
RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION

and

BRISA BERNON MILLS, LP

LOAN AGREEMENT

Relating to

**[\$[PAR AMOUNT]]
Rhode Island Housing and Mortgage Finance Corporation
Multifamily Housing Revenue Bonds
(Bernon Mills Apartments Project), Series 2023**

Dated as of [CLOSING MONTH] 1, 2023

The interest of the Rhode Island Housing and Mortgage Finance Corporation (the “*Issuer*”) in this Loan Agreement has been assigned pursuant to the Trust Indenture (the “*Indenture*”) (except for “*Reserved Rights of the Issuer*” defined in the Indenture) dated as of the date hereof from the Issuer to The Bank of New York Mellon Trust Company, N.A., as trustee (the “*Trustee*”), and is subject to the security interest of the Trustee thereunder.

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LOAN AGREEMENT

THIS LOAN AGREEMENT (“*Agreement*”) is entered into as of [CLOSING MONTH] 1, 2023, between the **RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION**, a public corporation and instrumentality of the State of Rhode Island (the “*Issuer*”), and **BRISA BERNON MILLS, LP**, a Rhode Island limited partnership (the “*Borrower*”). Capitalized terms used but not defined in the below recitals shall have the meanings given such terms in Article I of the hereinafter defined Indenture.

RECITALS

A. Pursuant to and in accordance with the laws of the State of Rhode Island, including without limitation, Chapter 55 of Title 42 of the General Laws of Rhode Island, 1956 (1998 Reenactment), as amended and supplemented (the “*Act*”), the Issuer has determined to issue, sell and deliver its Multifamily Housing Revenue Bonds (Bernon Mills Apartments Project), Series 2023 (the “*Bonds*”) in the aggregate principal amount of \$[PAR AMOUNT] and to loan the proceeds derived from the sale thereof to the Borrower to assist in the financing of the Project (as defined below) to be undertaken by the Borrower;

B. The Borrower and the Issuer each have full right and lawful authority to enter into this Agreement and to perform and observe the provisions hereof on their respective parts to be performed and observed.

C. Pursuant to, and in accordance with the Act and a resolution of the Issuer adopted on [_____], 2023 (the “*Bond Resolution*”), the Issuer has determined to issue and sell the Bonds pursuant to a Trust Indenture (the “*Indenture*”), dated as of the date hereof, between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the “*Trustee*”) and use the proceeds thereof to make a loan in the same principal amount (the “*Loan*”) to the Borrower for the purpose of financing the construction and equipping of a multifamily rental housing project to be located at 115-119 Front Street in Woonsocket, Rhode Island, to be known as Bernon Mills Apartments, which, upon completion, will contain approximately sixty (60) rental housing units and which may include such ancillary uses as parking, community space, and other functionally related and subordinate uses (the “*Project*”).

D. The obligations of the Borrower to make payments to the Issuer under this Loan Agreement will be evidenced by a Note dated [CLOSING DATE] (the “*Note*”) in the principal amount of \$[PAR AMOUNT].

E. The Issuer will assign its interest in this Loan Agreement and the Note (excluding certain Reserved Rights of the Issuer as defined herein) to the Trustee as part of the Trust Estate established under the Indenture. During the Construction Phase, the Bonds will be cash-collateralized, and no mortgage lien with respect to the Project will secure the Bonds or the Loan.

F. Bank of America, N.A. (the “*Mortgage Lender*”) has agreed to provide a separate construction bridge loan (the “*Mortgage Loan*”) to the Borrower, the proceeds of which shall be advanced pursuant to the Mortgage Loan Documents and used directly or indirectly (including as cash collateral for the Bonds through deposits to the Collateral Fund) to finance a portion of the costs of the construction and equipping of the Project. The Mortgage Lender will administer the Mortgage Loan during the Construction Phase in accordance with the Mortgage Loan Documents.

G. IMPACT C.I.L., LLC (the “*Funding Lender*”) has entered into a Conversion Agreement with the Borrower, the Mortgage Lender and the Trustee, dated as of [CLOSING DATE] (the

“*Conversion Agreement*”), whereby the Funding Lender has committed, subject to the satisfaction on or before the Outside Conversion Date of the Conditions to Conversion set forth in the Conversion Agreement, to facilitate the financing of the Project in the Permanent Phase.

H. If the Conditions to Conversion are satisfied on or before the Outside Conversion Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Bonds shall be subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Bonds shall be paid with amounts on deposit in the Collateral Fund (and other Eligible Funds held under the Indenture), (iii) a portion of the principal amount of the Bonds shall be cancelled, if necessary, such that the principal amount outstanding equals the Actual Project Loan Amount (as determined by the Funding Lender at such time), (iv) the Bonds shall be removed from the Book-Entry System and converted to a physical Governmental Note of the Issuer (in the form attached to the Funding Loan Agreement) which shall be purchased by the Funding Lender, (v) the Funding Loan Agreement attached to the Indenture as *Appendix D* and the Project Loan Agreement attached to the Indenture as *Appendix E* shall be executed and delivered by the respective parties and become effective and shall supersede the Indenture and this Loan Agreement, respectively, (vi) the proceeds of the Funding Lender Purchase Price, along with other funds of the Borrower, shall be deposited into the Mortgage Loan Prepayment Fund, (vii) the Mortgage Loan shall be paid in full with amounts on deposit in the Mortgage Loan Prepayment Fund and all security related to the Mortgage Loan shall be released or assigned to secure the Funding Loan, and (viii) the Borrower shall execute a project note (the “*Project Note*”) to evidence its obligations under the Project Loan Agreement and a new security instrument (the “*Security Instrument*”) with respect to the Project to secure its obligations under the Project Loan Agreement, which Project Note and Security Instrument will be held by the Fiscal Agent under the Funding Loan Agreement to secure the Governmental Note of the Issuer. If the Conditions to Conversion are not satisfied on or before the Outside Conversion Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and the Funding Lender will not have any obligation with respect to the Bonds or the purchase of the Governmental Note.

AGREEMENTS

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrower agree as follows (provided that any obligation of the Issuer created by or arising out of this Agreement shall never constitute a general debt of the Issuer or give rise to any pecuniary liability of the Issuer but shall be payable solely out of Revenues).

ARTICLE I

DEFINITIONS

Section 1.01 *Use of Defined Terms.*

In addition to the words and terms defined elsewhere in this Agreement, the words and terms in this Agreement shall have the meanings set forth in the Trust Indenture (the “*Indenture*”), dated as of the date of this Agreement between the Issuer and the Trustee.

Section 1.02 *Interpretation.*

Any reference herein to the Issuer or to any member or officer of the Issuer includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Rhode Island General Laws or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.03 *Captions and Headings.*

The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01 *Representations, Warranties and Covenants of the Issuer.*

The Issuer makes the following representations, warranties and covenants:

(a) Organization. The Issuer is a public corporation and instrumentality of the State, duly organized, validly existing and in good standing under the laws of the State.

(b) Authority. Under the provisions of the Act and the Bond Resolution, the Issuer has all necessary power and authority to issue and sell the Bonds and to make the Loan from the proceeds thereof, and to execute and deliver this Agreement, the Regulatory Agreement, the Indenture, and the other documents related to the Bonds to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

(c) Pledge. The Issuer covenants that it will not pledge the amounts derived from this Agreement other than as contemplated by the Indenture.

(d) Public Purpose. As set forth in the Bond Resolution, the Issuer has determined that financing the Project by the issuance of the Bonds will further the public purposes of the Act.

(e) No Interest in Project, Borrower or Transactions. To the best of its knowledge, no member, commissioner, officer or director of the Issuer, nor any other official or employee of the Issuer, has any interest, financial, employment or other, in the Borrower, the Project or in the transactions contemplated hereby.

(f) Litigation. There is no action, suit, proceeding, inquiry or investigation pending (as to which the Issuer has received service of process or other notice) or, to the actual knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or

body, which (i) affects or questions the existence or the title to office of any member of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Documents related to the Bonds to which the Issuer is a party, or the issuance, sale, execution or delivery of the Bonds; (iii) affects or questions the validity or enforceability of any of the Documents related to the Bonds to which the Issuer is a party or the Bonds; (iv) questions the exclusion from gross income for federal income taxation of interest on the Bonds; or (v) questions the power or authority of the Issuer to perform its obligations under the Bonds or the Documents related to the Bonds to which the Issuer is a party or the Bonds or to carry out the transactions contemplated thereby.

(g) Compliance and No Conflicts or Breach. The Issuer has complied with the provisions of the laws of the State, including, but not limited to, the Act, which are prerequisites to the consummation of the transactions on the part of the Issuer described or contemplated in the Documents to which it is a party. The sale, issuance, execution and delivery of the Bonds and execution and delivery of the Documents to which the Issuer is a party, the consummation of the transactions on the part of the Issuer contemplated thereby and the fulfillment of or compliance with the terms and conditions thereof do not conflict with or result in the breach of any of the terms, conditions or provisions of any agreement or instrument or judgment, order or decree to which the Issuer is now a party or by which it is bound, nor do they constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature upon any property or assets of the Issuer under the terms of any instrument or agreement.

(h) Consents; Approvals. No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained, is required for the due execution and delivery by the Issuer of, and performance by the Issuer of its obligations under, this Agreement, the Indenture or the other Documents to which it is a party.

The Issuer makes no representation or warranty, express or implied, that the proceeds of the Bonds will be sufficient to finance the construction and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

Section 2.02 *Representations, Warranties and Covenants of the Borrower.*

The Borrower represents, warrants and covenants that:

(a) Good Standing; Single-Purpose Covenants. The Borrower (i) is a limited partnership duly organized and existing in good standing under the laws of the State, (ii) has the power to own its property and to carry on its business as now being conducted and as contemplated by this Agreement and the Tax Certificate, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned by it therein or in which the transaction of its business makes such qualification necessary, including, but not limited to, the State. The Borrower's business and purpose shall consist solely of the ownership, development, operation and management of the Project and such other lawful activities as are incidental, necessary or appropriate thereto. The Borrower shall not incur any indebtedness other than the indebtedness approved by the Issuer as part of the Project's plan of financing as provided in Section 3.06 hereof, unsecured partner loans made in accordance with the Borrower's Partnership Agreement and normal trade accounts payable in the ordinary course of the Borrower's business. The Borrower shall not assume or guaranty any other person's indebtedness or obligations. The Borrower shall not dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey, transfer or lease its property and assets substantially as an entirety to any entity. The Borrower shall not institute or consent to any bankruptcy, insolvency or reorganization proceedings with respect to it, consent to

the appointment of a receiver or similar official with respect to it, make any assignment for the benefit of its creditors or admit in writing its inability to pay its debts generally as they become due.

The Borrower shall: maintain books and records and bank accounts separate from those of any other person; conduct its business in its own name and use separate stationery, invoices and checks; maintain its assets in such a manner that it is not costly or difficult to segregate and identify such assets; observe all organizational formalities and hold itself out to creditors and the public as a legal entity separate and distinct from any other entity; prepare separate tax returns and financial statements, or if part of a consolidated group, then be shown thereon as a separate member of such group; allocate and charge fairly and reasonably any common employee or overhead shared with affiliates; and transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements. The Borrower shall not commingle its assets or funds with those of any other person.

(b) Authority. The Borrower has full power and authority to (i) execute and deliver and carry out its obligations under, the Borrower Documents and Mortgage Loan Documents to which it is a party and (ii) incur the obligations provided for herein and therein, all of which have been duly authorized by all proper and necessary corporate action. All consents or approvals of any public authority which are required as a condition to the validity of this Agreement, the Tax Certificate, the Note, the Bond Purchase Agreement and the Regulatory Agreement have been obtained.

(c) Binding Agreements. The Borrower Documents and Mortgage Loan Documents to which it is a party have been properly executed and duly authorized by the Borrower and constitute valid and legally binding obligations of the Borrower, and are fully enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally, and with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose.

(d) Litigation. There is no litigation or proceeding pending or, to the knowledge of the Borrower, threatened against the Borrower or the Project before any court or administrative agency which, if determined adversely to the Borrower, will materially adversely affect the Borrower or the Project, or the authority of the Borrower to enter into or perform under the Borrower Documents and Mortgage Loan Documents to which it is a party to which it is a party.

(e) Conflicts; Defaults. There is (i) no provision of the Borrower's organizational documents or resolutions of the Borrower and no provision of any existing mortgage, indenture, contract or agreement binding on the Borrower or affecting any of the Borrower's property and (ii) to the Borrower's knowledge, no provision of law applicable to Borrower, as applicable, or order of court binding upon the Borrower or affecting any of the Borrower's property, in either case which would conflict with or in any way prevent the execution, delivery, or performance of the terms of the Borrower Documents and Mortgage Loan Documents to which it is a party, or which would be in default or violated as a result of such execution, delivery or performance. The Borrower is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(f) Title to Project. The Borrower has or will have on the Closing Date good and marketable fee interest in the land constituting the site of the Project and fee interest in the improvements comprising the Project free and clear of any liens or encumbrances, other than the Permitted Encumbrances. The Borrower possesses or will timely obtain and possess in due course and will at all times thereafter possess, all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business

substantially as now conducted or as it is intended to be conducted with respect to the Project, without known conflict with any rights of others.

(g) *[Reserved]*.

(h) *Events Affecting Tax Exemption.* The Borrower has not taken or permitted to be taken any action that would impair the exclusion from gross income for federal income tax purposes of the interest payable on the Bonds, and the Borrower has never been advised that the interest is or will be subject to inclusion in gross income. As of the Closing Date, the Borrower is in compliance with all requirements contained in the Tax Certificate, and the representations of the Borrower set forth in the Tax Certificate pertaining to the Borrower and the Project are true and accurate in all material respects. Notwithstanding the above, if the Borrower becomes aware of any situation, event or condition which would result in the interest on the Bonds being included in gross income for federal income tax purposes, the Borrower shall promptly give written notice thereof to the Issuer and the Trustee.

(i) *Compliance with Laws.* The Project is of the type authorized and permitted by the Act, and the Project and the operation thereof will, from the Closing Date forward, be in compliance with the provisions of the Act and the provisions of the Code applicable thereto. The Borrower will use due diligence to cause the Project to be operated in accordance with the Act and all other applicable laws, rulings, regulations and ordinances of the State and the departments, agencies and political subdivisions thereof. The Borrower has obtained or will cause to be timely obtained all requisite approvals of the State and of other federal and local governmental bodies required for the rehabilitation and operation of the Project.

(j) *No Material Misstatements.* The representations and warranties of the Borrower contained in the Borrower Documents and Mortgage Loan Documents (including, without limitation, any information furnished by the Borrower in connection with the preparation of any materials related to the issuance or delivery of the Bonds on the Closing Date), contain no material misstatement of fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. The representations and warranties of the Borrower and the statements, information and descriptions contained in the Official Statement and in the Borrower's closing certificates, as of the Closing Date, are true, correct and complete in all material respects, do not contain any untrue statement or misleading statement of material fact made by the Borrower or its affiliates, and do not omit to state a material fact necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in light of the circumstances under which they were made, not misleading. The estimates and assumptions contained in this Agreement and in any certificate of the Borrower delivered as of the Closing Date are reasonable and based on the most accurate information available to the Borrower.

(k) *Interest of Member or Agent of Issuer.* To the knowledge of the Borrower, no commissioner, member or agent of the Issuer has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other persons, in the loan of the bond proceeds, the Bonds, the Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Documents.

(l) *Arbitrage Bonds.* No money on deposit or to be deposited in any fund or account in connection with the Bonds, whether or not such money was or is to be derived from other sources, has been or will be used by or under the direction of the Borrower in any manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(m) Tax Returns. The Borrower has filed or caused to be filed, or will timely file or caused to be filed, all required federal, state and local tax returns and has paid all taxes as shown on such returns as such taxes have become due. No claims have been assessed and are unpaid with respect to such taxes.

(n) No Reliance on Issuer. The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Issuer in any manner except to issue the Bonds.

(o) Fees. The Borrower shall pay all fees, costs and expenses, including the Issuer Fees and Expenses, as provided under the Note and in this Agreement.

(p) Place of Business of Borrower. The Borrower has a place of business in the State.

(q) Governmental Requirements. To the Borrower's knowledge, other than as disclosed in the environmental reports provided by Borrower to Issuer, no violation of any Governmental Requirement exists with respect to the Project, the Borrower, or any other asset of the Borrower, the Project conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of Governmental Authorities having jurisdiction over the Project, all necessary utilities are available to the Project, and the Borrower has obtained or will obtain all requisite zoning approvals necessary with respect to the Project.

(r) Condemnation. No condemnation, eminent domain or similar proceeding is pending, or to the knowledge of the Borrower, threatened, with respect to the Project or any portion thereof.

(s) Governmental Approvals. The Borrower has obtained, or will obtain and has maintained as currently in full force and effect, or will be in full force and effect, all consents, and permits, licenses, accreditations, certifications and other approvals (governmental or otherwise) that:

(i) would constitute a condition precedent to, or the absence of which would materially adversely affect, the enforceability of and the performance by the Borrower of its obligations hereunder; and

(ii) are necessary for the acquisition, construction, financing and operation of the Project.

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

(u) Location of Project. The Project is located wholly within the boundaries of the City of Woonsocket, Rhode Island.

(v) Indenture; Duties and Obligations Thereunder. The Borrower, by execution of this Agreement, acknowledges and agrees that it has reviewed the Indenture, participated in the drafting thereof and approves the Indenture. The Borrower agrees that whenever the Indenture by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower shall carry out and perform all of its obligations under the Indenture as fully as if the Borrower were a party to the Indenture. The Borrower also will fully and faithfully perform all the duties and obligations which the Issuer has covenanted and agreed in the Indenture to cause the Borrower to perform with the exception of any duty or undertaking of the Issuer that by its nature cannot be delegated or assigned.

(w) Work on Project in Compliance with Applicable Laws. All work performed in connection with the Project shall be performed in strict compliance with all applicable federal, State, county and municipal laws, ordinances, rules and regulations now in force or as hereafter enacted.

Section 2.03 *Additional Representations, Warranties and Undertakings of the Borrower.*

The Borrower makes the following additional representations as the basis for their covenants and agreements herein:

(a) No Breach, Conflicts, Violations or Defaults. The execution and delivery of the Borrower Documents and Mortgage Loan Documents to which it is a party, and the consummation of the transactions herein and therein contemplated, including the application of the proceeds of the Bonds as so contemplated, will not conflict with, or constitute a breach of, or default by it under its formation and governance documents, or any statute, indenture, mortgage, deed of trust, lease, note, loan agreement or other agreement or instrument to which it is a party or by which it or its properties are bound, and will not constitute a violation of any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its activities or properties. Additionally, the Borrower is not in breach, default or violation of any applicable statute, indenture, mortgage, deed of trust, note, loan agreement or other agreement or instrument which would allow the obligee or obligees thereof to take any action which would preclude performance under the Borrower Documents by the Borrower.

(b) No Litigation or Defaults. There are no actions, suits or proceedings of any type whatsoever pending or, to its knowledge, threatened against or affecting it or its assets, properties or operations which, if determined adversely to it or its interests, could have a material adverse effect upon its financial condition, assets, properties or operations and it is not in default with respect to any order or decree of any court or any order, regulation or decree of any federal, state, municipal or governmental agency, which default would materially and adversely affect its financial condition, assets, properties or operations, or the completion of the construction of the Project.

(c) Financial Statements. All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Issuer in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects as of the respective dates of such reports, and (ii) accurately represent the financial condition of the Project as of the date of such reports. Other than pursuant to or permitted by the Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

(d) *No Untrue Statements or Omissions.* Neither any information, exhibit or report furnished to the Issuer by the Borrower in connection with the negotiation of the Borrower Documents nor any of the foregoing representations contains any untrue statement of a material fact made by the Borrower or its affiliates, or omits to state a material fact necessary to make the statements of Borrower or its affiliates therein, in light of the circumstances under which they were made, not misleading.

(e) *Compliance with Regulatory Agreements.* The Project is, as of the date of issuance of the Bonds and the Note, in compliance with all requirements of the all regulatory agreements (including the Regulatory Agreement) to the extent such requirements are applicable, and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of such regulatory agreements, including all applicable requirements of the Act and the Code, and pursuant to leases which comply with all applicable laws. The Borrower shall at all times comply with the requirements of the regulatory agreements, including the Regulatory Agreement.

All representations of the Borrower contained herein and in any certificate or other instrument delivered by the Borrower pursuant to the Borrower Documents or in connection with the transaction contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds.

Section 2.04 *Tax-Exempt Status of the Bonds.*

The Borrower hereby represents, warrants and agrees that the Tax Certificate executed and delivered by the Borrower concurrently with the issuance and delivery of the Bonds is true, accurate and complete in all material respects as of the date on which executed and delivered.

Section 2.05 *Notice of Determination of Taxability.*

Promptly after the Borrower first becomes aware of any investigation relating to the tax status of the Bonds, or a Determination of Taxability, the Borrower shall give written notice thereof to the Issuer and the Trustee at the address of each party listed in Article I of the Indenture.

Section 2.06 *Conversion.*

The Borrower acknowledges and agrees that the Loan is subject to Conversion as provided for in Section 2.12 of the Indenture.

ARTICLE III

PLAN OF FINANCING

Section 3.01 *Issuance of Bonds; Application of Proceeds.*

To provide funds to make the Loan for purposes of assisting the Borrower in paying Costs of the Project, the Issuer shall simultaneously with the execution and delivery hereof proceed with the issuance and delivery of the Bonds to the Underwriter upon receipt by the Trustee of the items listed in Section 2.05 of the Indenture. The Issuer agrees to deposit the proceeds of sale of the Bonds in accordance with the Indenture.

The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, conversion, mandatory tender and remarketing as set forth therein. As evidenced by the Borrower's executed Consent and Agreement of Borrower, the Borrower has approved the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture.

Pending disbursement pursuant to Section 3.03 hereof, the proceeds of the Bonds deposited in the Project Fund shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of the Bond Debt Service Charges as provided in the Indenture.

Section 3.02 *The Loan.*

The Issuer agrees, upon the terms and conditions herein, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to fund the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit in full of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note as assigned by the Issuer and made payable to the Trustee.

Section 3.03 *Disbursements from the Project Fund.*

In the Indenture, the Issuer has authorized and directed the Trustee to make disbursements from the Project Fund to pay Costs of the Project upon satisfaction of the requirements of the Indenture. The Trustee is directed in the Indenture to make disbursements from the Project Fund as provided in the Indenture, and pursuant to the receipt of a Requisition approved by the Mortgage Lender and, to the extent provided in the Indenture, the Issuer, in substantially the form attached to the Indenture as Appendix B.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan and conditioned upon the deposit of Eligible Funds into the Collateral Fund as set forth in the Indenture.

Section 3.04 *Furnishing Documents to the Trustee.*

The Borrower agrees to cause Requisitions to be delivered to the Trustee as may be necessary to effect payments out of the Project Fund in accordance with Section 3.03 hereof.

Section 3.05 *Construction, Installation and Equipment.*

The Borrower (a) has acquired the land, and shall construct and equip the Project with all reasonable dispatch and in accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that construction, installation and equipment from funds made available therefor in accordance with this Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the construction and equipping of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and

any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate, or cause its general contractor to compensate, all workers employed in the construction and equipping of the Project as required by law.

Section 3.06 *Plans and Specifications.*

The Plans and Specifications have been or shall be filed with the Issuer and, if requested by the Trustee, with the Trustee. The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made that would change the purpose of the Project to other than purposes permitted by the Act and the Regulatory Agreement; and provided further that no material revision of the Plans and Specifications shall be made unless the Borrower has first delivered to the Issuer and the Trustee a narrative description of the proposed revision accompanied by a certificate of an Authorized Borrower Representative certifying the change in Project Costs resulting from the revision and that the moneys then on deposit in the Project Fund together with other identified available moneys will be sufficient to pay in full the Project Costs including the change in Project Costs resulting from such revision.

The sources and uses contemplated by the plan of financing for the Project are set forth in **Exhibit D** hereto, and at or prior to the execution and delivery of this Agreement, the Borrower shall provide to the Issuer evidence acceptable to the Issuer, in its sole discretion, of the availability of all financing contemplated by the plan of financing for the Project including, without limitation (and without regard to whether the immediate availability of such financing is a condition to undertaking the Project), the anticipated equity portion of the financing and all other public and private financing and any interim or bridge financing to be provided in anticipation of the closing of any of the foregoing aspects of the financing therefor. Any material changes in the plan of financing or to any information contained in **Exhibit D** shall be communicated promptly to the Issuer. Copies of all documents evidencing that financing, and the security therefor, all in form reasonably acceptable to the Issuer, shall have been provided to the Issuer.

Section 3.07 *Completion Date.*

The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by an Authorized Borrower Representative substantially in the form of **Exhibit C** attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a), (b), (d) and (e) of the Completion Certificate.

Section 3.08 *Borrower Required to Pay in the Event Project Fund Is Insufficient.*

In the event the moneys in the Project Fund are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project and to pay from other funds of the Borrower or its own funds that portion of the Costs of the Project in excess of the moneys available therefore in the Project Fund. 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 Costs of the Project will be sufficient to pay all of the Costs of the Project. The Borrower agrees that if after exhaustion of the moneys in the Project Fund, the Borrower should pay any portion of the Costs of the Project pursuant to the provisions of this Section, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds, nor shall the Borrower be entitled to any diminution of the amounts payable under this Agreement.

Section 3.09 *Special Arbitrage Certifications.*

The Borrower covenants (i) not to take any action or fail to take any action which would cause the interest on any of the Bonds to be or become includable in the gross income of the Holders for federal income tax purposes and (ii) not to cause or direct any moneys on deposit in any fund or account to be

used in a manner that would cause the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code. The Borrower certifies and covenants to and for the benefit of the Issuer and the Holders of the Bonds that so long as there are any Bonds Outstanding, moneys on deposit in any fund or account in connection with the Bonds, whether such moneys were derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner that will cause the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code.

Section 3.10 *Rebate Calculations and Payments.*

Within thirty (30) days after the end of each Bond Year and within twenty (20) days after payment in full of the Bonds, if necessary, the Borrower shall cause the Rebate Analyst to calculate the Rebate Amount as of the end of that Bond Year or the date of such payment and the Rebate Analyst shall notify the Trustee, the Borrower and the Investor Limited Partner of that amount. If the amount then on deposit in the Rebate Fund created under the Indenture is less than the Rebate Amount (taking into account the amount or amounts, if any, previously paid to the United States), the Borrower shall, within thirty (30) days after the date of the aforesaid calculation, deposit or cause to be deposited to the credit of the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Rebate Amount. The obligation of the Borrower to make or cause to be made such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture or the termination of this Agreement. The Borrower shall obtain such records of the computations made pursuant to this Section as are required under Section 148(f) of the Code and shall retain such records for at least six (6) years after the maturity or retirement of the Bonds.

Section 3.11 *Rebate Analyst.*

In accordance with Section 3.10 hereof, the Rebate Analyst shall perform any calculations required under Section 4.06 of the Indenture at the sole expense of the Borrower. In the event the Issuer does not select a Rebate Analyst when any such calculation is required, the Borrower, with the consent of the Issuer, shall appoint a Rebate Analyst, the expense of which shall be borne by the Borrower, and the Borrower shall give prompt notice in writing to the Trustee of such appointment. The Borrower further covenants that, during the term of the Bonds, in the event the Borrower sells or otherwise disposes of the Project, it will require that the transferee execute a covenant similar to that in this Section in the sale or other documents concerning the disposition and will require such transferee to include such a covenant in future transfer documents. The special covenants of the Borrower in this Section shall survive the defeasance or payment in full of the Bonds notwithstanding any other provision of this Agreement until the requirements for payment of any Rebate Amount has been fully satisfied.

ARTICLE IV

LOAN PAYMENTS; ADDITIONAL PAYMENTS AND OBLIGATIONS

Section 4.01 *Loan Repayment; Delivery of Note.*

In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments, equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of the Bond Debt Service Charges on that date.

To secure the Borrower's performance of its obligations under this Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note and the Regulatory Agreement.

The Note shall secure equally and ratably all Outstanding Bonds, except that, so long as no Event of Default has occurred and is subsisting hereunder, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of the Bond Debt Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Debt Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and that Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of this Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

Section 4.02 *Additional Payments.*

The Borrower shall pay as Additional Payments hereunder the following:

(a) All Extension Payments and other sums required under Section 3.03 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrower further agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing.

(b) To the Trustee, (i) the Ordinary Trustee Fees and Expenses to the extent that the funds available in the Expense Fund for the payment thereof are not sufficient and available therefor, and (ii) the Trustee's Extraordinary Expenses, if any.

(c) To the Trustee for the benefit of the Issuer (i) the Ordinary Issuer Fees to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Issuer Fees and Expenses.

(d) All costs of printing any replacement Bonds required to be issued under the Indenture to the extent such costs are not paid by the Holders.

(e) To the extent not paid by the Trustee from the Expense Fund, all of the fees and expenses of the Rebate Analyst (including, but not limited to, the Rebate Analyst Fee) and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with any of the requirements imposed by Section 4.06 of the Indenture and the Tax Certificate to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor. The Borrower shall provide or cause to be provided all information and

money (including money necessary to make deposits to the Rebate Fund required by the Indenture and the Tax Certificate and the fees and expenses of the Rebate Analyst to the extent available money in the Bond Fund under the Indenture are inadequate to pay such amounts) to the Trustee and the Rebate Analyst to enable the Trustee and the Rebate Analyst to comply with the Indenture and the Tax Certificate.

(f) To the Dissemination Agent, the Dissemination Agent Fee to the extent the funds available in the Expense Fund are not sufficient and available therefore, as well as any other costs and expenses in order to provide for compliance with the terms of the Continuing Disclosure Agreement.

(g) To the Remarketing Agent, the Remarketing Agent's Fee and any Remarketing Expenses.

In the event the Borrower is in default under any provision of any of the Borrower Documents, the Borrower shall be liable to, and upon demand shall pay to, the Issuer and the Trustee all reasonable fees and disbursements of such persons and their agents (including attorneys' fees and expenses) which are reasonably connected therewith or incidental thereto except to the extent such fees and disbursements are paid from money available therefor under the Indenture.

To provide for certain of the anticipated Additional Payments, the Borrower agrees to cause to be deposited with the Trustee the Expense Fund Deposit and the Costs of Issuance Deposit as required under the Indenture, and authorizes the Trustee to pay, from money on deposit in the Costs of Issuance Fund and the Expense Fund, the amounts provided to be paid from the Costs of Issuance Fund or the Expense Fund in accordance with Sections 4.07 and 4.09, respectively, of the Indenture. All such amounts shall be paid directly to the parties entitled thereto for their own account as and when such amounts become due and payable.

Upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section by any such party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section are not paid upon such demand, such Additional Payments shall bear interest from the date of such payment or the incurrence thereof at the Interest Rate until the amount due shall have been fully paid.

The Borrower also covenants and agrees to pay any additional interest, taxes or penalties that may be due as a result of a Determination of Taxability.

The obligations of the Borrower under this Section shall survive the termination of this Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, including the Regulatory Agreement.

Section 4.03 *Place of Payments.*

The Borrower shall make all Loan Payments directly to the Trustee at its Designated Office. Additional Payments shall be made by the Borrower directly to the person or entity to whom or to which they are due.

Section 4.04 *Obligations of the Borrower Unconditional.*

The obligations of the Borrower to make the Loan Payments, Additional Payments and any other payments required under this Agreement or the Indenture, and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any right of notice, setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee or any other person. Subject to termination as provided herein, the Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for under this Agreement, (ii) will perform and observe all of its other agreements contained in this Agreement and (iii) will not terminate this Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, or change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement, whether express or implied, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture, whether express or implied.

Section 4.05 *Remarketing of Bonds.*

The Borrower is hereby granted the right to (i) request a remarketing of the Bonds in the manner and to the extent set forth in Section 3.03 of the Indenture and (ii) with the written consent of the Remarketing Agent (which consent shall not be unreasonably withheld), designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.01 and 3.03 of the Indenture. Notice of any such Remarketing Period and the related Mandatory Tender Date also shall be delivered to the Issuer, the Investor Limited Partner, the Mortgage Lender and the Trustee not later than fifteen (15) days prior to the Mandatory Tender Date.

Section 4.06 *Mortgage Loan to Borrower.*

Contemporaneously with the issuance of the Bonds, the Borrower shall obtain the Mortgage Loan from the Mortgage Lender.

The Borrower shall cause the Mortgage Lender, from time to time to deliver Eligible Funds to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender and, to the extent provided in the Indenture, the Issuer, pursuant to a completed and fully executed Requisitions, in substantially the form attached to the Indenture as Appendix B.

Section 4.07 *Assignment of Agreement and Revenues; Trustee is Third Party Beneficiary.*

To secure the payment of the Bond Debt Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Agreement (except for the Reserved Rights of the Issuer). The Borrower hereby agrees and consents to those assignments. The Issuer shall not attempt to further assign, transfer or convey its interest in the Revenues or this Agreement or create any pledge or lien of any form or nature with respect to the Revenues, Loan Payments or Collateral Payments hereunder.

The Trustee shall be a third-party beneficiary to this Agreement.

ARTICLE V

SPECIAL COVENANTS

Section 5.01 *No Warranty of Condition or Suitability by Issuer.*

THE ISSUER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY AS TO THE PROJECT OR THE CONDITION THEREOF, OR THAT THE PROJECT WILL BE SUITABLE FOR THE PURPOSES OR NEEDS OF THE BORROWER. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY THAT THE BORROWER WILL HAVE QUIET AND PEACEFUL POSSESSION OF THE PROJECT. THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE PROJECT OR ITS SUITABILITY FOR THE BORROWER'S PURPOSES.

Section 5.02 *Access to the Project and Records.*

The Borrower agrees that the Issuer, the Trustee and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Project and the construction and equipping thereof at all reasonable times during normal business hours upon reasonable prior notice to Borrower. The Borrower acknowledges that the Issuer has the right to monitor the construction and equipping of the Project. The Issuer, the Trustee and their duly authorized agents shall also be permitted, at all reasonable times during normal business hours upon reasonable prior notice to the Borrower, to examine the books, accounts, contracts, documents, and other papers of the Borrower with respect to the Project and the Loan and the Borrower's compliance with the terms thereof, which shall all be maintained by the Borrower in reasonable condition and for audit.

Section 5.03 *Further Assurances and Corrective Instruments.*

The Borrower agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

Section 5.04 *Issuer and Borrower Representatives.*

Whenever under the provisions of this Agreement the approval of the Issuer or the Borrower is required or the Issuer or the Borrower is required to take some action at the request of the other, such approval or such request shall be given in writing both for the Issuer by an Authorized Officer of the Issuer and for the Borrower by an Authorized Borrower Representative. The Trustee shall be authorized to act on any such approval or request pursuant to the Indenture.

Section 5.05 *Financing Statements.*

The Borrower shall execute and file, or shall cause to be executed and filed, any and all financing statements, or any amendments thereof or continuation statements thereto, to perfect the security interests granted in the Indenture, in the manner prescribed in the Indenture. The Borrower shall pay all costs of filing such instruments and any fees and expenses (including reasonable attorney's fees) associated therewith.

Section 5.06 *Borrower Receipt of Insurance or Condemnation Proceeds.*

In the event the Borrower receives any proceeds of insurance or any condemnation awards with respect to the Project or any portion thereof, the Borrower shall promptly upon receipt remit all such insurance proceeds or condemnation awards to the Mortgage Lender to the extent required by the Mortgage Loan Documents. Such proceeds shall be used to either reduce the indebtedness evidenced by the Mortgage Loan Documents or to repair or restore the loss caused to the Project pursuant to the terms and conditions of the Mortgage Loan Documents.

Section 5.07 *Borrower's Obligations Upon Tender of Bonds.*

If any tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund, or the Project Fund as provided in Section 3.01(e) of the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to Section 3.01(e) of the Indenture.

Section 5.08 *Option to Terminate.*

The Borrower shall have the option to cancel or terminate this Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments, Additional Payments and other amounts due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed and (c) the Mortgage Loan shall be repaid in full. Such option shall be exercised by the Borrower, with approval of the Investor Limited Partner (not to be unreasonably withheld, conditioned or delayed), giving the Issuer and the Trustee five (5) days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this Section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Section 5.09 *Tax Covenants.*

[Section Still Under Review by HDW Tax Attorneys as to whether to add specific covenants like those in the form of the PLA] The Borrower, for the benefit of the Issuer and each Holder, represents that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, to maintain the Federal Tax Status of the Bonds. The Borrower represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such Federal Tax Status. The Borrower agrees that it will not make any changes in the Project which will result in a violation of the limitation of the maturity of the Bonds under Section 147(b) of the Code.

If the Borrower becomes aware of any situation, event or condition which would adversely affect the Federal Tax Status of the Bonds, the Borrower shall promptly give written notice thereof to the Issuer and the Trustee.

The Issuer covenants that it will take, or require to be taken, all actions that may be required of the Issuer to maintain the Federal Tax Status of the Bonds. It will not take or authorize to be taken any actions that would adversely affect such Federal Tax Status under the Code.

The Borrower and the Issuer have entered into the Regulatory Agreement for purposes of assuring that the Federal Tax Status of the Bonds will be maintained.

Section 5.10 *Affirmative Covenants.*

(a) *Maintenance of Project.* The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to the Project. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

(b) *Keeping of Records and Books of Account.* The Borrower shall keep adequate records and books of account in which complete entries will be made, reflecting all financial transactions.

(c) *Payment of Taxes, Etc.* The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a lien upon its properties; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any lien existing at any time upon any of its properties; ***provided, however,*** that the Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b) the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other governmental charges or levies or the premium on any required insurance, the Trustee may make such payment, but is not obligated to do so, and the Trustee shall be reimbursed by the Borrower therefor with interest on the amount so advanced.

(d) *Insurance.* The Borrower shall:

(i) Maintain or cause to be maintained at all times insurance of such types and in such amounts as may be required by the Mortgage Loan Documents and the Documents.

(ii) Furnish to the Issuer and the Trustee on the Closing Date and on each anniversary thereof a certificate of an insurance carrier or consultant that all insurance as may be required by the Mortgage Loan Documents and the Documents has been obtained and is in force.

(e) [Reserved.]

(f) *Notice of Default and Certain Other Events.* In the event that any Event of Default occurs, the Borrower shall give prompt notice in writing of such happening to the Issuer, the Trustee and the Mortgage Lender. The Borrower also shall give prompt notice to the Issuer, the Trustee and the Mortgage Lender of any other fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations under this Agreement, the Mortgage Loan Documents or any other Documents to which it is a party, including notice of any litigation, governmental proceedings or claims, inquiries or investigations to which it may hereafter become a party or be subject that may materially and adversely affect the Project or the Borrower's ability to meet its obligations under this Agreement or the Mortgage Loan Documents.

(g) Performance of Contracts, Etc. Except to the extent contested in good faith, the Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower on an individual basis or would materially impair the ability of the Borrower to perform this Agreement, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(h) [Reserved.]

(i) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform such acts as may be necessary or advisable to perfect and maintain any security interest provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Borrower shall promptly do, execute, deliver, file and perform or cause to be done, executed, delivered, filed and performed all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements and mortgages as may be necessary or advisable to perfect and maintain a security interest on any and all assets or rights owned by the Borrower, or any interest of the Borrower therein, and the Trustee and its officers, employees and authorized agents, or any of them, are hereby irrevocably appointed the attorneys in fact of the Borrower to do all acts and things which the Trustee may deem necessary or advisable to preserve, perfect and continue perfected any security interest in favor of the Trustee. The Trustee shall not be responsible for the initial filing of financial statements.

(j) Environmental Matters. The Borrower will take and continue to take prompt action to (i) keep the Project in compliance with all Hazardous Materials Laws, (ii) promptly notify the Issuer if the Borrower shall become aware that any Hazardous Materials are on or near the Project in violation of Hazardous Materials Laws, and (iii) remedy, as legally required, all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems, if any, with respect to the Project, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

(k) Non-discrimination. The Borrower will not and will require each contractor, subcontractor and commercial tenant of the Project to covenant that it will not discriminate by reason of race, creed, color, handicap, national origin or sex in the employment of any Person employed by it in connection with the Project or working in or on the Project. The Borrower will require each manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

Section 5.11 *Other Indebtedness.*

So long as no Event of Default or Default hereunder shall have occurred and be continuing, the Borrower shall be permitted to incur any indebtedness for any Costs of the Project or other obligation or payment due under this Agreement, the Indenture or the Regulatory Agreement.

Section 5.12 *Nature of Business.*

The Borrower will not change the general character of its business as conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

Section 5.13 *Continuing Disclosure.*

The Borrower hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture. The Borrower will provide to the Trustee and the Issuer copies of the annual financial statements of the Project and notices of material events provided pursuant to the Continuing Disclosure Agreement.

ARTICLE VI

RESTRICTION ON TRANSFER; ASSIGNMENT, SELLING, LEASING; INDEMNIFICATION

Section 6.01 *Restriction on Transfer; Removal of General Partner.*

(a) Except for Permitted Encumbrances and except as contemplated by the Mortgage Loan Documents, the Regulatory Agreement and as otherwise provided for herein, the Borrower will not, directly or indirectly, by operation of law or otherwise, sell, assign, grant a deed of trust, pledge, hypothecate, transfer or otherwise dispose of the Project or any interest in the Project, and will not encumber, alienate, hypothecate, grant a security interest in or grant any other ownership or control interest whatsoever in the Project, in the leases or in the rents, issues and profits therefrom.

(b) No interest in the Borrower may be sold, conveyed, transferred, assigned, pledged or otherwise transferred, in whole or in part, directly or indirectly, by operation of law or otherwise other than the transfer of partnership interests after the parties have paid all installments of the equity contribution required to be delivered pursuant to the Partnership Agreement.

(c) Notwithstanding anything to the contrary contained herein or in any other Borrower Document (other than Section 5.09 hereof, the last paragraph of this Section 6.01, the Tax Certificate and the Regulatory Agreement) but subject to any applicable provisions of the Mortgage Loan Documents, Section 5.09 hereof, the last paragraph of this Section 6.01, the Tax Certificate and the Regulatory Agreement, the following shall be permitted and shall not require the prior written approval of Issuer or the Trustee: (a) the transfer by the Investor Limited Partner of its interest in the Borrower in accordance with the terms of the Partnership Agreement, (b) the removal of the General Partner in accordance with the Partnership Agreement and the replacement thereof in accordance with the Partnership Agreement, (c) the transfer of ownership interests in the Investor Limited Partner, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner in the Borrower to the General Partner or any of its Affiliates, (e) the pledge and collateral assignment by the General Partner of its ownership interests in the Borrower to the Mortgage Lender as security for the Mortgage Loan, (f) the admission of the Investor Limited Partner to the Borrower as partners therein pursuant to the Partnership Agreement, (g) any amendment to the Partnership Agreement, the Borrower Documents or the Mortgage Loan Documents to memorialize the transfers or removal described above and (h) any removal of the General Partner and replacement thereof in accordance with the Mortgage Loan Documents.

(d) The Borrower will not become a party to any merger or consolidation, or agree to effect any asset acquisition or stock acquisition.

(e) The Borrower will not convert the ownership of the Project into condominium or cooperative housing corporation form of ownership other than a limited equity cooperative that is a qualified cooperative housing corporation as defined in Section 143(k)(9) of the Code.

(f) The Borrower will not seek the dissolution or winding up, in whole or in part, of the Borrower or voluntarily file, or consent to the filing of, a petition for bankruptcy, reorganization, or assignment for the benefit of creditors or similar proceedings.

(g) The Borrower will not enter into any arrangement, directly or indirectly, whereby the Borrower shall sell or transfer any property owned by it in order then or thereafter to lease such property or lease other property that the Borrower intends to use for substantially the same purpose as the property being sold or transferred without the prior written consent of the Issuer in its sole and absolute discretion.

(h) The Borrower will not take any action that would adversely affect the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation nor omit or fail to take any action required to maintain the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation.

(i) This Agreement may not be assigned, sold, transferred or otherwise disposed of by the Borrower without the prior written consent of the Issuer, subject to each of the following conditions:

(i) No such assignment will relieve the Borrower from primary liability for any of its obligations hereunder (unless the Issuer agrees in writing to release the Borrower) and in the event of any such assignment, the Borrower will continue to remain primarily liable for payment of its obligations hereunder and for performance and observance of the other covenants and agreements on its part herein provided.

(ii) No such assignment will, in the opinion of Bond Counsel (all such expenses related to such opinion shall be paid by the Borrower), impair the excludability of interest on the Bonds from gross income for purposes of federal income taxation.

(iii) The assignee will assume in writing the obligations of the Borrower hereunder to the extent of the interest assigned in a form acceptable to the Issuer (the "Assumption Agreement").

(iv) Prior to any such assignment, the Borrower will, furnish or cause to be furnished to the Issuer and the Trustee an executed original of the Assumption Agreement.

(j) The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; *provided* that it may do so if the surviving, resulting or transferee entity is other than the Borrower, it assumes in writing all of the obligations of the Borrower under the Borrower Documents and Mortgage Loan Documents and it has a net worth equal to or greater than that of the Borrower immediately prior to such consolidation, merger, sale or transfer. The Borrower shall not permit one or more other entities to consolidate with or merge into it; or take any action or allow any action to be taken to terminate the existence of the Borrower except as provided herein. No sale, assignment or transfer of title to the Project, except as may be otherwise required by the Mortgage Lender, shall be made unless (a) the Mortgage Lender consents to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents and Mortgage Loan Documents, *provided* that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder, except the Borrower's obligation to indemnify the Issuer and the Trustee and reimburse the Issuer and the Trustee for the fees and expenses of the Issuer and the Trustee, and (c) no Event of Default as certified in writing to the Issuer and the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Agreement. The Issuer shall consent to any such

assignment or transfer if (i) the Mortgage Lender notifies it in writing that the aforesaid condition (a) is satisfied, (ii) the Issuer and the Trustee receives an Opinion of Bond Counsel to the effect that such transfer or assignment would not adversely affect the federal tax status of the Bonds, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the Outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by an assignee as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; **provided, however**, the Borrower shall not be released from its obligation to pay or reimburse the fees and expenses of the Issuer and the Trustee and to indemnify the Trustee and the Issuer without the express written consent of the Trustee and the Issuer, as applicable, which consent shall not be unreasonably withheld. Nothing contained in this Section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Regulatory Agreement and the Mortgage Loan Documents.

Notwithstanding any of the above provisions in this Section 6.01 or elsewhere in this Loan Agreement, the Borrower acknowledges and agrees that any transfer of any interest in the Borrower or in the Project and any approvals of the same by the Issuer shall be subject to the TPA Regulations.

Section 6.02 Indemnification.

(a) Subject to the provisions of subsections (b) and (c) of this Section, the Borrower hereby agrees to pay, indemnify, hold harmless and defend the Issuer and the Trustee, and each of their respective commissioners, directors, officers, members, employees, attorneys, agents, trustees and representatives (each called an “**Indemnified Party**” and collectively called the “**Indemnified Parties**”), against any and all losses, damages, costs, expenses and fees (including all reasonable attorneys’ fees), causes of action, suits, allegations, claims, demands, judgments and liabilities of whatsoever nature or kind (including, but not limited to, any documentary stamp or transfer taxes due and payable in connection with the Loan, if any, litigation and court costs, amounts paid in settlement by or with the approval of the Borrower and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of, based upon or relating to:

(i) the issuance, offering, sale, delivery, remarketing or transfer of the Bonds or the making of the Loan by the Issuer to the Borrower;

(ii) the planning, design, acquisition, construction, installation, operation, use, occupancy, maintenance, management or ownership of the Project by the Borrower and any predecessors in title;

(iii) the enforcement of or any action taken by the Issuer or the Trustee relating to remedies under or with respect to (a) this Loan Agreement, the Indenture and the Regulatory Agreement, or (b) the provisions of the other Documents and any other document executed by the Borrower in connection with issuance of the Bonds and the making of the Loan and (c) the obligations of the Borrower imposed hereby or thereby;

(iv) any untruthful, misleading or inaccurate information supplied by the Borrower relating to the Project, the Borrower, the project manager or to the terms of financing relating to the Project;

(v) any accident, injury to or death of any person or loss of or damage to property occurring in or upon the Project or growing out of or connected with the operation, use, non-use, possession, maintenance, construction, installation, condition or occupancy of the Project or any

part thereof, including any and all acts or operations relating to any construction or repair performed by the Borrower or any agents, contractors, servants, employees or licensees and by any predecessors in title in connection with the Project, other than that caused by any gross negligence or willful act of the Issuer or anyone acting on its behalf;

(vi) any violation, breach or alleged breach by the Borrower of any agreement, covenant, representation, warranty or condition of this Agreement or any other Documents (except in the case of a breach alleged by the Issuer or the Trustee and such alleged breach is not found by a court of competent jurisdiction), or in connection with the transactions contemplated thereby;

(vii) any Determination of Taxability with respect to the Bonds, or allegations (or regulatory inquiry) that interest on the Bonds is not excluded from gross income for federal income tax purposes, and any audit or inquiry by the Internal Revenue Service with respect to the Project or the Bonds;

(viii) the deposit, storage, disposal, burial, dumping, injecting, spilling, leaking, or other placement or release in, on or from the Project of Hazardous Materials or the violation or alleged violation of any Hazardous Materials Law in connection with the Project or on the land on which the Project is located; and

(ix) any and all other losses, costs, damages, expenses and liabilities of whatsoever nature or kind (including, but not limited to, any documentary stamp or transfer taxes due and payable in connection with the Loan, if any, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement by or with the approval of the Borrower and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of, or related to the issuance, offering, sale or delivery of the Bonds;

(x) any untrue or misleading statement, or alleged untrue or misleading statement, of a material fact contained in any offering or disclosure document or other offering materials relating to the sale or remarketing of the Bonds (collectively, "**Disclosure Statement**") or in any of the Documents to which the Borrower is a party, or the omission or alleged omission of any material fact of any Disclosure Statement or Document, necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading (excluding any statement or omission for which the Indemnified Party is responsible); and

(xi) the exercise or performance by the Trustee of any of its powers or duties under the Indenture and any other Document.

(b) Notwithstanding the provisions of subsection (a) above, the Trustee, or any of its respective commissioners, directors, officers, members, employees, attorneys, agents, trustees and representatives (each called a "**Trustee Indemnified Party**" and collectively called the "**Trustee Indemnified Parties**"), shall not be indemnified hereunder for any claims or damages arising from the negligent acts or omissions or from any willful misconduct or misrepresentation with respect to the provisions of the Indenture by the Trustee Indemnified Party.

(c) After receipt by an Indemnified Party of notice (notice to the Indemnified Party being service with respect to the filing of any legal action, receipt of any claim in writing or similar form of actual notice) of any claim as to which such Indemnified Party asserts a right to indemnification, the Indemnified Party will notify the Borrower of such claim. The Indemnified Party will provide notice to the Borrower promptly, but in no event later than fifteen (15) Business Days following their receipt of a

filing relating to a legal action or thirty (30) days following their receipt of any other claim. Upon receipt of such written notice from the Indemnified Party, the Borrower shall have the obligations and the right to assume the investigation and defense thereof, including the employment of counsel selected or approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that such 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 to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; *provided, however*, that such Indemnified Party may employ separate counsel at the expense of the Borrower only if, in such Indemnified Party has been advised by counsel that 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.

(d) The provisions of this Section shall be, insofar as they relate solely to the Issuer, in addition to and not limited by the provisions of Section 8.05 hereof.

(e) The indemnifications set forth herein shall survive the termination of this Agreement and/or the resignation or removal of the Trustee.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01 *Defaults Defined.*

The following shall be “*Defaults*” under this Agreement and the term “*Default*” shall mean, whenever it is used in this Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay any amount required to be paid under Section 4.01 or 4.02 hereof when due.

(b) Failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed herein other than as referred to in subsection (a) of this Section or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in any other Borrower Document, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, will have been given to the Borrower, the Mortgage Lender and the Investor Limited Partner by the Issuer or the Trustee; *provided*, with respect to any such failure covered by this subsection (b), no Event of Default will be deemed to have occurred so long as a course of action adequate to remedy such failure will have been commenced within such 60-day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby within 180 days from the provision of such notice.

(c) The dissolution or liquidation of the Borrower, or the voluntary initiation by the Borrower of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Borrower of any such proceeding which shall remain undismissed for ninety (90) days, or failure by the Borrower to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Borrower to carry on its operations at the Project, or assignment by the Borrower for the benefit of creditors, or the entry

by the Borrower into an agreement of composition with its creditors or the failure generally by the Borrower to pay its debts as they become due.

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given.

(e) The occurrence of an “Event of Default” under the Indenture (other than under Section 9.01(d) of the Indenture) or any “event of default” beyond any applicable notice or cure period under the Regulatory Agreement.

The provisions of subsection (b) of this Section are subject to the following limitation: if by reason of *force majeure* it is impossible for the Borrower in whole or in part, despite its commercially reasonable efforts, to carry out any of its agreements contained herein (other than its obligations contained in Article IV hereof), the Borrower shall not be deemed in Default under Section 7.01(b) hereof during the continuance of such inability. Such *force majeure* event does not affect any obligations of the Borrower other than the timing of performance of such obligations. The term “*force majeure*” as used herein shall mean, without limitation, the following: acts of God; strikes or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or of any of their departments, agencies or officials, or of any civil or military authority; insurrections; riots; terrorism; landslides; earthquakes; fires; storms; droughts; floods; explosions; and events not reasonably within the control of the Borrower. The Borrower agrees, however, to use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement. The settlement of strikes and other industrial disturbances shall be entirely within the discretion of the Borrower and the Borrower shall not be required to settle strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

Section 7.02 Remedies on Default.

Whenever any Default referred to in Section 7.01 hereof shall have happened and be continuing beyond the expiration of any applicable cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may take one or any combination of the following remedial steps:

(a) If the Trustee has declared the Bonds immediately due and payable pursuant to Section 9.01 of the Indenture, by written notice to the Borrower, declare all Loan Payments and all other amounts due hereunder and under the Note to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Note, the Regulatory Agreement or any other Document in the event of default thereunder.

Any amounts collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

Section 7.03 No Remedy Exclusive.

Subject to Section 9.01 of the Indenture, no remedy herein conferred upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Regulatory Agreement or the Note, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power nor shall it be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required by law or for which express provision is made in this Article. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee, and the Trustee and the Holders of the Bonds, subject to the provisions of the Indenture, including, but not limited to the Reserved Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements herein contained.

Section 7.04 *Agreement to Pay Attorneys' Fees and Expenses.*

In the event the Borrower should cause an Event of Default to occur under any of the provisions of this Agreement or under the Note, and the Issuer and/or the Trustee should employ attorneys or incur other expenses for the collection of payments required hereunder or under the Note, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein or in the Note, the Borrower agrees that it will on demand therefor pay to the Issuer and the Trustee, as the case may be, the fees and expenses of such attorneys and such other expenses so incurred by the Issuer and/or the Trustee. This Section 7.04 will continue in full force and effect notwithstanding the full payment of the obligations under the Agreement or the termination of this Agreement for any reason.

Section 7.05 *No Additional Waiver Implied by One Waiver.*

In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.06 *Right to Cure.*

Notwithstanding anything herein to the contrary, if the Borrower shall, for whatever reason, at any time fail to pay any amount or perform any act which it is obligated to pay or perform and, as a result a Default or Event of Default occurs or may occur, the Investor Limited Partner and Mortgage Lender shall have the right, but not the obligation, to elect to cure such Default to the extent the Borrower is provided a cure right for the same, and is otherwise subject to the same terms and conditions and within the same period provided to the Borrower.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 *Term of Agreement.*

Subject to Sections 2.12(b) and 11.07 of the Indenture, this Agreement shall remain in full force and effect from the date hereof until such time as all of the Bonds and all amounts payable hereunder and under the Indenture shall have been fully paid or provision made for such payments, whichever is later, *provided* that all representations and certificates of the Borrower as to matters affecting the tax-exempt status of the Bonds, and the provisions of Sections 3.10, 4.02, 6.02 and 7.04 hereof shall survive termination of this Agreement.

Section 8.02 *Notices.*

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed each party's Notice Address. A duplicate copy of each notice, certificate or other communication given hereunder by the Issuer or the Borrower shall also be given to the Trustee. The Issuer, the Borrower, the Investor Limited Partner and the Trustee may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

With regard to copies of all notices which are sent to the Borrower under the terms of this Agreement or the Indenture, the Issuer and the Trustee shall send a courtesy copy to the Investor Limited Partner and Mortgage Lender at its respective Notice Address set forth in the Indenture, ***provided, however,*** that any failure to give a duplicate copy of any such communication shall not invalidate any Notice given hereunder.

Section 8.03 *Extent of Covenants of the Issuer; No Personal Liability.*

No personal recourse may be taken, directly or indirectly, against any past, present or future officer, director, employee, counsel or agent of the Issuer with respect to the obligations of the Issuer under this Agreement or any certificate or other writing delivered in connection therewith. The Issuer's immunities and protections from liability and its right to indemnification in connection with the performance of its duties and functions under this Agreement shall extend to the Issuer's past, present and future officers, directors, employees, counsel and agents. All covenants, stipulations, obligations and agreements of the Issuer contained in this Agreement are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and permitted by the Constitution of the State. No covenant, stipulation, obligation or agreement of the Issuer contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer in other than that person's official capacity. Neither the members of the Issuer nor any official executing the Bonds, the Indenture, this Agreement or any amendment or supplement hereto or thereto shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

Section 8.04 *Limited Liability of the Issuer.*

All obligations of the Issuer incurred under the Indenture or in connection with the issuance of the Bonds shall be special, limited obligations of the Issuer, payable solely and only from Bond proceeds, revenues and other amounts derived by the Issuer from the Trust Estate. The Bonds shall be payable solely from the revenues and other funds and property pledged under the Indenture for the payment of the Bonds, and no Owner or Owners of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision or other public body thereof, nor to enforce the payment thereof against any property of the State or any such political subdivision or other public body, including the Issuer except as provided in the Indenture.

No member, commissioner, officer, agent, director, employee or attorney of the Issuer, including any person executing this Agreement, shall be liable personally hereunder for any reason relating to the issuance of the Bonds. No recourse shall be had for the payment of the principal of or the interest on the Bonds, or for any claim based therein, or otherwise in respect thereof, or based on or in respect of this Agreement or any amendment hereto, against any member, commissioner, officer, employee, director, agent or attorney, as such, of the Issuer or any successor whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by

the acceptance hereof and as part of the consideration for the issue of the Bonds, expressly waived and released.

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

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

(b) 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 Trustee or the Borrower.

(c) 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 shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred thereby.

Section 8.05 *Limited Liability of Borrower.*

Anything in this Agreement to the contrary notwithstanding, the monetary obligations of the Borrower contained in this Agreement (except for fees, payments and indemnification under Sections 3.10, 4.02, 6.02 and 7.04 hereof) shall be limited obligations payable solely from the income and assets of the Project and other property of the Borrower encumbered by the Financing Documents, if any, and neither the Borrower nor any partner, member, director, official or officer of the Borrower (each a “**Borrower Party**”) shall have any personal liability for the satisfaction of any obligation of the Borrower or claim against the Borrower, arising out of this Agreement; *provided, however*, that nothing herein shall relieve any such Borrower Party for liability for any fraud or material misrepresentation by such Borrower Party against the Issuer or the Holder, or for any gross negligence, willful misconduct or intentional torts of such Borrower Party relating to the Project or the revenues therefrom.

Section 8.06 *Binding Effect.*

This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower, the Trustee, the Holders of Bonds and their respective successors and assigns.

Section 8.07 *Severability.*

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.08 *Amounts Remaining in Funds.*

Subject to the provisions of Section 4.06 and 4.11 of the Indenture, it is agreed by the parties hereto that any amounts remaining in any account of the Bond Fund, the Project Fund, the Collateral Fund or any other fund (other than the Rebate Fund) created under the Indenture upon expiration or earlier termination of this Agreement, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture)

and the fees and expenses of the Trustee and the Issuer in accordance with the Indenture, shall belong to and be paid to the Borrower by the Trustee so long as those remaining amounts do not constitute Bond Proceeds. Notwithstanding the foregoing, if the Bonds are subject to mandatory redemption or acceleration prior to the Conversion Date, then to the extent any moneys remain in the Project Fund, the Bond Fund or the Collateral Fund after there are no Bonds Outstanding and payment in full, or provision for payment, of the final Rebate Amount and any remaining fees or expenses or other amounts owed to the Issuer or Trustee, such moneys will be paid directly to the Mortgage Lender and applied first to the payment of the outstanding balance of the Mortgage Loan to the extent such funds are not proceeds of the Bonds or otherwise restricted funds.

Section 8.09 *Amendments, Changes and Modifications.*

Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise herein expressly provided, this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, and in accordance with the provisions of the Indenture, particularly Article XI of the Indenture.

Section 8.10 *Execution in Counterparts.*

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute but one and the same instrument, and the words “executed,” “signed,” “signature,” and words of like import as used above and elsewhere in the Agreement or in any other certificate, agreement, bond, note or document related to this transaction shall include, in addition to manually executed signatures, images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, “pdf”, “tif” or “jpg”) and other electronic signatures (including, without limitation, any electronic sound, symbol or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) with respect to this Agreement shall be of the same legal effect, validity, enforceability and admissibility as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. The parties hereto also agree that this Agreement may be signed with a signature stamp. The parties hereto agree that any signatures made with a signature stamp appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility. If this Agreement is originally executed via electronic signature, the Issuer may nevertheless subsequently request the parties’ exchange of original manual signatures at any future date.

Section 8.11 *Applicable Law.*

This Agreement shall be governed by and construed in accordance with the laws of the State without giving effect to conflict of laws principles.

Section 8.12 *Captions.*

The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

Section 8.13 *Mortgage Loan Documents Independent.*

Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Agreement, the Indenture or the other Borrower Documents will not serve as a basis for default on the Mortgage Loan or any of the Mortgage Loan Documents.

To the extent not otherwise set forth above in this Section, the provisions of Section 12.09 of the Indenture are incorporated herein by reference to the same extent as if set forth herein in full.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

**RHODE ISLAND HOUSING MORTGAGE AND
FINANCE CORPORATION**, as Issuer

By

Name: Kara L Lachapelle
Title: Chief Financial Officer

[ISSUER'S SIGNATURE PAGE TO BERNON MILLS APARTMENTS LOAN AGREEMENT]

BRISA BERNON MILLS, LP,
an Rhode Island limited partnership

By: [NEED SIGNATURE BLOCK]

By: _____

EXHIBIT A

PROJECT DESCRIPTION

Multifamily rental housing project consisting of a building to be located at 115-119 Front Street, in Woonsocket, Rhode Island to be known as Bernon Mills Apartments, which, upon completion, will contain approximately sixty (60) rental housing units and which may include such ancillary uses as parking, community space, and other functionally related and subordinate uses.

APPENDIX B

FORM OF PROMISSORY NOTE

PROMISSORY NOTE

This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Trust Indenture and the Loan Agreement referred to herein.

[\$[PAR AMOUNT]

[CLOSING DATE]

Brisa Bernon Mills, LP, an Rhode Island limited partnership (the “*Borrower*”), for value received, promises to pay in installments to the Rhode Island Housing and Mortgage Finance Corporation (the “*Issuer*”), the principal amount of

[_____] AND 00/100 DOLLARS
(\$[PAR AMOUNT])

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate or rates set forth in the Bonds (as defined below), until the payment of such principal sum has been made or provided for, and to pay the other amounts owing from time to time hereunder, all as set forth below. The principal amount stated above shall be paid on or before [MATURITY DATE]. Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on each Interest Payment Date set forth in the Bonds.

This Note has been executed and delivered by the Borrower to The Bank of New York Mellon Trust Company, N.A., as Trustee (the “*Trustee*”) under the Indenture hereinafter referred to pursuant to a certain Loan Agreement (the “*Loan Agreement*”) dated as of [CLOSING MONTH] 1, 2023, between the Issuer and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement and the Indenture, as defined below.

Under the Loan Agreement, the Issuer has loaned the Borrower the principal proceeds received from the sale of the Issuer’s \$[PAR AMOUNT] Multifamily Housing Revenue Bonds (Bernon Mills Apartments Project), Series 2023 (the “*Bonds*”) to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments (“*Loan Payments*”) at the times and in the amounts set forth in this Note for application to the payment of the Bond Debt Service Charges on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (the “*Indenture*”), dated as of [CLOSING MONTH] 1, 2023, between the Issuer and the Trustee.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on each Interest Payment Date in an amount equal to the Bond Debt Service Charges on the Bonds payable on such Bond Payment Date. In addition, to provide funds to pay the Bond Debt Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on any other date on which any Bond Debt Service Charges on the Bonds shall be due and payable, whether at maturity, mandatory redemption, mandatory tender, upon acceleration or otherwise, in an amount equal to those Bond Debt Service Charges.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Debt Service Charges on the Bonds from money other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Bonds has been made. Consistent

with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its Designated Office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Debt Service Charges on the Bonds as and when due.

In addition to the principal and interest payments required under the Loan Agreement, the Borrower shall also pay rebate calculations and payments under Section 3.10 of the Loan Agreement, Additional Payments under Section 4.02 of the Loan Agreement, indemnification-related payments under Section 6.02 of the Loan Agreement, other fees and expenses under Section 7.04 of the Loan Agreement, as well as any other amounts owed under the Loan Agreement, when due and in accordance with the terms and provisions and subject to the limitations set forth therein.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other person.

This Note is subject to prepayment, in whole or in part, upon the terms and conditions set forth in the Loan Agreement. Any prepayment is subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Agreement or the Indenture.

Whenever an Event of Default under Section 6.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then Outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 9.01 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Section 8.05 of the Loan Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed and delivered on its behalf on the date first written above.

BRISA BERNON MILLS, LP,
an Rhode Island limited partnership

By: [NEED SIGNATURE BLOCK]

By: _____

ENDORSEMENT

Pay to the order of The Bank of New York Mellon Trust Company, N.A., without recourse, as Trustee under the Indenture referred to in the within mentioned Note, as security for the Bonds issued under the Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**RHODE ISLAND HOUSING MORTGAGE AND
FINANCE CORPORATION**, as Governmental
Lender

By

Name: Kara L Lachapelle
Title: Chief Financial Officer

EXHIBIT C

**\$(PAR AMOUNT)
Rhode Island Housing and Mortgage Finance Corporation
Multifamily Housing Revenue Bonds
(Bernon Mills Apartments Project), Series 2023**

COMPLETION CERTIFICATE

Pursuant to Section 3.07 of the Loan Agreement (the “*Loan Agreement*”) between the Rhode Island Housing and Mortgage Finance Corporation (the “*Issuer*”) and Brisa Bernon Mills, LP, an Rhode Island limited partnership (the “*Borrower*”) dated as of [CLOSING MONTH] 1, 2023, and relating to the captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Loan Agreement):

(b) The construction and equipping of the Project was substantially completed and available and suitable for use as multifamily housing on [_____].

(e) The construction, equipping and improvement of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.

(f) The Costs of the Project financed with the Loan were \$[_____].

(g) The applicable Government having jurisdiction over the Project has issued all required Certificates of Occupancy with respect to each building in the Project.

(h) At least 95% of the proceeds of the Bonds were expended for Qualified Project Costs as described in the Regulatory Agreement.

(i) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the ____ day of _____.

Authorized Borrower Representative

EXHIBIT D
SOURCES AND USES