SFHA that meet the exemption provisions of HFIAA. Such structures include maintenance buildings, storage sheds, pool houses, carports, laundry buildings, and gatehouses.

FLOOD COVERAGE PROVIDED BY BLANKET INSURANCE

Private flood insurance policies providing blanket occurrence-based coverage for multiple properties are acceptable. The Seller/Serviceer must evaluate concentrations of insurable value covered by a blanket flood limit resulting from adjacent properties and properties within the same MSA of the Property. The blanket insurance policy limit must be no less than the greater of the following:

- The largest individual TIV of all properties within the Property's MSA covered by the blanket policy limit that require flood insurance, or
- 40% of the aggregate TIV within the Property's MSA covered by the blanket policy limit that require flood insurance.

MAXIMUM DEDUCTIBLE FOR FLOOD INSURANCE

The following are maximum deductibles allowed for flood insurance policies:

- \$50,000 per building for individual policies
- \$500,000 per occurrence for blanket occurrence-based policies
- 15 days waiting period for business income/rental value coverage

When NFIP policies are used as part of the coverage, the maximum deductible available under the NFIP for the type of building being insured is acceptable.

ACCEPTABLE EVIDENCE OF NATIONAL FLOOD INSURANCE PROGRAM (NFIP) FLOOD INSURANCE

If flood insurance is provided by NFIP, Freddie Mac will accept one of the following for each NFIP flood policy:

- Copy of the Policy Declarations page of the NFIP policy
- Completed and executed NFIP Flood Insurance Application plus a copy of the Borrower's premium payment check or agent's paid receipt and agent certification that the policy is issued and is in force

EARTHQUAKE INSURANCE REQUIREMENTS

If the property is located in a Seismic Risk Zone 3 or 4 and the SEL-475 is greater than 20% but less than or equal to 40% earthquake insurance is required. For a Property or buildings for which Freddie Mac requires earthquake insurance, the coverage must be the greater of \$1 million or 150% of the difference between the projected loss for the Property or buildings using the actual SEL-475 and the projected loss of the 20 percent SEL-475. Business Income/Rental Value Insurance and Ordinance and Law coverage is required if the earthquake insurance does not provide that coverage for earthquake damage.

For example:

Replacement cost for the property = \$30 million

Actual PML = 30%

Minimum required earthquake insurance = \$4.5 million

| | | | |
|-------------------------------|--------------------|---|-------------|
| Replacement Cost x Actual PML | \$30 million X 30% | = | \$9 million |
| Replacement Cost X 20% | \$30 million X 20% | = | \$6 million |
| | | | \$3 million |

| | | | |
|-------------------|--------------------|---|---------------|
| Difference X 150% | \$3 million X 150% | = | \$4.5 million |
|-------------------|--------------------|---|---------------|

MAXIMUM EARTHQUAKE DEDUCTIBLE

The maximum deductible for earthquake insurance is as follows:

| BORROWER EQUITY | MAXIMUM DEDUCTIBLE (a reserve account is required for certain deductibles) | RESERVE ACCOUNT |
|-----------------|---|--|
| ≤ 30 percent | 5 percent of coverage | Not required |
| ≤ 30 percent | 10 percent of coverage | Required for 5 percent of the coverage amount |
| ≤ 30 percent | 15 percent of coverage | Required for 10 percent of the coverage amount |
| > 30 percent | 15 percent of coverage | Not required |

BOILER AND MACHINERY INSURANCE

Freddie Mac requires comprehensive Boiler and Machinery insurance for a Property with a central HVAC system where steam boilers and/or other pressurized systems are in operation and are regulated by the State where the Property is located. The insurance must cover loss or damage from explosion of steam boilers, pressure vessels and/or other steam equipment now or installed at a later date.

The required coverage for Boiler and Machinery insurance must be written in an amount no less than 100% of the estimated Replacement Cost of the buildings housing the central HVAC system, including the Replacement Cost of the central HVAC system. If the Boiler and Machinery insurance is provided by a different insurance carrier than the primary insurance carrier providing the property damage policy, Freddie Mac recommends that both policies include a Joint Loss Agreement.

The maximum per occurrence deductible for Boiler and Machinery insurance is:

| REPLACEMENT COST | MAXIMUM DEDUCTIBLE |
|-------------------|---|
| < \$10 million | \$50,000 |
| ≥ \$10 million | \$75,000 |
| Blanket Insurance | 1% of the aggregate Replacement cost of the covered properties, subject to a maximum of \$250,000 |

BUILDER'S RISK INSURANCE

The term Builder's Risk insurance, when used in this chapter, means a policy that insures against property damage to buildings under construction, rehabilitation, addition, significant alteration or

repair. Freddie Mac requires Builder’s Risk insurance during construction of any additions, alterations, rehabilitations, new construction or repairs to the Property. The Borrower may meet this requirement with either an extension of the standard property damage insurance policy or a separate Builder’s Risk policy.

Coverage must be for at least 100 percent of the sum of the contract or contracts and all materials to complete the work. The policy must cover fire and other perils covered within the scope of a policy known as a “Causes of Loss – Special Form” or “All Risk” policy.

Once construction is complete, Builder’s Risk coverage may be discontinued.

The maximum per occurrence deductible for Builder’s Risk insurance is:

| REPLACEMENT COST | MAXIMUM DEDUCTIBLE |
|-------------------|---|
| < \$10 million | \$50,000 |
| ≥ \$10 million | \$75,000 |
| Blanket Insurance | 1% of the aggregate Replacement cost of the covered properties, subject to a maximum of \$250,000 |

ORDINANCE AND LAW COVERAGE

Ordinance and Law coverage is required for any property that is non-conforming under current building, zoning or land use laws or ordinances.

If required, Ordinance and Law coverage must include the following:

a. Coverage “A” – Loss to the undamaged portion of the Property: Coverage no less than the estimated Replacement Cost of the Property; *provided, however,* if the damage threshold percentage of the zoning laws is known, the minimum for coverage A may be determined as follows: Minimum for Coverage “A” = (Replacement Cost – (Replacement Cost X damage threshold percentage)) For example:

- If the Replacement Cost of the Property is \$20 million and the damage threshold percentage is 60 percent, the Coverage “A” limit must be at least \$8 million (\$20 million – (\$20 million X 60 percent) = \$8 million).
- If the damage threshold percentage is unknown, the minimum coverage must be no less than the estimated Replacement Cost of the Property, which is \$20 million in this example.

b. Coverage “B” – Demolition: The Cost to demolish and clear the site of undamaged parts of the Property if such demolition is required by enforcement of any zoning laws. Coverage “B” must equal no less than 10 percent of the estimated Replacement Cost of the Property.

c. **Coverage “C” – Increased Cost of Construction:** Increased cost of construction to allow the Borrower to rebuild the Property to meet all applicable zoning laws. Coverage “C” must equal no less than 10 percent of the estimated Replacement Cost of the Property.

d. Ordinance and Law Coverage must include an **Increased Period of Restoration** endorsement that extends business income and extra expense coverage to provide additional time to restore operations when delayed due to enforcement of building or zoning laws.

TERRORISM INSURANCE

Terrorism insurance is required for each loan:

- Property damage insurance in an amount no less than the estimated Replacement Cost
- Business Income/Rental Value Insurance
- Liability insurance (both General Liability and Umbrella/Excess)

LOCALIZED PERILS INSURANCE

A Property located in an area prone to localized perils, such as sinkhole, mine subsidence, volcanic eruption, and avalanche, must have one or more insurance policies in place to cover these perils. Sinkholes are particularly common in Florida. Mine subsidence may occur in any location where there is, or has been, subterranean mining, but is particularly common in Pennsylvania, Ohio, Illinois and Colorado.

Coverage must be no less than the estimated Replacement Cost of the buildings affected by the localized peril.

The maximum deductible for localized perils insurance is:

| REPLACEMENT COST | MAXIMUM DEDUCTIBLE |
|--------------------------|--|
| < \$10 million | \$50,000 |
| > \$10 million | \$75,000 |
| Blanket Insurance | 1% of the aggregate Replacement cost of the covered properties, subject to a maximum of \$250,000 |

SEWER AND DRAIN INSURANCE

If the Property is prone to periodic sewer or drain back-ups caused by ground water, public or private water systems, or public sewers external to the Property, the Seller/Service must require the Borrower to obtain sewer and drain backup insurance.

Coverage and the deductible must be consistent with the coverage obtained by other lenders in the area.

GENERAL LIABILITY INSURANCE

Standard Commercial General Liability (CGL) insurance on an Occurrence-based Policy Form insuring against legal liability resulting from bodily injury, property damage, personal injury, advertising injury and contractual liability is required. The policy must cover all of the following on the Property:

- Buildings
- Common areas and elements
- Commercial spaces
- Public ways (roads, driveways, alleys, walks, paths, and other similar areas)
- Home Sites and any Borrower-owned structures at an MHC Property

The CGL insurance must pay for the cost of defending any covered claim arising out of or in connection with the ownership, possession, use, leasing, operation, maintenance or condition of the Property. The CGL policy must pay defense costs in addition to the limits required below.

If the Property has assisted living, Alzheimer's care and/or skilled nursing units, the general liability insurance (CGL, umbrella and/or excess liability insurance) may be written on a Claims Made Policy Form. Freddie Mac must be notified if the policy will be changed from a "claims made" policy form to an "occurrence-based" policy form or vice-versa. Freddie Mac reserves the right to review and approve the change.

REQUIRED CGL AND UMBRELLA OR EXCESS LIABILITY COVERAGE

The Seller/Servicer must, to its satisfaction, determine, support and document in the Mortgage File that the liability insurance complies with the following minimum requirements:

1. Borrower must maintain primary CGL coverage for
 - \$1 million per occurrence, and
 - \$2 million in the general aggregate.

If the CGL policy covers multiple locations, Freddie Mac requires that the general aggregate limits apply per location.

2. In addition, the Borrower must maintain, at a minimum, the following umbrella or excess liability coverage:

| NUMBER OF PROPERTIES | NUMBER OF STORIES* | MINIMUM UMBRELLA OR EXCESS LIABILITY LIMITS* |
|----------------------|--------------------------------------|--|
| 1 | 1 to 3 4 to 10 11 to 20 >20 | \$1 million \$3 million \$5 million \$10 million |
| 2 to 3 | 1 to 3 4 to 10 11 to 20 >20 | \$3 million \$5 million \$10 million \$15 million |
| 4 to 10 | 1 to 3 4 to 10 11 to 20 >20 | \$5 million \$10 million \$15 million \$20 million |
| 11 - 20 | 1 to 3 4 to 10 11 to 20 >20 | \$10 million \$15 million \$20 million \$25 million |
| >20 | 1 to 3 4 to 10 11 to 20 >20 | \$15 million \$20 million \$25 million \$50 million |

* Based on the property with the greatest number of stories.

If the CGL aggregate limits apply per location, yet the CGL has an aggregate limit cap, then additional umbrella/excess liability limits must be obtained to cover the required minimum CGL per-location limit deficit. If the underlying CGL aggregate limits are on a per-policy basis and cover multiple properties, then additional umbrella/excess liability limits must be contemplated to determine if limits are acceptable and cover deficiencies in the required minimum CGL and umbrella/excess per-location limits for all properties insured on the policy. The minimum coverage limits in this section may be satisfied with any combination of primary CGL, umbrella and/or excess.

MAXIMUM DEDUCTIBLE AND SELF-INSURED RETENTION (SIR) FOR LIABILITY INSURANCE

The following maximum deductible or SIR, or combined deductible and SIR apply to all forms of general liability insurance on the Property, including CGL, Umbrella and/or Excess Liability policies:

- \$35,000 for policies with individual or combined mortgage balances less than or equal to \$25 million
- \$50,000 for policies with individual or combined mortgage balances greater than \$25 million

- \$250,000 for blanket policies
- \$10,000 for umbrella/excess liability policies

VEHICLE LIABILITY INSURANCE

If the Borrower and/or the Property owns, leases, hires, rents, borrows, uses, or has another use on its behalf a vehicle in conjunction with the operation of the Property, the Borrower must maintain vehicle liability insurance of at least \$1 million per accident.

EXCLUSIONS FROM CGL OR OTHER LIABILITY INSURANCE POLICY

If a Property contains any special hazard that is excluded from the CGL or other liability policy, such as garage operation or swimming pool, the Borrower must provide supplemental coverage for the hazard.

PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS

If the Property has assisted living, Alzheimer’s care, and/or skilled nursing units, the Borrower must obtain Professional Liability insurance.

The policy may be written on a Claims Made Policy Form or an Occurrence-based Policy Form. The Seller/Service provider must obtain approval from Freddie Mac if the Borrower plans to switch the coverage from a Claims Made Policy Form to an Occurrence-based Policy Form.

1. Borrower must maintain primary professional liability coverage of:
 - \$1 million per occurrence
 - \$2 million in the general aggregate

If the professional liability policy covers multiple locations, Freddie Mac requires that the aggregate limits apply per location.

2. In addition, the Borrower must maintain the following minimum Umbrella or Excess Professional Liability coverage:

| TOTAL NUMBER OF LICENSED BEDS COVERED BY THE POLICY | MINIMUM UMBRELLA/EXCESS COVERAGE |
|---|----------------------------------|
| Less than or equal to 100 | \$1 million |
| 100 to 500 | \$5 million |
| 501 to 1,000 | \$10 million |
| Greater than 1,000 | \$25 million |

If the primary PL aggregate limits apply per location, yet the primary PL policy has an aggregate limit cap, then additional umbrella/excess PL limits must be obtained to cover the required minimum per-location aggregate limit deficit. If the primary PL aggregate limits are on a per-policy basis and cover multiple properties, then additional umbrella/excess PL limits must be contemplated to determine if limits are acceptable and cover deficiencies in the required minimum primary PL and umbrella/excess limits for all properties insured on the policy. The minimum coverage limits in this section may be satisfied with any combination of primary PL, Umbrella and/or Excess.

DEDUCTIBLES AND SELF-INSURED RETENTION (SIR)

Freddie Mac requires the following maximum deductible or SIR, or combined deductible and SIR:

- \$100,000 for policies that insure 500 or fewer licensed beds
- \$250,000 for policies that insure more than 500 licensed beds

FIDELITY BOND/CRIME INSURANCE COVERAGE

Each Co-op Borrower must maintain fidelity bond/crime insurance coverage for the Co-op's employees, officers and board members. The minimum coverage required is the greater of:

- Two times the monthly gross association fees plus reserves, or six times the monthly gross association fees
- The maximum deductible is \$25,000.

CO-OP DIRECTORS' AND OFFICERS' LIABILITY INSURANCE

The Seller/Service must ensure that each Co-op maintains directors' and officers' liability insurance as follows:

- Minimum coverage of \$1 million per occurrence
- Maximum deductible of \$25,000