

RESOLUTION NO. 20-032

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY NOTE (VERMILLION APARTMENTS), SERIES 2020; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Board has determined to authorize the issuance of its Multifamily Note designated Texas Department of Housing and Community Affairs Multifamily Note (Vermillion Apartments), Series 2020 (the "Governmental Note") pursuant to and in accordance with the terms of a Funding Loan Agreement (the "Funding Loan Agreement") among the Department, U.S. Bank, National Association, as fiscal agent (the "Fiscal Agent"), and Merchants Bank of Indiana, an Indiana state bank, as initial funding lender (the "Initial Funding Lender"), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Governmental Note to fund a mortgage loan to Houston Leased Housing Associates Owner VIII, LLC, a Minnesota limited liability company (the "Borrower") in order to finance the cost of acquisition,

rehabilitation and equipping of a qualified residential rental development described in Exhibit A attached hereto (the "Development") located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on February 27, 2020, declared its intent to issue its revenue bonds to provide financing for the Development; and

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

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

WHEREAS, it is anticipated that the Project Note will be secured by a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "Mortgage") and an Assignment of Rents and Leases and Rents (the "Assignment of Leases" and together with the Mortgage, the "Security Instrument") from the Borrower for the benefit of the Department and assigned to the Fiscal Agent; and

WHEREAS, the Department's rights (except for certain unassigned rights) under the Project Loan Agreement, the Project Note and the Security Instrument will be assigned to the Fiscal Agent pursuant to an Assignment of Security Instrument (the "Assignment") from the Department to the Fiscal Agent; and

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

WHEREAS, the Board has determined that the Department, the Fiscal Agent and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Harris County, Texas; and

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

WHEREAS, upon completion of certain conditions it is expected that the Federal Home Loan Mortgage Corporation (“Freddie Mac”) and its seller/servicer will facilitate the financing of the Development in the permanent phase by acquiring the Governmental Note and in connection with the conversion to the permanent phase the Borrower will execute and deliver the Amended and Restated Project Note (the “Amended Project Note”); and

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

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

ARTICLE 1

ISSUANCE OF GOVERNMENTAL NOTE; APPROVAL OF DOCUMENTS

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

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That (i) the Governmental Note shall bear interest during the Construction Phase at the Construction Phase Interest Rate (each term as defined in the Funding Loan Agreement), to be determined periodically and subject to adjustment as provided in the Funding Loan Agreement, and during the Permanent Phase at a Permanent Phase Interest Rate (each term as defined in the Funding Loan Agreement) of a fixed rate per annum, which rate shall be determined at least six (6)

business days prior to the delivery of the Governmental Note, and shall be equal to the sum of (i) 2.82% and (ii) the 10-year US Treasury Security on the date of determination, subject to adjustment as provided in the Funding Loan Agreement; provided that, in no event shall the interest rate (including any default rate) on the Governmental Note exceed the maximum interest rate permitted by applicable law; (ii) the aggregate principal amount of the Governmental Note shall be \$28,000,000; (iii) the final maturity of the Governmental Note shall occur on September 1, 2038; and (d) the price at which the Governmental Note is sold to the Initial Funding Lender shall be the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Funding Loan Agreement. That the form and substance of the Funding Loan Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Funding Loan Agreement, and to deliver the Funding Loan Agreement to the Fiscal Agent and the Initial Funding Lender.

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

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

Section 1.6 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Fiscal Agent and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.7 [Reserved].

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

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

Section 1.10 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives

each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Fiscal Agent.

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

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

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

- Exhibit B - Funding Loan Agreement
- Exhibit C - Project Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Project Note
- Exhibit F - Mortgage
- Exhibit G - Assignment of Leases
- Exhibit H - Amended Project Note
- Exhibit I - Assignment
- Exhibit J - Tax Exemption Agreement

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

ARTICLE 2

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

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

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

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

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

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

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

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development by the Department, including but not limited to the information submitted by the Borrower,

independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

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

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

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

(b) Findings with Respect to the Borrower.

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

(ii) that the Borrower is financially responsible, and

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

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Project Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, which require, among other things, that the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Governmental Note to finance the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent,

safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

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

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

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

ARTICLE 4

GENERAL PROVISIONS

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

Section 4.2 Non-Governmental Obligations. That the Governmental Note shall not be and does not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. The Governmental Note shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

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

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

PASSED AND APPROVED this 23rd day of July, 2020.

EXHIBIT A

Description of Development

Borrower: Houston Leased Housing Associates Owner VIII, LLC, a Minnesota limited liability company

Development: The Development is a 260-unit affordable multifamily community to be known as Vermillion Apartments and to be located at 3360 Alice Street, Houston, Harris County, Texas 77021. It consists of eleven (11) residential apartment buildings with approximately 261,040 net rentable square feet. The unit mix will consist of:

112	two-bedroom/two-bath units
148	three-bedroom/two bath units
260	Total Units

Unit sizes will range from approximately 894 square feet to approximately 1,096 square feet.

FUNDING LOAN AGREEMENT

among

**MERCHANTS BANK OF INDIANA,
as Initial Funding Lender**

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

and

**U.S. BANK, NATIONAL ASSOCIATION,
as Fiscal Agent**

**Relating to
VERMILLION APARTMENTS
Houston, Texas**

Funding Loan Principal Amount: \$28,000,000

Dated as of August 1, 2020

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FUNDING LOAN AGREEMENT

THIS FUNDING LOAN AGREEMENT (this “**Funding Loan Agreement**”), is made and entered into as of August 1, 2020, by and among MERCHANTS BANK OF INDIANA, an Indiana state bank, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (the “**Governmental Lender**”), a public and official agency of the State of Texas (the “**State**”), and **U.S. BANK, NATIONAL ASSOCIATION**, a national banking association, organized and operating under the laws of the United States of America, having a corporate trust office in Dallas, Texas, as Fiscal Agent (the “**Fiscal Agent**”). Capitalized terms are defined in Section 1.01 of this Funding Loan Agreement.

RECITALS

A. Pursuant to Chapter 2306, Texas Government Code (the “**Act**”) and the Project Loan Agreement dated as of the date hereof (the “**Project Loan Agreement**”) by and among the Governmental Lender, the Fiscal Agent and HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a limited liability company duly organized and existing under the laws of the State of Minnesota (the “**Borrower**”), the Governmental Lender is agreeing to make a mortgage loan to the Borrower in the aggregate principal amount of \$28,000,000 (the “**Project Loan**”) to provide for the financing of the acquisition and rehabilitation of a multifamily rental housing development located in Houston, Texas, known as Vermillion Apartments (the “**Project**”).

B. The Governmental Lender is making the Project Loan to the Borrower with the proceeds received from the separate loan made to the Governmental Lender pursuant to this Funding Loan Agreement in the aggregate principal amount of \$28,000,000 (the “**Funding Loan**”) and together with the Project Loan, the “**Loans**”). The Funding Loan is evidenced by the Multifamily Note as of the date hereof in the form attached hereto as Exhibit A (together with all riders and addenda thereto, the “**Governmental Note**”) delivered by the Governmental Lender to the Initial Funding Lender.

C. The Initial Funding Lender, pursuant to the terms and subject to the conditions of this Funding Loan Agreement, the Construction Phase Financing Agreement and the Construction Continuing Covenant Agreement, has agreed to originate and fund the Funding Loan to the Governmental Lender, which proceeds of the Funding Loan will be used by the Governmental Lender to fund the Project Loan to the Borrower pursuant to the Project Loan Agreement.

D. The Borrower has agreed to use the proceeds of the Project Loan to finance the acquisition, rehabilitation and equipping of the Project.

E. The Borrower’s repayment obligations in respect of the Project Loan will be evidenced by a Multifamily Note dated as of [the date hereof] (together with all riders and modifications thereto, the “**Project Note**”) delivered to the Governmental Lender, which Project Note will be endorsed by the Governmental Lender to the Fiscal Agent as security for the Funding Loan.

F. To secure the Borrower’s obligations under the Project Note, the Borrower will execute and deliver to the Governmental Lender a Deed of Trust, Assignment of Rents Security

Agreement and Fixture Filing and an Assignment of Rents and Leases, each dated as of the date hereof (collectively, the “**Security Instrument**”) with respect to the Project, which Security Instrument will be assigned by the Governmental Lender to the Fiscal Agent as security for the Funding Loan and the Governmental Note.

G. The Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise (“**Freddie Mac**”) has entered into a commitment with Merchants Capital Corp. (the “**Freddie Mac Seller/Servicer**”) dated [____], 2020 (the “**Freddie Mac Commitment**”) whereby Freddie Mac has committed, subject to the satisfaction of the Conditions to Conversion set forth in the Construction Phase Financing Agreement on or before the Forward Commitment Maturity Date, to facilitate the financing of the Project in the Permanent Phase by purchasing the Funding Loan from the Freddie Mac Seller/Servicer following the Conversion Date.

H. If the Conditions to Conversion are satisfied on or before the Forward Commitment Maturity Date as provided for in the Freddie Mac Commitment and the Construction Phase Financing Agreement, the Project Loan will convert from the Construction Phase to the Permanent Phase on the Conversion Date and, on such Conversion Date, the Initial Funding Lender shall deliver, and the Freddie Mac Seller/Servicer shall purchase, the Funding Loan, as evidenced by the Governmental Note. If the Conditions to Conversion are not satisfied on or before the Forward Commitment Maturity Date, the Project Loan will not convert from the Construction Phase to the Permanent Phase, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligation with respect to the purchase of the Funding Loan and the Initial Funding Lender will remain the owner of the Funding Loan as the holder of the Governmental Note.

I. As a Condition to Conversion, the Project Note and the Security Instrument are required to be amended and restated and the Borrower is required to enter into a Continuing Covenant Agreement with the Freddie Mac Seller/Servicer (the “**Freddie Mac Continuing Covenant Agreement**”), in each case pursuant to the forms attached to the Construction Phase Financing Agreement.

J. If the Conditions to Conversion are satisfied and the Funding Loan is purchased by the Freddie Mac Seller/Servicer on the Conversion Date as set forth above, the Freddie Mac Seller/Servicer shall deliver the Funding Loan to Freddie Mac for purchase pursuant to the terms of the Freddie Mac Commitment and the Guide (such date of purchase by Freddie Mac being referred to as the “**Freddie Mac Purchase Date**”).

K. Upon the occurrence of the Freddie Mac Purchase Date, the Freddie Mac Seller/Servicer will assign to Freddie Mac all of its rights and interest in the Funding Loan, the Governmental Note, this Funding Loan Agreement, the Freddie Mac Continuing Covenant Agreement and the other Financing Documents. The Freddie Mac Seller/Servicer will act as Servicer for the Loans on behalf of Freddie Mac, as Funding Lender, on and after the Freddie Mac Purchase Date.

L. The Governmental Lender has determined that all things necessary to incur the Funding Loan and to execute and deliver the Governmental Note, when executed by the Governmental Lender and authenticated by the Fiscal Agent and issued in accordance with this

Funding Loan Agreement, the valid, binding and legal obligation of the Governmental Lender and to constitute this Funding Loan Agreement a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, and interest on, the Governmental Note, have been duly taken, and the creation, execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Note, subject to the terms of this Funding Loan Agreement, have been duly authorized by the Governmental Lender.

M. The Fiscal Agent has the power and authority to enter into this Funding Loan Agreement, including corporate trust powers to accept the trusts hereunder and to accept and assume its other responsibilities hereunder as Fiscal Agent as evidenced by its execution of this Funding Loan Agreement.

N. The Borrower is entering into a Regulatory and Land Use Restriction Agreement (the “**Tax Regulatory Agreement**”) with the Governmental Lender and the Fiscal Agent, which sets forth various requirements with respect to the Project and will be filed of record in the real property records of Harris County, Texas.

O. The Borrower is entering into the Tax Exemption Certificate and Agreement (the “**Tax Exemption Agreement**”) with the Governmental Lender and the Fiscal Agent, pursuant to which the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Governmental Note as exempt from gross income for federal income tax purposes.

NOW, THEREFORE, in consideration of the premises and of the origination and funding of the Funding Loan by the Funding Lender, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.01. **Definitions.** The terms used in this Funding Loan Agreement (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Funding Loan Agreement and of any amendment or supplement hereto shall have the respective meanings specified below. Terms used herein not otherwise defined shall have the respective meanings set forth in the Project Loan Agreement, the Tax Regulatory Agreement or the Tax Exemption Agreement.

“*Act*” means Chapter 2306, Texas Government Code.

“*Actual Project Loan Amount*” has the meaning set forth in the Construction Phase Financing Agreement.

“*Administration Fund*” means the Administration Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Assignment*” means the Assignment of Security Instrument dated as of the date hereof by the Governmental Lender assigning its interest in the Security Instrument to the Fiscal Agent.

“*Authorized Amount*” shall mean \$28,000,000, the principal amount of the Funding Loan authorized under this Funding Loan Agreement.

“*Authorized Officer*” means (a) when used with respect to the Governmental Lender, the Chair or Vice Chair of the Governing Body of the Governmental Lender, the Executive Director of the Governmental Lender, the Director of Administration of the Governmental Lender, the Director of Financial Administration of the Governmental Lender, the Director of Bond Finance and Chief Investment Officer of the Governmental Lender, the Director of Multifamily Bonds of the Governmental Lender, the Director of Texas Homeownership of the Governmental Lender, and the Secretary or Assistant Secretary to the Governing Body of the Governmental Lender and any other officer or employee of the Governmental Lender designated by certificate of any of the foregoing or authorized by the Governmental Lender in writing to act on its behalf, (b) when used with respect to the Borrower, any officer of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Fiscal Agent, any authorized signatory of the Fiscal Agent, or any Person who is authorized in writing to take the action in question on behalf of the Fiscal Agent, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, and (e) when used with respect to the Funding Lender Representative, any Person who is authorized in writing to take the action in question on behalf of the Funding Lender Representative.

“*Bankruptcy Code*” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor federal statute.

“*Bond Counsel*” means (a) on the Delivery Date, the law firm or law firms delivering the approving opinion(s) with respect to the Governmental Note, and initially means Bracewell LLP, or (b) any other firm of attorneys selected by the Governmental Lender that is experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer’s Municipal Marketplace and is acceptable to the Funding Lender Representative.

“*Bond Year*” shall have the meaning ascribed thereto in the Tax Exemption Agreement.

“*Borrower*” means Houston Leased Housing Associates Owner VIII, LLC, a limited liability company duly organized and existing under the laws of the State of Minnesota, or any of its permitted successors or assigns, as owner of the Project.

“*Borrower Equity Account*” means the Borrower Equity Account of the Project Loan Fund established by the Fiscal Agent pursuant to Section 2.11 hereof.

“*Borrower Equity Deposit*” means \$[0], which shall be comprised of sources other than the proceeds of the Project Loan.

“*Business Day*” means any day other than (a) a Saturday or a Sunday, or (b) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Fiscal Agent is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“*Certificate of the Governmental Lender*” and “*Request of the Governmental Lender*” mean, respectively, a written certificate or request signed in the name of the Governmental Lender by an Authorized Officer of the Governmental Lender or such other Person as may be designated and authorized to sign for the Governmental Lender. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“*Code*” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent and successor Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“*Comptroller*” means the Comptroller of Public Accounts of the State of Texas.

“*Conditions to Conversion*” has the meaning given to that term in the Construction Phase Financing Agreement.

“*Construction Continuing Covenant Agreement*” means the Note Purchase Agreement (Construction Continuing Covenant Agreement) dated as of the date hereof by and among the Borrower, the Initial Funding Lender and Merchants Capital Corp., as the same may be amended, modified or supplemented from time to time.

“*Construction Loan Documents*” means the Construction Phase Financing Agreement, the Construction Continuing Covenant Agreement, and all other documents to be executed and delivered by Borrower to the Initial Funding Lender in connection with the Project.

“*Construction Phase*” means the construction phase of the Project Loan, which time period shall commence on the Delivery Date and remain in effect to, but not including, the Conversion Date.

“*Construction Phase Financing Agreement*” means the Construction Phase Financing Agreement dated as of the date hereof by and among the Initial Funding Lender, Freddie Mac, and the Freddie Mac Seller/Servicer, and acknowledged and agreed to by the Borrower, as the same may be amended, modified or supplemented from time to time.

“*Construction Phase Interest Rate*” has the meaning set forth in the Project Note.

“*Continuing Covenant Agreement*” means (i) prior to the Conversion Date, the Construction Continuing Covenant Agreement, and (ii) from and after the Conversion Date, the Freddie Mac Continuing Covenant Agreement.

“*Conversion*” means conversion of the Project Loan from the Construction Phase to the Permanent Phase on the Conversion Date.

“*Conversion Date*” means the date the Freddie Mac Seller/Servicer purchases the Funding Loan from the Initial Funding Lender upon the satisfaction of the Conditions to Conversion, as

such Conversion Date is specified by the Freddie Mac Seller/Servicer in the Notice of Conversion, which date shall be at least ten (10) days following the date on which the Notice of Conversion is delivered.

“*Cost*,” “*Costs*” or “*Costs of the Project*” with respect to the Project shall be deemed to include all items permitted to be financed under the provisions of the Code and the Act.

“*Cost of Issuance Fund*” means the Cost of Issuance Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

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

“*Costs of Issuance Deposit*” means the deposit to be made by the Borrower with the Fiscal Agent on the Delivery Date, which deposit shall equal \$[_____] and shall be comprised of sources other than the proceeds of the Project Loan.

“*Default Rate*” means the lesser of (i) the Construction Phase Interest Rate or the Permanent Phase Interest Rate, as applicable, otherwise in effect notwithstanding the default, plus four percent (4%) per annum, or (ii) the Maximum Interest Rate.

“*Delivery Date*” means [_____] , 2020, the date of funding of the Funding Loan and the delivery of the Governmental Note by the Governmental Lender to the Initial Funding Lender.

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

“*Disbursing Agent*” means First American Title Insurance Company in its capacity as disbursing agent under the Disbursing Agreement.

“*Disbursing Agreement*” means the Disbursing Agreement dated as of the date hereof by and among Borrower, Initial Funding Lender, Merchants Capital Corp., as servicer, Fiscal Agent,

Merchants Bank of Indiana, as bridge lender, and Disbursing Agent, as the same may be amended, modified or supplemented from time to time.

“*Electronic Notice*” means delivery of notice in a Word format or a Portable Document Format (PDF) by electronic mail to the electronic mail addresses listed in Section 11.04 hereof; provided, that if a sender receives notice that the electronic mail is undeliverable, notice must be sent as otherwise required by Section 11.04 hereof.

“*Event of Default*” means any of those events specified in and defined by the applicable provisions of Article VI hereof to constitute an Event of Default.

“*Extraordinary Fiscal Agent’s Fees and Expenses*” means all those fees, expenses and reimbursements earned or incurred by the Fiscal Agent as described under Section 7.06 hereof during any Bond Year for Extraordinary Services, as set forth in a detailed invoice to the Borrower, the Servicer and the Funding Lender Representative.

“*Extraordinary Services*” means and includes, but not by way of limitation, services, actions and things carried out and all expenses incurred by the Fiscal Agent, in respect of or to prevent default under this Funding Loan Agreement or the Project Loan Documents, including any reasonable attorneys’ or agents’ fees and expenses and other litigation costs that are entitled to reimbursement under the terms of the Project Loan Agreement, and other actions taken and carried out by the Fiscal Agent which are not expressly set forth in this Funding Loan Agreement or the Project Loan Documents.

“*Fair Market Value*” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with Section 1.148-5(d)(6)(ii) of the Regulations, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with Section 1.148-5(d)(6)(iii) of the Regulations, (c) the investment is a United States Treasury Security–State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“*Favorable Opinion of Bond Counsel*” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the Federal Tax Status of the Governmental Note (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Note or other customary exceptions acceptable to the recipient(s) thereof).

“*Federal Tax Status*” means, as to the Governmental Note, the status under existing law of the interest on the Governmental Note as excludable from gross income for federal income tax purposes (except on the Governmental Note for any period during which it is held by a “substantial user” of the Project or by a “related person” of such a “substantial user,” each within the meaning of Section 147(a) of the Code).

“*Fee Component*” has the meaning set forth in the Project Loan Agreement.

“*Financing Documents*” means, collectively, this Funding Loan Agreement, the Governmental Note, the Tax Exemption Agreement, the Project Loan Documents, the Construction Loan Documents (during the Construction Phase) and all other documents or instruments evidencing, securing or relating to the Loans.

“*Fiscal Agent*” means U.S. Bank, National Association, a national banking association and its successors hereunder.

“*Forward Commitment Maturity Date*” means [September 1, 2023], subject to extension by Freddie Mac as provided in the Construction Phase Financing Agreement.

“*Freddie Mac*” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

“*Freddie Mac Commitment*” means the commitment from Freddie Mac to the Freddie Mac Seller/Servicer pursuant to which Freddie Mac has agreed to purchase the Funding Loan following the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“*Freddie Mac Continuing Covenant Agreement*” means the Continuing Covenant Agreement to be delivered on the Conversion Date in the form attached to the Construction Phase Financing Agreement by and between the Borrower and the Freddie Mac Seller/Servicer, as the same may be amended, modified or supplemented from time to time.

“*Freddie Mac Purchase Date*” means the date on which Freddie Mac purchases the Funding Loan upon satisfaction of the conditions set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment.

“*Freddie Mac Seller/Servicer*” means Merchants Capital Corp., as Freddie Mac’s seller/servicer under the Freddie Mac Commitment, or any of its successors or assigns under the Freddie Mac Commitment.

“*Funding Lender*” means any Person who is the holder of the Governmental Note.

“*Funding Lender Representative*” means the Funding Lender or any Person designated by the Funding Lender to act on behalf of the Funding Lender as provided in Section 11.05, or an assignee of such Person as provided in Section 11.05. The initial Funding Lender Representative shall be Merchants Capital Corp. The Freddie Mac Seller/Servicer shall become the Funding

Lender Representative upon the occurrence of the Conversion Date, and Freddie Mac shall become the Funding Lender Representative upon the occurrence of the Freddie Mac Purchase Date.

“*Funding Loan*” means the loan in the aggregate principal amount of \$28,000,000 made to the Governmental Lender pursuant to this Funding Loan Agreement by the Initial Funding Lender.

“*Funding Loan Amortization Schedule*” means the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note.

“*Governing Body*” means the Governing Board of the Governmental Lender.

“*Government Obligations*” means investments meeting the requirements of clause (a) or (b) of the definition of “Qualified Investments” herein.

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

“*Governmental Lender Administration Fee*” means the fee payable annually in advance to the Governmental Lender on each August 1, in the amount of .10% per annum of the aggregate principal amount of Governmental Note outstanding at the inception of each payment period. On the Delivery Date, the Borrower will pay the Governmental Lender Administration Fee to the Governmental Lender for the period from the Delivery Date to July 31, 2022. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), payable solely from funds provided by the Borrower, all payments of the Governmental Lender Administration Fee due on or after August 1, 2022.

“*Governmental Lender Compliance Fee*” means the fee payable annually in advance to the Governmental Lender on each August 1, in the amount of \$25 per Low-Income Unit in the Project for the duration of the State Restrictive Period (as defined in the Regulatory Agreement). The first annual Governmental Lender Compliance Fee shall be paid on the Delivery Date. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), solely from funds provided by the Borrower, all payments of the Governmental Lender Compliance Fee due on or after August 1, 2023. The Governmental Lender Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

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

“*Governmental Note*” means the Multifamily Note (Vermillion Apartments), Series 2020 dated as of the date hereof, executed by the Governmental Lender and authenticated by the Fiscal Agent in favor of the Initial Funding Lender, in the form attached hereto as Exhibit A, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any mortgage note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“*Guide*” means the Freddie Mac Multifamily Seller/Service Guide, as the same may be amended, modified or supplemented from time to time.

“Initial Debt Service Deposit” means an amount equal to the sum of (i) the interest payable on the Funding Loan, and (ii) the ongoing fees payable with respect to the Project Loan (as provided in Section 4.02 of the Project Loan Agreement), in each case for the period commencing on the Delivery Date to but not including the first day of the calendar month immediately succeeding the Delivery Date.

“Initial Funding Lender” means Merchants Bank of Indiana, an Indiana state bank, as initial holder of the Governmental Note.

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

“Interest Payment Date” means (i) the first day of each calendar month, commencing [_____] 1, 2020, (ii) the date of any prepayment of the Funding Loan, but only with respect to the portion of the Funding Loan subject to prepayment, and (iii) the Maturity Date.

“Investment Income” means the earnings and profits derived from the investment of money pursuant to Section 4.08 hereof.

“Loans” means, together, the Project Loan and the Funding Loan.

“Loan Payment Fund” means the Loan Payment Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“Loan Prepayment Fund” means the Loan Prepayment Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“Maturity Date” means the maturity date of the Funding Loan set forth in Section 2.01(e) hereof.

“Maximum Interest Rate” means the rate of interest which results in the maximum amount of interest allowed by applicable law pursuant to Chapter 1204 of the Texas Government Code.

“Moody’s” means Moody’s Investors Service, Inc., its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“Net Casualty Proceeds” when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred in the collection of such insurance proceeds or condemnation award, including reasonable attorneys’ fees.

“Notes” means, together, the Project Note and the Governmental Note.

“Notice of Conversion” means a written notice to be delivered not less than ten (10) days prior to the Conversion Date by the Freddie Mac Seller/Service to the Governmental Lender, the Fiscal Agent, the Borrower, the Initial Funding Lender and Freddie Mac (i) stating that the Conditions to Conversion have been satisfied on or before the Forward Commitment Maturity

Date or, if any Condition to Conversion has not been satisfied on or before the Forward Commitment Maturity Date, stating that such Condition to Conversion has been waived in writing by Freddie Mac (if a waiver is permitted and is granted by Freddie Mac, in its sole and absolute discretion) on or before the Forward Commitment Maturity Date, (ii) confirming the Conversion Date and (iii) providing for updated amortization schedules for the Project Note and the Governmental Note in the event the Borrower makes a Pre-Conversion Loan Equalization Payment at Conversion.

“*Ordinary Fiscal Agent’s Fees and Expenses*” means the annual administration fee for the Fiscal Agent’s ordinary fees and expenses in rendering its services under this Funding Loan Agreement during each twelve month period, which fee is equal to (and shall not exceed) \$[_____] and shall be payable annually in advance on the Delivery Date and each annual anniversary thereof.

“*Organizational Documents*” means (i) with respect to the Borrower, the Amended and Restated Operating Agreement of the Borrower dated as of [_____] and (ii) with respect to the Sole Member, the Amended and Restated Agreement of Limited Liability Limited Partnership of the Sole Member dated as of [_____] as any of the foregoing may be amended, modified, supplemented or restated from time to time.

“*Permanent Phase*” means the permanent phase of the Project Loan, which time period shall commence on the Conversion Date and remain in effect through the remaining term of the Project Loan.

“*Permanent Phase Interest Rate*” means, during the Permanent Phase, the fixed interest rate of [_____] % per annum; provided during the continuance of any Event of Default hereunder, the Permanent Phase Interest Rate shall be the Default Rate, in each case computed on the basis of a 360-day year and the actual number of days elapsed.

“*Person*” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated association, a limited liability company or a government or any agency or political subdivision thereof, or any other organization or entity (whether governmental or private).

“*Pledged Security*” shall have the meaning given to that term in Section 2.02 hereof.

“*Pre-Conversion Loan Equalization Payment*” means a prepayment of the Project Loan by the Borrower (and corresponding prepayment of the Funding Loan hereunder) prior to the Forward Commitment Maturity Date in order to equalize the principal amount of the Project Loan and the Funding Loan to the Actual Project Loan Amount.

“*Prepayment Premium*” shall mean any premium or exit fee payable hereunder in connection with a prepayment of the Funding Loan, which premium shall be in an amount equal to (i) during the Construction Phase, the amount, if any, calculated as the “Exit Fee” payable in accordance with the terms of the Project Note, and (ii) during the Permanent Phase, the amount of premium payable by the Borrower under Section 10 of the Project Note, in each case in connection with a prepayment of the Project Loan.

“*Principal Office of the Fiscal Agent*” means the office of the Fiscal Agent referenced in Section 11.04(a) hereof, or such other office or offices as the Fiscal Agent may designate in writing from time to time, or the office of any successor Fiscal Agent where it principally conducts its business of serving as Fiscal Agent under indentures pursuant to which municipal or governmental obligations are issued.

“*Project*” means, collectively, the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements to be known as Vermillion Apartments located in Houston, Texas, including the real estate described in the Security Instrument.

“*Project Account*” means the Project Account of the Project Loan Fund established by the Fiscal Agent pursuant to Section 2.11 hereof.

“*Project Loan*” means the loan made by the Governmental Lender to the Borrower pursuant to the Project Loan Agreement in the aggregate principal amount of \$28,000,000, as evidenced by the Project Note.

“*Project Loan Agreement*” means the Project Loan Agreement dated as of the date hereof among the Borrower, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time.

“*Project Loan Documents*” means the Security Instrument, the Project Note, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, the Assignment, the Continuing Covenant Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Project Loan or any portion thereof.

“*Project Loan Fund*” means the Project Loan Fund established by the Fiscal Agent pursuant to Section 2.11 hereof.

“*Project Note*” means the Multifamily Note dated as of the date hereof from the Borrower, including all riders and addenda thereto, evidencing the Borrower’s obligation to repay the Project Loan, which Project Note will be delivered to the Governmental Lender and endorsed by the Governmental Lender to the Fiscal Agent as security for the Funding Loan, as the same will be amended and restated into the form attached to the Construction Phase Financing Agreement upon the occurrence of the Conversion Date, as the same may be further amended, restated, supplemented or otherwise modified from time to time, or any note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“*Qualified Investments*” means any of the following if and to the extent permitted by law: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States of America the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) senior debt obligations of Freddie Mac; (d) senior debt obligations of Fannie Mae; (e) demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the Fiscal Agent or such other institution has been rated at least

“VMIG-1”/”A-1+” by Moody’s or S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency; (f) investment agreements with a bank or any insurance company or other financial institution which has a rating assigned by Moody’s or S&P to its outstanding long-term unsecured debt which is the highest rating (as defined below) for long-term unsecured debt obligations assigned by Moody’s or S&P, and which are approved by the Funding Lender Representative; (g) shares or units in any money market mutual fund rated “Aaa”/”AAA” by Moody’s or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Fiscal Agent or its affiliates or for which the Fiscal Agent or an affiliate thereof serves as investment advisor or provides other services to such mutual fund receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of (A) direct obligations of the government of the United States of America, or (B) tax exempt obligations; (h)(i) tax-exempt obligations rated in the highest short term rating category by Moody’s or S&P, or (ii) shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of “Aaa”/”AAA” by Moody’s or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security), for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Fiscal Agent or its affiliates receive a fee for investment advisory or other services to the fund; or (i) any other investments approved in writing by the Funding Lender Representative. For purposes of this definition, the “highest rating” shall mean a rating of at least “VMIG-1”/”A-1+” for obligations with less than one year maturity; at least “Aaa”/”VMIG-1”/”AAA”/”A-1+” for obligations with a maturity of one year or greater but less than three years; and at least “Aaa”/”AAA” for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“*Rating Agency*” means Moody’s or S&P, as applicable, or any successor rating service thereof.

“*Rebate Analyst*” shall have the meaning ascribed thereto in the Tax Exemption Agreement.

“*Rebate Fund*” means the Rebate Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Requisition*” means, with respect to the Project Loan Fund, the requisition in the form of *Exhibit E* to this Funding Loan Agreement required to be submitted in connection with disbursements from the Project Account and/or the Borrower Equity Account of the Project Loan Fund, and with respect to the Cost of Issuance Fund, the requisition in the form of *Exhibit D* to this Funding Loan Agreement required to be submitted in connection with disbursements from the Cost of Issuance Fund.

“*Resolution*” means the resolution adopted by the Governmental Lender on July 23, 2020 authorizing the Funding Loan, the Project Loan and the execution and delivery of the Financing Documents to which it is a party.

“*Responsible Officer*” means any officer of the Fiscal Agent employed within or otherwise having regular responsibility in connection with the corporate trust department of the Fiscal Agent and the trusts created hereunder.

“*Revenue Fund*” means the Revenue Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Revenues*” means (a) all payments made with respect to the Project Loan pursuant to the Project Loan Agreement, the Project Note or the Security Instrument, including but not limited to all casualty or other insurance benefits and condemnation awards paid in connection therewith and all payments obtained through the exercise of remedies under the Financing Documents, and (b) all money and securities held by the Fiscal Agent in the funds and accounts established pursuant to this Funding Loan Agreement (excluding money or securities designated for deposit into and held in the Cost of Issuance Fund, the Administration Fund and the Rebate Fund), together with all investment earnings thereon.

“*Security Instrument*” means, collectively, the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing and an Assignment of Rents and Leases described in the recitals hereto, as the same will be amended and restated into the form attached to the Construction Phase Financing Agreement upon the occurrence of the Conversion Date, and as the same may be further amended, supplemented or restated.

“*S&P*” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“*Servicer*” means any entity appointed by the Funding Lender Representative to service the Loans and any successor in such capacity as appointed by the Funding Lender Representative pursuant to Section 3.02 of the Project Loan Agreement. During the Construction Phase, the Servicer shall be Merchants Capital Corp. During the Permanent Phase, the Servicer shall be the Freddie Mac Seller/Servicer.

“*Sole Member*” means Houston Leased Housing Associates VIII, LLLP, a limited liability limited partnership duly organized and existing under the laws of the state of Minnesota, as the sole member of Borrower.

“*State*” means the State of Texas.

“*Tax Credit Investor*” means RBC Community Investments, LLC, an Illinois limited liability company and its successors and assigns in such capacity pursuant to the Organizational Documents.

“*Tax Exemption Agreement*” means the Tax Exemption Certificate and Agreement, dated as of the date hereof, among the Governmental Lender, the Borrower, and the Fiscal Agent, as in

effect on the Delivery Date as it may be amended, supplemented or restated in accordance with its terms.

“*Tax Regulatory Agreement*” means the Regulatory and Land Use Restriction Agreement dated as of the date hereof, among the Governmental Lender, the Fiscal Agent and the Borrower.

“*Transferee Representations Letter*” has the meaning set forth in Section 2.08 hereof.

“*Unassigned Rights*” means (a) all of the Governmental Lender’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Governmental Lender to receive amounts payable to it pursuant to Section 4.02 of the Project Loan Agreement, including the Governmental Lender Fees; (c) all rights of the Governmental Lender to receive any Rebate Amount (as defined in the Tax Exemption Agreement) required to be rebated to the United States of America under the Code in connection with the Governmental Note, as described in the Tax Exemption Agreement; (d) all rights of the Governmental Lender to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the Project Loan Agreement, the Tax Regulatory Agreement and the Tax Exemption Agreement; (e) all rights of the Governmental Lender of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Project Loan Agreement, in the Tax Exemption Agreement and in the Tax Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Governmental Lender set forth in this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents, as applicable, regarding (1) the negotiability, registration and transfer of the Governmental Note, (2) the loss or destruction of the Governmental Note, (3) the limited liability of the Governmental Lender as provided in the Act, this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents, (4) no liability of the Governmental Lender to third parties, and (5) no warranties of suitability or merchantability by the Governmental Lender; (g) all rights of the Governmental Lender in connection with any amendment to or modification of this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents; and (h) any and all limitations of the Governmental Lender’s liability and the Governmental Lender’s disclaimers of warranties set forth in this Funding Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement or the Project Loan Agreement, and the Governmental Lender’s right to inspect and audit the books, records and permits of the Borrower and the Project.

“*Window Period*” means the three (3) consecutive month period prior to the Maturity Date.

Section 1.02. ***Interpretation.*** The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time. References to Articles, Sections, and other subdivisions of this Funding Loan Agreement are to

the designated Articles, Sections and other subdivisions of this Funding Loan Agreement as originally executed. The headings of this Funding Loan Agreement are for convenience only and shall not define or limit the provisions hereof.

ARTICLE II.

THE FUNDING LOAN

Section 2.01. *Terms.*

(a) The Governmental Note and the Funding Loan shall be originated and funded on the Delivery Date in the original principal amount of \$28,000,000 with funds provided to the Governmental Lender by the Initial Funding Lender. The proceeds of the Funding Loan shall be deposited with the Fiscal Agent and disbursed in accordance with this Funding Loan Agreement. The Funding Loan shall be evidenced by the Governmental Note and shall bear interest and be paid in accordance with the payment terms set forth in the Governmental Note and this Funding Loan Agreement.

(b) The proceeds of the Funding Loan shall be advanced by the Initial Funding Lender directly to the Fiscal Agent for deposit to the Project Account on the Delivery Date.

(c) *[Reserved].*

(d) The Governmental Note and the Funding Loan shall bear interest payable on each Interest Payment Date at (i) the Construction Phase Interest Rate during the Construction Phase and (ii) the Permanent Phase Interest Rate during the Permanent Phase. Interest on the Governmental Note and the Funding Loan shall be computed on the basis of a 360-day year and the actual number of days elapsed.

(e) The Funding Loan and the Governmental Note shall mature on September 1, 2038, subject to scheduled monthly principal payments, and to optional and mandatory prepayment prior to maturity as provided in Article III hereof. The unpaid principal balance of the Funding Loan shall be paid on the dates and in the amounts set forth on the initial Funding Loan Amortization Schedule provided on the Delivery Date and attached as Schedule 1 to the Governmental Note if the Conversion Date occurs on or prior to the initial Forward Commitment Maturity Date. If the Forward Commitment Maturity Date is extended by Freddie Mac in accordance with the Freddie Mac Commitment and the Construction Phase Financing Agreement, the first principal payment date under the Funding Loan Amortization Schedule shall automatically be extended to the first day of the month immediately succeeding the Conversion Date (with the succeeding principal installments remaining consistent with the original schedule but for them occurring on later dates). Additionally, in the event the outstanding principal amount of the Funding Loan on the Conversion Date is less than the starting principal amount set forth in the initial Funding Loan Amortization Schedule, a new Funding Loan Amortization Schedule will be generated on the Conversion Date at such lesser outstanding principal amount based on the parameters set forth in the Freddie Mac Commitment. In the event the initial Funding Loan Amortization Schedule is modified in accordance with this Section 2.01(e), a replacement Funding Loan Amortization Schedule will be provided to Governmental Lender and Fiscal Agent by the Freddie Mac Seller/Servicer which will

be attached to the Governmental Note on the Conversion Date. All unpaid principal and all accrued and unpaid interest outstanding under the Funding Loan shall be due and payable on the Maturity Date.

(f) Payment of principal of, premium, if any, and interest on the Funding Loan shall be paid by wire transfer in immediately available funds to an account within the United States of America designated by such Funding Lender (unless otherwise directed by the Funding Lender)

(g) Subject to Section 2.12 hereof, on or before the date fixed for payment, money shall be deposited with the Fiscal Agent to pay, and the Fiscal Agent is hereby authorized and directed to apply such money to the payment of, the Funding Loan, together with accrued interest thereon to the date of payment.

(h) The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Note and all agreements made in the Governmental Note, this Funding Loan Agreement and the Financing Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto including Chapter 1204 of the Texas Government Code and other applicable laws of the State of Texas. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Note, this Funding Loan Agreement or the other Financing Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. In no event shall the interest on the Governmental Note exceed the Maximum Interest Rate. This paragraph shall control every other provision of the Governmental Note, this Funding Loan Agreement and all other Financing Documents.

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

(i) In no contingency or event whatsoever shall the aggregate of all amounts deemed interest hereunder and charged or collected pursuant to the terms of this Funding Loan Agreement exceed the Maximum Interest Rate. In the event that such court determines the Funding Lender has charged or received interest hereunder in excess of the highest applicable rate, the Funding Lender shall apply, in its sole discretion, and set off such excess interest received by the Funding

Lender against other obligations due or to become due under the Financing Documents and such rate shall automatically be reduced to the Maximum Interest Rate.

(j) Notwithstanding any other provision of this Funding Loan Agreement to the contrary, **THE GOVERNMENTAL LENDER SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON, THE GOVERNMENTAL NOTE SOLELY OUT OF THE PLEDGED SECURITY, INCLUDING THE REVENUES. THE GOVERNMENTAL NOTE SHALL BE A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM THE PLEDGED SECURITY, INCLUDING THE REVENUES. THE GOVERNMENTAL NOTE SHALL CONSTITUTE A VALID CLAIM OF THE RESPECTIVE NOTEOWNERS THEREOF AGAINST THE PLEDGED SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS FUNDING LOAN AGREEMENT.**

Section 2.02. ***Pledged Security.*** To secure the payment of the principal of, premium, if any, and interest on the Funding Loan and the Governmental Note according to its tenor and effect, and the performance and observance by the Governmental Lender of all the covenants expressed or implied herein and in the Governmental Note, and the payment and performance of all amounts and obligations under the Continuing Covenant Agreement, the Governmental Lender does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Fiscal Agent, and its successors in such capacity and its and their assigns in and to the following (said property being herein referred to as the “**Pledged Security**”) for the benefit of the Funding Lender:

(a) All right, title and interest of the Governmental Lender in and to all Revenues;

(b) All right, title and interest of the Governmental Lender in and to the Project Loan Agreement, the Project Note, the Security Instrument and the other Project Loan Documents (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or receivable thereunder (including all casualty insurance benefits or condemnation awards), whether payable under the above referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Governmental Lender or any other Person is or may become entitled to do under said documents; and

(c) Except for funds, money or securities in the Cost of Issuance Fund, the Administration Fund and the Rebate Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Funding Loan by the Governmental Lender or by anyone on its behalf or with its written consent to the Fiscal

Agent, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

The foregoing notwithstanding, if the Governmental Lender or its successors or assigns shall pay or cause to be paid to the Funding Lender in full the principal, interest and premium, if any, to become due with respect to the Funding Loan at the times and in the manner provided in Article IX hereof, and if the Governmental Lender shall keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, warranties and agreements contained herein, then these presents and the estate and rights hereby granted shall, at the option of the Governmental Lender, cease, terminate and be void, and thereupon the Fiscal Agent shall cancel and discharge the lien of this Funding Loan Agreement and execute and deliver to the Governmental Lender such instruments in writing as shall be requisite to satisfy the lien hereof, and, subject to the provisions of Sections 4.11 and 4.12 hereof and Article IX hereof, reconvey to the Governmental Lender the estate hereby conveyed, and assign and deliver to the Governmental Lender any property at the time subject to the lien of this Funding Loan Agreement which may then be in its possession, except for the Rebate Fund and cash held by the Fiscal Agent for the payment of interest on and principal of the Governmental Note; otherwise this Funding Loan Agreement to be and shall remain in full force and effect.

Section 2.03. *Limited Obligations.* Notwithstanding any other provision of this Funding Loan Agreement to the contrary, the Governmental Note is not and never shall become a general obligation of the Governmental Lender, but to the extent provided in and except as otherwise permitted by this Funding Loan Agreement, the Governmental Note shall be a limited obligation of the Governmental Lender and the principal of, premium, if any, thereon shall be payable equally and ratably solely from and secured solely by the Pledged Security.

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

CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

No agreement or obligation contained herein shall be deemed to be an agreement or obligation of any governing board member, director, officer, agent or employee of the Governmental Lender in his or her individual capacity, and no member of the governing board of the Governmental Lender nor any officer executing the Governmental Note shall be liable personally on such Governmental Note or be subject to any personal liability or accountability by reason of the issuance thereof. No governing board member, director, officer, agent or employee of the Governmental Lender shall incur any personal liability with respect to any other action taken by him or her pursuant to this Funding Loan Agreement.

Section 2.04. ***Funding Loan Agreement Constitutes Contract.*** In consideration of the origination and funding of the Funding Loan by the Initial Funding Lender, the provisions of this Funding Loan Agreement shall be part of the contract of the Governmental Lender with the Initial Funding Lender and any successors or assigns thereof in such capacity from time to time.

Section 2.05. ***Form and Execution.*** The Governmental Note shall be in substantially the form attached as **Exhibit A** with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement. Except for the Initial Note which shall be numbered I-1, the Governmental Note shall be numbered consecutively from R-1 upwards.

The Initial Note, registered by the Comptroller, shall be identical to the form of Governmental Note attached as **Exhibit A**, except that the second-to-last paragraph of the Initial Note shall read as follows:

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

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

**“REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS**

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

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

Witness my signature and seal of office this _____.

Texas Comptroller of Public Accounts

(SEAL)”

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

The Governmental Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of the Chair or Vice Chair of the Governmental Lender, and attested by the manual or facsimile signature of the Secretary or an Assistant Secretary of the Governmental Lender and shall bear an impression or a facsimile of the seal of the Governmental Lender. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Governmental Note. Any reproduction of the official seal of the Governmental Lender on the Governmental Note shall have the same force and effect as if the official seal of the Governmental Lender had been impressed on the Governmental Note.

Section 2.06. **Authentication.** The Governmental Note shall not be valid or obligatory for any purpose or entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication or registration on the Governmental Note, substantially in the form set forth in **Exhibit A**, shall have been duly executed by an Authorized Officer of the Fiscal Agent or the Comptroller, as applicable; and such executed certificate of authentication or registration upon the Governmental Note shall be conclusive evidence that the Governmental Note has been duly executed, registered, authenticated and delivered under this Funding Loan Agreement.

Section 2.07. **Mutilated, Lost, Stolen or Destroyed Governmental Note.** In the event the Governmental Note is mutilated, lost, stolen or destroyed, the Governmental Lender shall execute and the Fiscal Agent shall authenticate a new Governmental Note substantially in the form set forth in **Exhibit A** in exchange and substitution for and upon cancellation of the mutilated Governmental Note or in lieu of and in substitution for such lost, stolen or destroyed Governmental Note, upon payment by the Funding Lender of any applicable tax or governmental charge and the reasonable expenses and charges of the Governmental Lender and the Fiscal Agent in connection therewith, and in the case where the Governmental Note is lost, stolen or destroyed, the filing with the Fiscal Agent of evidence satisfactory to it that the Governmental Note was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Governmental Lender and the Fiscal Agent with indemnity satisfactory to each of them. In the event where the Governmental Note shall have matured, instead of delivering a new Governmental Note the Governmental Lender may pay the same without surrender thereof.

Section 2.08. ***Registration; Transfer of Governmental Note and Funding Loan; Transferee Representations Letter.***

(a) The Governmental Note shall be fully registered as to principal and interest in the manner and with any additional designation as the Fiscal Agent deems necessary for the purpose of identifying the registered owner thereof. The Governmental Note shall be transferable only on the registration books of the Fiscal Agent. The Fiscal Agent shall maintain books or other records showing the name and date of registration, address and employer identification number of the registered owner of the Governmental Note and any transfers of the Governmental Note as provided herein. The Governmental Note shall initially be registered to the Initial Funding Lender, upon the Conversion Date shall be registered to the Freddie Mac Seller/Service, and upon the Freddie Mac Purchase Date, shall be registered to Freddie Mac.

(b) The Funding Lender shall have the right to sell, assign or otherwise transfer in whole its interest in the Governmental Note and Funding Loan or to grant a participation interest in the Funding Loan in a percentage of not less than twenty-five percent (25%) of the outstanding principal amount of the Governmental Note; provided that the Funding Loan may be transferred, or any participation interest therein granted, only to an “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3), (5), (6), (7) or (8) of Regulation D under the Securities Act or a “qualified institutional buyer” as that term is defined under Rule 144A of the Securities Act (such “accredited investor” or “qualified institutional buyer” a “Qualified Transferee”); provided that, prior to the Freddie Mac Purchase Date, only an “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3), (7) or (8) of Regulation D under the Securities Act or a “qualified institutional buyer” shall constitute a “Qualified Transferee”) that delivers a letter to the Fiscal Agent substantially in the form attached hereto as ***Exhibit C*** (the “Transferee Representations Letter”) setting forth certain representations with respect to such Qualified Transferee. Notwithstanding the preceding sentence, no Transferee Representations Letter shall be required for the Funding Lender Representative to (i) transfer the Funding Loan to any affiliate or other party related to the Funding Lender that is a Qualified Transferee or (ii) sell or transfer the Funding Loan to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Funding Loan or securitized interests therein are not expected to be sold or transferred except to (x) owners or beneficial owners thereof that are Qualified Transferees or (y) in circumstances where secondary market credit enhancement is provided for such securitized interests resulting in a rating thereof of at least “A” or better. In connection with any sale, assignment or transfer of the Governmental Note and the Funding Loan, the Funding Lender shall give notice of such sale, assignment or transfer to the Fiscal Agent and the Fiscal Agent shall record such sale, assignment or transfer on its books or other records maintained for the registration of transfer of the Governmental Note.

(c) Other than to receive a Transferee Representation Letter as provided herein, the Fiscal Agent shall have no obligation to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Funding Loan Agreement or under applicable law with respect to any transfer of the Governmental Note or any interest therein or the Funding Loan.

Section 2.09. ***[Reserved]***

Section 2.10. *Funding Loan Closing Conditions; Delivery of Governmental Note.* Closing of the Funding Loan on the Delivery Date shall be conditioned upon, and the Governmental Lender shall only execute and deliver to the Fiscal Agent, and the Fiscal Agent shall only authenticate the Governmental Note and deliver the Governmental Note to the Initial Funding Lender upon, receipt by the Fiscal Agent of the following:

(a) executed counterparts of this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement and the Tax Exemption Agreement, the Initial Note registered by the Comptroller and an Opinion of the Attorney General of the State of Texas approving the Governmental Note;

(b) an opinion of Bond Counsel or counsel to the Governmental Lender to the effect that the Governmental Lender is duly organized and existing under the laws of the State and has duly authorized, executed and delivered this Funding Loan Agreement, the Governmental Note and the other Financing Documents to which it is a party, and such documents are valid and binding special, limited obligations of the Governmental Lender enforceable in accordance with their terms subject to customary exceptions;

(c) the purchase price of \$28,000,000 for the Governmental Note from the Initial Funding Lender;

(d) the executed Project Note and an endorsement of the Project Note by the Governmental Lender in favor of the Fiscal Agent;

(e) a copy of the executed Security Instrument, the Assignment, the Construction Phase Financing Agreement and the Construction Continuing Covenant Agreement;

(f) an opinion or opinions of counsel to the Borrower to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the state in which it has been organized and in good standing under the laws of each other state in which the Borrower transacts business and has full power and authority to enter into the Financing Documents to which it is a party, that its execution and delivery of and performance of its covenants in such documents do not contravene law or any provision of any other documents to which it is a party or by which it or such property is bound or affected, and that all such agreements have been duly authorized, executed and delivered by the Borrower, and are legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms;

(g) a customary approving opinion of Bond Counsel, including but not limited to an opinion to the effect that, under existing law, the interest on the Governmental Note is excludable from gross income for federal income tax purposes;

(h) a certified copy of the Resolution;

(i) the written request and authorization to the Fiscal Agent by the Governmental Lender to authenticate and deliver the Governmental Note to the Initial Funding Lender upon receipt by the Fiscal Agent of the purchase price for the Governmental Note;

(j) the amounts specified in Section 2.11 of this Funding Loan Agreement and Section 3.03 of the Project Loan Agreement; and

(k) a Transferee Representations Letter from the Initial Funding Lender, which shall also be provided to the Governmental Lender, substantially in the form attached hereto as **Exhibit C**.

Section 2.11. *Establishment of Project Loan Fund; Application of Funding Loan Proceeds and Other Money.*

(a) The Fiscal Agent shall establish, maintain and hold in trust and there is hereby established with the Fiscal Agent a Project Loan Fund and therein a Project Account and a Borrower Equity Account. No amount shall be charged against the Project Loan Fund except as expressly provided in this Section 2.11 and Section 4.02 hereof.

(b) The purchase price of the Governmental Note shall be delivered by the Initial Funding Lender to the Fiscal Agent on the Delivery Date. Upon receipt, the Fiscal Agent shall deposit such proceeds to the credit of the Project Account of the Project Loan Fund and thereafter shall transfer an amount equal to \$[] to the Cost of Issuance Fund and \$[] to the Loan Payment Fund. Amounts in the Project Loan Fund shall be disbursed as provided in subparagraph (d) below, subject to the conditions set forth in Section 3.01 of the Project Loan Agreement. Upon the disbursement of all amounts in the Project Loan Fund, the Fiscal Agent shall close the Project Loan Fund.

(c) The Governmental Lender shall cause the Borrower to deliver from sources other than the Loans, (i) to the Fiscal Agent, on or prior to the Delivery Date, the Costs of Issuance Deposit for deposit to the credit of the Cost of Issuance Fund and the Borrower Equity Deposit for deposit to the credit of the Borrower Equity Account, and (ii) to the Servicer the Initial Debt Service Deposit. The Fiscal Agent shall also deposit in the Borrower Equity Account any additional amounts delivered from time to time to the Fiscal Agent and directed by the Borrower or Servicer to be deposited therein, excluding any proceeds of the Loans.

(d) Upon the making of the initial deposits described above in this Section 2.11, the Governmental Lender shall originate the Project Loan pursuant to the Project Loan Agreement and the Fiscal Agent shall make the initial disbursements of amounts in the Project Loan Fund as provided in Section 4.02 hereof.

Section 2.12. *Direct Loan Payments to Fiscal Agent; Servicer Disbursement of Fees.*

(a) Notwithstanding any provision in this Funding Loan Agreement to the contrary, during any period that a Servicer is engaged with respect to the Loans, (i) prior to Conversion, the Borrower shall make all payments in connection with the Project Loan to the Fiscal Agent, and the Fiscal Agent will (a) retain the allocable portion of the Ordinary Fiscal Agent's Fees and Expenses (if any), together with any other reasonable amounts due to the Fiscal Agent, for its own account, (b) remit to the Funding Lender all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender, (c) remit to the Servicer the allocable portion of the monthly Servicing Fee (if any), and (d) remit to the Governmental Lender the Governmental Lender Fee, together with

any other amounts due to the Governmental Lender, and (ii) following Conversion, the Borrower shall make all payments in connection with the Project Loan to the Servicer, and the Servicer will (a) retain the allocable portion of the monthly Servicing Fee (if any) for its own account, (b) remit to the Fiscal Agent to be paid by the Fiscal Agent to the holder of the Governmental Note all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender by no later than 1:00 pm Eastern Time the Business Day prior to the applicable Project Loan Payment Date, (c) remit to the Fiscal Agent the Ordinary Fiscal Agent's Fees and Expenses, together with any other amounts due to the Fiscal Agent, and (d) remit to the Fiscal Agent to be paid by the Fiscal Agent to the Governmental Lender the Governmental Lender Fee, together with any other amounts due to the Governmental Lender. During a period in which there is no Servicer, all notices to be sent to the Servicer shall be sent to the Funding Lender Representative (to the extent not already provided) and all amounts to be paid to the Servicer by the Borrower shall be paid directly to the Fiscal Agent. The Fiscal Agent shall be responsible for making the debt service and fee payments out of the Project Loan Fund as required under Section 4.02(e) hereof during the Construction Phase. Any payment made in accordance with the provisions of this Section shall be accompanied by sufficient information to identify the source and proper application of such payment. The Servicer shall promptly notify the Fiscal Agent, the Funding Lender, the Funding Lender Representative and the Governmental Lender in writing of any failure of the Borrower to make any payment of principal of, Prepayment Premium, if any, and interest on the Project Loan when due or to pay any fees due hereunder or under the Project Loan Agreement, and the Fiscal Agent and the Governmental Lender shall not be deemed to have any notice of such failure unless it has received such notice in writing.

(b) If the Governmental Note is sold or transferred as provided in Section 2.08(b), the Funding Lender Representative shall notify the Fiscal Agent and the Borrower in writing of the name and address of the transferee.

Section 2.13. **Conversion.** If the Notice of Conversion is issued in the timeframe required under the Construction Phase Financing Agreement, Conversion will occur on the Conversion Date indicated in such Notice of Conversion. If the Notice of Conversion is not so issued, Conversion will not occur, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligations with respect to the purchase of the Funding Loan or otherwise with respect to the Loans or the Project.

ARTICLE III.

PREPAYMENT OF THE FUNDING LOAN

Section 3.01. **Prepayment of the Funding Loan Prior to Maturity/Redemption of the Governmental Note.**

(a) **Optional Prepayment.** The Funding Loan, together with accrued interest thereon, is subject to optional redemption and prepayment in whole upon optional prepayment of the Project Loan in accordance with the notice and other prepayment provisions set forth in the Project Note. Any optional prepayment of the Funding Loan shall constitute a redemption of the Governmental Note to the extent of the prepayment.

(b) Mandatory Prepayment. The Funding Loan, together with accrued interest thereon, and together with Prepayment Premium (to the extent payable under the Project Note), is subject to mandatory prepayment on any Business Day, in whole or in part as indicated below, at the earliest practicable date upon the occurrence of any of the following:

(i) in whole or in part, upon the occurrence of a mandatory prepayment of the Project Loan pursuant to the Project Note and receipt by the Fiscal Agent of a written direction by the Funding Lender Representative that the Funding Loan shall be subject to mandatory prepayment as a result thereof;

(ii) in part, on the Interest Payment Date next following the completion of the rehabilitation of the Project but in no event later than three years after the Delivery Date, to the extent amounts remaining in the Project Account of the Project Loan Fund are transferred to the Loan Prepayment Fund pursuant to Section 4.02(e) hereof;

(iii) in part, in the event the Borrower elects to make a Pre-Conversion Loan Equalization Payment; or

(iv) in whole or in part, on or after the Forward Commitment Maturity Date, at the written direction of the Initial Funding Lender, if the Notice of Conversion is not issued by the Freddie Mac Seller/Servicer prior to the Forward Commitment Maturity Date.

Notwithstanding anything to the contrary in this Funding Loan Agreement, any prepayment of the Funding Loan, in whole or in part, shall constitute a redemption of the Governmental Note to the extent of the prepayment.

Section 3.02. ***Notice of Prepayment.*** Notice of the intended prepayment of the Funding Loan shall be given by the Fiscal Agent by first class mail, postage prepaid, or by overnight delivery service, to the Funding Lender and the Governmental Lender. All such prepayment notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional prepayment) nor more than sixty (60) days prior to the date fixed for prepayment. Notices of prepayment shall state (i) the prepayment date, (ii) the prepayment amount, and (iii) the place or places where amounts due upon such prepayment will be payable.

Notice of such prepayment shall also be sent by first class mail, postage prepaid, or by overnight delivery service, to the Servicer, not later than the time of mailing of notices required by the first paragraph above, and in any event no later than simultaneously with the mailing of notices required by the first paragraph above; provided, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of the Funding Loan.

Notwithstanding the foregoing, in the event the Fiscal Agent is not collecting and remitting loan payments hereunder, the Fiscal Agent shall have no obligation to send prepayment notices pursuant to this Section 3.02.

ARTICLE IV.

REVENUES AND FUNDS

Section 4.01. ***Pledge of Revenues and Assets; Establishment of Funds.*** The pledge and assignment of and the security interest granted in the Pledged Security pursuant to Section 2.02 hereof shall attach, be perfected and be valid and binding from and after the time of the closing of the Funding Loan and delivery of the Governmental Note by the Fiscal Agent or by any Person authorized by the Fiscal Agent to deliver the Governmental Note. The Pledged Security so pledged and then or thereafter received by the Fiscal Agent shall immediately be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

In addition to the Project Loan Fund established pursuant to Section 2.11 hereof, the Fiscal Agent shall establish, maintain and hold in trust the following funds and accounts, each of which is hereby established and each of which shall be disbursed and applied only as herein authorized:

- (a) Revenue Fund;
- (b) Loan Payment Fund;
- (c) Loan Prepayment Fund;
- (d) Administration Fund;
- (e) Cost of Issuance Fund; and
- (f) Rebate Fund.

The funds and accounts established pursuant to Section 2.11 and this Section 4.01 shall be maintained in the corporate trust department of the Fiscal Agent as segregated trust accounts, separate and identifiable from all other funds held by the Fiscal Agent. The Fiscal Agent shall, at the written direction of an Authorized Officer of the Governmental Lender, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Governmental Lender or the Fiscal Agent may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Funding Loan Agreement with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted hereunder.

Pursuant to the Tax Exemption Agreement, the Fiscal Agent shall cause to be kept and maintained adequate records pertaining to investment of all proceeds of the Governmental Note and the Funding Loan sufficient to permit the Borrower, on behalf of the Governmental Lender, to determine the amount of rebate, if any, required to be paid to the United States of America pursuant to Section 148 of the Code. The Fiscal Agent shall have no responsibility to make such determination.

Section 4.02. ***Project Loan Fund.***

(a) **Deposit.** The Fiscal Agent shall deposit the proceeds of the Funding Loan into the Project Account of the Project Loan Fund upon receipt thereof as provided in Section 2.11(b) hereof. The Fiscal Agent shall deposit the Borrower Equity Deposit into the Borrower Equity Account of the Project Loan Fund, as well as any additional amounts delivered from time to time to the Fiscal Agent and directed by the Borrower or Servicer to be deposited therein (excluding any proceeds of the Governmental Note), as provided in Section 2.11(c) hereof.

(b) **Disbursements.** Amounts on deposit in the Project Loan Fund shall be disbursed from time to time by the Fiscal Agent to the Disbursing Agent in accordance with this Funding Loan Agreement and thereafter by the Disbursing Agent in accordance with the Disbursing Agreement for the purpose of paying: (i) interest on the Funding Loan and the Fee Component, in each case when due during the Construction Phase without the need for a Requisition or other written direction; (ii) Costs of the Project; (iii) other costs of the Project from the Project Account, subject to the limitations of the Tax Exemption Agreement; and (iv) other costs of the Project from the Borrower Equity Account. In addition, amounts in the Project Loan Fund shall be transferred to the Loan Prepayment Fund, the Rebate Fund and the Borrower at the times and in the manner provided in subsection (e) of this Section 4.02.

(c) **Transfers and Requisitions.** The Fiscal Agent shall automatically transfer amounts from the Borrower Equity Account of the Project Loan Fund to the Administration Fund to pay to the appropriate party its accrued fees that are included in the Fee Component that are due and payable as set forth herein or upon receipt of an invoice, without any need for a Requisition or other written direction. Unless the Fiscal Agent is instructed otherwise by the Initial Funding Lender, or if there are insufficient funds in the Loan Payment Fund to make such payment, the Fiscal Agent shall automatically transfer amounts in the Borrower Equity Account of the Project Loan Fund to the Loan Payment Fund to pay interest on the Project Loan and Funding Loan without any need for a Requisition or other written direction. The Fiscal Agent shall make disbursements from the respective accounts of the Project Loan Fund for purposes described in subsection (b) of this Section 4.02 (except as provided in such subsection) only upon the receipt of a Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Servicer (signifying the consent to the Requisition by the Servicer). The Fiscal Agent shall have no right or duty to determine whether any requested disbursement from the Project Loan Fund complies with the terms, conditions and provisions of the Construction Continuing Covenant Agreement. The countersignature of the Authorized Officer of the Servicer on a Requisition shall be deemed a certification, and insofar as the Fiscal Agent and the Governmental Lender are concerned, constitute conclusive evidence, that all of the terms, conditions and requirements of the Construction Continuing Covenant Agreement applicable to such disbursement have been fully satisfied or waived. The Fiscal Agent shall, immediately upon

each receipt of a completed Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Servicer, initiate procedures with the provider of a Qualified Investment to make withdrawals as necessary to fund the Requisition.

Notwithstanding anything to the contrary contained herein, no signature of an Authorized Officer of the Borrower shall be required during any period in which an Event of Default has occurred and is then continuing under the Loans or any Financing Document (notice of which default has been given in writing by the Funding Lender Representative or the Servicer to the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default).

(d) If a Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Servicer or (as permitted hereunder) solely by an Authorized Officer of the Servicer, is received by the Fiscal Agent, the requested disbursement shall be paid by the Fiscal Agent as soon as practicable, but in no event later than three (3) Business Days following receipt thereof by the Fiscal Agent. Upon final disbursement of all amounts on deposit in the Project Loan Fund, including all interest accrued therein, the Fiscal Agent shall close the Project Loan Fund.

(e) Immediately prior to any mandatory prepayment of the Funding Loan pursuant to Section 3.01(b)(i) hereof, any amount then remaining in the Project Loan Fund shall, after all Costs have been paid, which shall be confirmed by Borrower, at the written direction of the Funding Lender Representative, be transferred to the Loan Prepayment Fund to pay amounts due on the Funding Loan, if any. In addition, any amount remaining in the Project Account of the Project Loan Fund following completion of the rehabilitation of the Project in accordance with the Construction Continuing Covenant Agreement, evidenced by an instrument signed by the Funding Lender Representative or the Servicer, and in any case on the date that is three years after the Delivery Date, shall, after all Costs have been paid, which shall be confirmed by Borrower, be transferred to the Loan Prepayment Fund and used to prepay the Funding Loan in accordance with Section 3.01(b)(ii) hereof, unless the Fiscal Agent receives a Favorable Opinion of Bond Counsel (which shall also be addressed to the Funding Lender Representative); provided, if any rebate is due, that any amounts in the Project Account of the Project Loan Fund in excess of the amount needed to fund the related prepayment of the Funding Loan shall be transferred to the Rebate Fund in an amount sufficient to pay such rebate. In the event there are funds remaining in the Borrower Equity Account following completion of the rehabilitation of the Project in accordance with the Construction Continuing Covenant Agreement and the Conversion Date has occurred, and provided no Event of Default by the Borrower exists under this Funding Loan Agreement or any Project Loan Document, such funds shall be paid by the Fiscal Agent to the Borrower at the written direction of the Funding Lender Representative or the Servicer.

(f) Amounts on deposit in the Project Loan Fund shall be invested as provided in Section 4.08 hereof. All Investment Income on amounts on deposit in the Project Loan Fund shall be retained in and credited to and become a part of the amounts on deposit in the Project Loan Fund, and shall constitute part of any transfers required by subsection (b) or (e) of this Section 4.02.

Section 4.03. *Application of Revenues.*

(a) All Revenues received by the Fiscal Agent shall be deposited by the Fiscal Agent, promptly upon receipt thereof, to the Revenue Fund, except (i) the proceeds of the Funding Loan received by the Fiscal Agent on the Delivery Date, which shall be applied in accordance with the provisions of Section 2.11 hereof; (ii) funds delivered to the Fiscal Agent to be deposited in the Borrower Equity Account pursuant to Section 2.11 hereof, (iii) as otherwise specifically provided in subsection (c) of this Section 4.03 with respect to certain deposits into the Loan Prepayment Fund; (iv) with respect to Investment Income to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; and (v) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV.

(b) Subject to Section 2.12 hereof, on each Interest Payment Date or any other date on which payment of principal of and/or interest on the Funding Loan becomes due and payable, the Fiscal Agent, out of money in the Revenue Fund, shall credit the following amounts to the following funds, but in the order and within the limitations hereinafter indicated with respect thereto, as follows:

FIRST: to the Loan Payment Fund, an amount equal to the principal of and/or interest due on the Funding Loan on such date (including scheduled principal pursuant to the Funding Loan Amortization Schedule); and

SECOND: to the Loan Prepayment Fund, an amount equal to the principal and interest due on the Funding Loan on such date with respect to a mandatory prepayment of all or a portion of the Funding Loan pursuant to Section 3.01(b) hereof (other than any extraordinary mandatory prepayment as described in Section 4.03(c)(i) or (iii) below).

(c) Promptly upon receipt, the Fiscal Agent shall deposit directly to the Loan Prepayment Fund (i) Net Casualty Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Project Loan, such amount to be applied to provide for the extraordinary mandatory prepayment of all or a portion of the Funding Loan pursuant to Section 3.01(b)(i) hereof; (ii) funds paid to the Fiscal Agent to be applied to the optional prepayment of all or a portion of the Funding Loan pursuant to Section 3.01(a); and (iii) amounts transferred to the Loan Prepayment Fund from the Project Loan Fund pursuant to Section 4.02(e) hereof.

(d) Subject to Section 2.12 hereof, should the amount in the Loan Payment Fund be insufficient to pay the amount due on the Funding Loan on any given Interest Payment Date, the Fiscal Agent shall credit to the Loan Payment Fund the amount of such deficiency by charging the following funds and accounts in the following order of priority: (1) the Revenue Fund; and (2) the Loan Prepayment Fund, except no such charge to the Loan Prepayment Fund shall be made from money to be used to effect a prepayment for which notice of prepayment has been provided for hereunder.

Section 4.04. *Application of Loan Payment Fund.* Subject to Section 2.12 hereof, the Fiscal Agent shall charge the Loan Payment Fund, on each Interest Payment Date, an amount equal to the unpaid interest and/or principal due on the Funding Loan on such Interest Payment Date as

provided in Section 4.03(a) and (b), and shall cause the same to be applied to the payment of such interest and/or principal when due. Any money remaining in the Loan Payment Fund on any Interest Payment Date after application as provided in the preceding sentence may, to the extent there shall exist any deficiency in the Loan Prepayment Fund to prepay the Funding Loan if called for prepayment on such Interest Payment Date, be transferred to the Loan Prepayment Fund to be applied for such purpose.

Any Investment Income on amounts on deposit in the Loan Payment Fund shall be deposited by the Fiscal Agent upon receipt thereof in the Revenue Fund.

No amount shall be charged against the Loan Payment Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.05. ***Application of Loan Prepayment Fund.*** Any money credited to the Loan Prepayment Fund shall be applied as set forth in Sections 4.03(b) and 4.03(c) hereof; provided, however, that to the extent any money credited to the Loan Prepayment Fund is in excess of the amount necessary to effect the prepayments described in Sections 4.03(b) and 4.03(c) hereof it shall be applied to make up any deficiency in the Loan Payment Fund on any Interest Payment Date, to the extent money then available in accordance with Section 4.03(d) hereof in the Revenue Fund is insufficient to make up such deficiency; provided that no money to be used to effect a prepayment for which a notice of prepayment has been provided shall be so transferred to the Loan Payment Fund.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Loan Prepayment Fund shall be credited by the Fiscal Agent to the Revenue Fund.

No amount shall be charged against the Loan Prepayment Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.06. ***Administration Fund.*** Subject to Section 2.12 hereof, the Fiscal Agent shall deposit into the Administration Fund, promptly upon receipt thereof, all amounts received from the Servicer (or the Borrower if no Servicer exists for the Loans) designated for deposit into such fund together with amounts transferred by the Fiscal Agent from the Project Loan Fund for deposit to the Administration Fund pursuant to Section 4.02(c). Amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent and used **FIRST**, to pay to the Fiscal Agent when due the Ordinary Fiscal Agent's Fees and Expenses; **SECOND**, to pay to the Governmental Lender when due the Governmental Lender Fees; **THIRD**, to pay when due the reasonable fees and expenses of a Rebate Analyst in connection with the computations relating to arbitrage rebate required under this Funding Loan Agreement and the Project Loan Agreement, upon receipt of an invoice from the Rebate Analyst; **FOURTH**, to pay to the Fiscal Agent any Extraordinary Fiscal Agent's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Borrower and the Servicer; **FIFTH**, to pay to the Governmental Lender any extraordinary expenses it may incur in connection with the Loans or this Funding Loan Agreement from time to time, as set forth in an invoice submitted to the Fiscal Agent and the Servicer; **SIXTH**, to pay to the Funding Lender Representative any unpaid amounts due under the Continuing Covenant Agreement, as certified in writing by the Funding Lender Representative to the Fiscal Agent; **SEVENTH**, to make up any deficiency in the Loan

Prepayment Fund on any prepayment date of the Funding Loan, to the extent money then available in accordance with Section 4.03(d) hereof in the Loan Prepayment Fund is insufficient to prepay the Funding Loan scheduled for prepayment on such prepayment date; and **EIGHTH**, to transfer any remaining balance after application as aforesaid to the Revenue Fund.

In the event that the amounts on deposit in the Administration Fund are not equal to the amounts payable from the Administration Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower, the Tax Credit Investor and the Servicer of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Fiscal Agent of the amount of such deficiency. Upon payment by the Borrower or the Servicer of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Administration Fund not needed to pay the foregoing amounts shall be credited by the Fiscal Agent to the Revenue Fund.

No amount shall be charged against the Administration Fund except as expressly provided in this Article IV and Section 6.05 hereof.

Section 4.07. ***[Reserved]***.

Section 4.08. ***Investment of Funds.*** The money held by the Fiscal Agent shall constitute trust funds for the purposes hereof. Any money attributable to each of the funds and accounts hereunder shall be, except as otherwise expressly provided herein, invested by the Fiscal Agent, at the written direction of the Borrower (or, in the case of the Rebate Fund, as provided in the Tax Exemption Agreement), in Qualified Investments which mature or shall be subject to prepayment or withdrawal at par without penalty on or prior to the earlier of (i) twelve months from the date of investment and (ii) the date such money is needed; provided, that if the Fiscal Agent shall have entered into any investment agreement requiring investment of money in any fund or account hereunder in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such money shall be invested in accordance with such requirements. In the absence of written direction from the Borrower, the Fiscal Agent shall invest amounts on deposit in the funds and accounts established under this Funding Loan Agreement in Government Obligations or in investments of the type described in subparagraph (g) of the definition of Qualified Investments which shall have the same maturity and other restrictions as set forth above. Such investments may be made through the investment or securities department of the Fiscal Agent. The Fiscal Agent may purchase from or sell to itself or an affiliate, as principal or agent, securities herein authorized. The Fiscal Agent shall be entitled to assume, absent receipt by the Fiscal Agent of written notice to the contrary, that any investment which at the time of purchase is a Qualified Investment remains a Qualified Investment thereafter.

Qualified Investments representing an investment of money attributable to any fund or account shall be deemed at all times to be a part of said fund or account, and, except as otherwise may be provided expressly in other Sections hereof, the interest thereon and any profit arising on the sale thereof shall be credited to the Revenue Fund, and any loss resulting on the sale thereof shall be charged against the Revenue Fund. Such investments shall be sold at the best price

obtainable (at least par) whenever it shall be necessary so to do in order to provide money to make any transfer, withdrawal, payment or disbursement from said fund or account. In the case of any required transfer of money to another such fund or account, such investments may be transferred to that fund or account in lieu of the required money if permitted hereby as an investment of money in that fund or account. The Fiscal Agent shall not be liable or responsible for any loss resulting from any investment made in accordance herewith.

The Governmental Lender acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the Governmental Lender the right to receive brokerage confirmations of the security transactions as they occur, to the extent permitted by law, the Governmental Lender specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Fiscal Agent hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

In computing for any purpose hereunder the amount in any fund or account on any date, obligations so purchased shall be valued at Fair Market Value.

Section 4.09. *[Reserved]*.

Section 4.10. ***Accounting Records.*** The Fiscal Agent shall maintain accurate books and records for all funds and accounts established hereunder.

Section 4.11. ***Amounts Remaining in Funds.*** After full payment of the Funding Loan (or provision for payment thereof having been made in accordance with Section 9.01 hereof) and full payment of the fees, charges and expenses of the Governmental Lender, the Fiscal Agent, the Rebate Analyst, the Funding Lender and the Servicer and other amounts required to be paid hereunder or under any Project Loan Document, including, but not limited to, the Continuing Covenant Agreement (as certified in writing to the Fiscal Agent by the Governmental Lender with respect to amounts due to the Governmental Lender and by the Funding Lender Representative or the Servicer on its behalf with respect to amounts owed under the Continuing Covenant Agreement and by the Rebate Analyst with respect to amounts due to the Rebate Analyst), any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower.

Section 4.12. ***Rebate Fund.*** The Rebate Fund shall be for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Funding Lender. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all Investments thereof and income from Investments therefrom, shall be held in trust and applied solely as provided in this Section and in the Tax Exemption Agreement. The Rebate Fund is not a portion of the Pledged Security and is not subject to any lien under this Funding Loan Agreement. Notwithstanding the foregoing, the Fiscal Agent with respect to the Rebate Fund is afforded all the rights, protections and immunities otherwise accorded to it hereunder.

Section 4.13. ***Cost of Issuance Fund.*** The Fiscal Agent shall use money on deposit to the credit of the Cost of Issuance Fund to pay the costs of issuance on the Delivery Date or as soon as practicable thereafter in accordance with a Requisition in the form of Exhibit D to be given to

the Fiscal Agent by the Borrower on the Delivery Date, along with appropriate invoices for such expenses. Amounts in the Cost of Issuance Fund funded with proceeds of the Funding Loan, if any, shall be expended prior to the application of the Costs of Issuance Deposit. Investment Income on amounts on deposit in the Cost of Issuance Fund shall be retained in such fund. Amounts remaining on deposit in the Cost of Issuance Fund six (6) months after the Delivery Date shall be (i) if derived from proceeds of the Funding Loan, transferred to the Project Loan Fund and (ii) if derived from the Costs of Issuance Deposit, transferred to the Borrower. Upon such final disbursement, the Fiscal Agent shall close the Cost of Issuance Fund.

Section 4.14. **Reports From the Fiscal Agent.** The Fiscal Agent shall, on or before the fifteenth (15th) day of each month, file with the Funding Lender Representative, the Servicer, the Governmental Lender and the Borrower a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it, and the amount deposited within or on account of each fund and account held by it under the provisions of this Funding Loan Agreement, including the amount of investment income on each fund and account;
- (ii) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (iii) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (iv) any other information which the Funding Lender Representative or the Governmental Lender may reasonably request and to which the Fiscal Agent has access in the ordinary course of its operations.

Upon the written request of the Funding Lender, the Fiscal Agent, at the cost of the Borrower, shall provide a copy of such statement to Funding Lender. All records and files pertaining to the Pledged Security shall be open at all reasonable times to the inspection of the Governmental Lender and the Funding Lender Representative or the Servicer and their agents and representatives upon reasonable prior notice during normal business hours.

ARTICLE V.

GENERAL COVENANTS AND REPRESENTATIONS

Section 5.01. **Payment of Principal and Interest.** The Governmental Lender covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, and interest on the Funding Loan at the place, on the dates and in the manner provided herein and in the Governmental Note, according to the true intent and meaning thereof.

Section 5.02. **Performance of Covenants.** The Governmental Lender covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and

provisions contained in this Funding Loan Agreement, in the Governmental Note and in all proceedings pertaining thereto.

Section 5.03. ***Instruments of Further Assurance.*** The Governmental Lender covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such supplements hereto, and such further acts, instruments and transfers as may be reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Fiscal Agent all and singular its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Funding Loan. Any and all interest in property hereafter acquired which is of any kind or nature herein provided to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Governmental Lender or the Fiscal Agent, become and be subject to the lien of this Funding Loan Agreement as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Governmental Lender under this Section 5.03. The Governmental Lender covenants and agrees that, except as herein otherwise expressly provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Pledged Security or the revenues or receipts therefrom.

The Governmental Lender will promptly notify the Fiscal Agent, and the Fiscal Agent shall notify the Funding Lender Representative and the Servicer in writing of the occurrence of any of the following:

- (i) the submission of any claim or the initiation of any litigation against the Governmental Lender with respect to the Loans of which the Governmental Lender has actual knowledge;
- (ii) any change in the location of the Governmental Lender's principal office or any change in the location of the Governmental Lender's books and records relating to the transactions contemplated hereby;
- (iii) the occurrence of any Event of Default of which the Governmental Lender has actual knowledge;
- (iv) the commencement of any proceedings or any proceedings instituted by or against the Governmental Lender in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Notes; or
- (v) the commencement of any proceedings by or against the Governmental Lender under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, fiscal agent or similar official shall have been, or may be, appointed or requested for the Governmental Lender or any of its assets relating to the Loans.

Section 5.04. ***Inspection of Project Books.*** The Governmental Lender covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable

prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Fiscal Agent or the Funding Lender Representative may from time to time reasonably designate.

Section 5.05. **No Modification of Security; Additional Indebtedness.** The Governmental Lender covenants to and for the benefit of the Funding Lender that it will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

(i) alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Governmental Lender is a party, or which has been assigned to the Governmental Lender, and which relates to or affects the security for the Loans or the payment of any amount owed under the Financing Documents; or

(ii) create or suffer to be created any lien upon the Pledged Security or any part thereof other than the lien created hereby and by the Security Instrument.

Section 5.06. **Damage, Destruction or Condemnation.** Net Casualty Proceeds resulting from casualty to or condemnation of the Project shall be applied as provided in the Continuing Covenant Agreement and, to the extent consistent therewith, Section 3.01(b)(i) hereof.

Section 5.07. **Tax Covenants.**

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

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

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

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

(c) **Change in Law.** To the extent that published rulings of the Internal Revenue Service or amendments to the Code or the Regulations modify the covenants of the Governmental Lender or the Fiscal Agent that are set forth in this Funding Loan Agreement or that are necessary for interest on the Governmental Note to be excludable from gross income for federal income tax purposes, the Fiscal Agent and the Governmental Lender will comply with such modifications upon the written direction of Bond Counsel specifying such modifications; provided any such modifications shall be subject to the prior written consent of the Funding Lender Representative and shall be evidenced by an amendment entered into pursuant to Article VIII.

Section 5.08. ***Representations and Warranties of the Governmental Lender.*** The Governmental Lender hereby represents and warrants as follows:

- (a) The Governmental Lender is a public and official agency of the State.
- (b) The Governmental Lender has all necessary power and authority to issue the Governmental Note and to execute and deliver this Funding Loan Agreement, the Project Loan Agreement and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.
- (c) The revenues and assets pledged for the repayment of the Funding Loan are and will be free and clear of any pledge, lien or encumbrance prior to, or equal with, the pledge created by this Funding Loan Agreement, and all action on the part of the Governmental Lender to that end has been duly and validly taken.
- (d) The Financing Documents to which the Governmental Lender is a party have been validly authorized, executed and delivered by the Governmental Lender, and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding obligations of the Governmental Lender, enforceable against the Governmental Lender in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

ARTICLE VI.

DEFAULT PROVISIONS AND REMEDIES OF FISCAL AGENT AND FUNDING LENDER

Section 6.01. ***Events of Default.*** Each of the following shall be an event of default with respect to the Funding Loan (an "Event of Default") under this Funding Loan Agreement:

- (a) failure to pay the principal of, premium, if any, or interest on the Funding Loan when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for prepayment thereof, by acceleration or otherwise; or
- (b) failure to observe the covenants set forth in Section 5.05 hereof; or
- (c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Governmental Lender (other than those set forth in Sections 5.01 and 5.05 hereof) set forth in this Funding Loan Agreement or in the Governmental Note and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof to the Governmental Lender from the Fiscal Agent or the Funding Lender Representative specifying such default and requiring the same to be remedied; provided that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Governmental Lender commences the required cure within such thirty (30) day period and continues the cure with diligence and the Governmental Lender reasonably anticipates that the default could be cured within sixty (60) days, the Governmental Lender shall have sixty (60) days following receipt of such notice to effect the cure; or

(d) receipt by the Fiscal Agent of written notice from the Funding Lender Representative of the occurrence of an “Event of Default” under the Project Loan Agreement or the Continuing Covenant Agreement.

The Fiscal Agent will promptly notify the Governmental Lender, the Servicer and the Funding Lender Representative after a Responsible Officer obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

Additionally, the Initial Funding Lender or Fiscal Agent will promptly notify the Tax Credit Investor of an Event of Default and the Tax Credit Investor, or any of its successors, assigns or affiliates, shall have the right, but not the obligation, to cure such Event of Default and such cure shall be accepted as if made by the Borrower.

Section 6.02. ***Acceleration; Other Remedies Upon Event of Default.*** Upon the occurrence of an Event of Default, the Fiscal Agent shall, upon the written request of the Funding Lender Representative, by notice in writing delivered to the Governmental Lender, declare the principal of the Funding Loan and the interest accrued thereon immediately due and payable, and interest shall continue to accrue thereon until such amounts are paid.

At any time after the Funding Loan shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Fiscal Agent may, but only if directed in writing by the Funding Lender Representative, by written notice to the Governmental Lender and the Fiscal Agent, rescind and annul such declaration and its consequences if the Governmental Lender or the Borrower shall pay to or deposit with the Fiscal Agent a sum sufficient to pay all principal on the Funding Loan then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) on the Funding Loan then due, with interest at the rate borne by the Funding Loan on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Fiscal Agent (including its counsel) shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Financing Documents (collectively, the “**Cure Amount**”) shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Funding Lender Representative; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon.

Upon the occurrence and during the continuance of an Event of Default, the Fiscal Agent in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Funding Lender, may also proceed to protect and enforce any rights of the Fiscal Agent and, to the full extent that the Funding Lender itself might do, the rights of the Funding Lender under the laws of the State or under this Funding Loan Agreement by such of the following remedies as the Fiscal Agent shall deem most effectual to protect and enforce such rights; provided that, the Fiscal Agent may undertake any such remedy only upon the receipt of the prior written consent of the Funding Lender Representative (which consent may be given in the sole discretion of the Funding Lender Representative):

(i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Funding Loan and to require the Governmental Lender to carry out any covenants or agreements with or for the benefit of the Funding Lender and to perform its duties under the Act, this Funding Loan Agreement, the Project Loan Agreement or the Tax Regulatory Agreement (as applicable) to the extent permitted under the applicable provisions thereof;

(ii) by pursuing any available remedies under the Project Loan Agreement, the Tax Regulatory Agreement or any other Financing Document;

(iii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Funding Lender and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Fiscal Agent in order to have the claim of the Funding Lender against the Governmental Lender allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Funding Loan Agreement conferred upon or reserved to the Fiscal Agent or to the Funding Lender is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Fiscal Agent or the Funding Lender hereunder or under the Project Loan Agreement, the Tax Regulatory Agreement, the Continuing Covenant Agreement or any other Financing Document, as applicable, 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 Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Fiscal Agent or the Funding Lender, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

Section 6.03. ***Funding Lender Representative Control of Proceedings.*** If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Funding Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Funding Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of the Fiscal Agent or the Governmental Lender (and in connection therewith the Fiscal Agent shall transfer or assign to the Funding Lender Representative all of its interest in the Pledged Security at the request of the Funding Lender Representative). In no event shall the exercise of any of the foregoing rights result in an acceleration of the Funding Loan without the express direction of the Funding Lender Representative.

Section 6.04. ***Waiver by Governmental Lender.*** Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Governmental Lender nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or prepayment laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and prepayment to which it may be entitled under the laws of the State and the United States of America.

Section 6.05. ***Application of Money After Default.*** All money collected by the Fiscal Agent at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Fiscal Agent to the Revenue Fund. Such money so credited to the Revenue Fund and all other money from time to time credited to the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund, the Loan Payment Fund and the Loan Prepayment Fund available for the payment of interest or principal then due with respect to the Governmental Note shall be insufficient for such payment, such money shall be applied as follows and in the following order of priority:

(a) For payment of all amounts due to the Fiscal Agent incurred in performance of its duties under this Funding Loan Agreement, including, without limitation, the payment of all reasonable fees and expenses of the Fiscal Agent incurred in exercising any remedies under this Funding Loan Agreement.

(b) To the extent directed in writing by the Funding Lender Representative, to the reimbursement of any unreimbursed advances made by or on behalf of the Funding Lender pursuant to the Continuing Covenant Agreement or the Security Instrument.

(c) Unless the full principal amount of the Funding Loan shall have become or have been declared due and payable:

FIRST: to the Funding Lender, all installments of interest then due on the Funding Loan in the order of the maturity of such installments; and

SECOND: to the Funding Lender, unpaid principal of and premium, if any, on the Funding Loan which shall have become due, whether at maturity or by call for prepayment, in the order in which they became due and payable.

(d) If the full principal amount of the Governmental Note shall have become or have been declared due and payable, to the Funding Lender for the payment of the principal of, premium, if any, and interest then due and unpaid on the Funding Loan without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest.

Section 6.06. ***Remedies Not Exclusive.*** No right or remedy conferred upon or reserved to the Fiscal Agent, the Funding Lender or the Funding Lender Representative by the terms of this

Funding Loan Agreement is intended to be exclusive of any other right or remedy, but each and every such remedy shall be cumulative and shall be in addition to every other right or remedy given to the Fiscal Agent, the Funding Lender or the Funding Lender Representative under this Funding Loan Agreement or existing at law or in equity or by statute (including the Act).

Section 6.07. ***Fiscal Agent May Enforce Rights Without Governmental Note.*** All rights of action and claims, including the right to file proof of claims, under this Funding Loan Agreement may be prosecuted and enforced by the Fiscal Agent at the written direction of the Funding Lender Representative without the possession of the Governmental Note or the production thereof in any trial or other proceedings relating thereto. Subject to the rights of the Funding Lender Representative to direct proceedings hereunder, any such suit or proceeding instituted by the Fiscal Agent shall be brought in its name as Fiscal Agent without the necessity of joining as plaintiffs or defendants any Funding Lender, and any recovery or judgment shall be for the benefit as provided herein of the Funding Lender.

Section 6.08. ***[Reserved].***

Section 6.09. ***Termination of Proceedings.*** In case the Fiscal Agent (at the direction of the Funding Lender Representative) or the Funding Lender Representative shall have proceeded to enforce any right under this Funding Loan Agreement by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower and the Funding Lender shall be restored to their former positions and rights hereunder with respect to the Pledged Security herein conveyed, and all rights, remedies and powers of the Fiscal Agent and the Funding Lender Representative shall continue as if no such proceedings had been taken.

Section 6.10. ***Waivers of Events of Default.*** The Fiscal Agent shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Funding Loan upon the written direction of the Funding Lender Representative. In case of any such waiver or rescission, or in case any proceeding taken by the Fiscal Agent on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Borrower, the Servicer, the Funding Lender Representative and the Funding Lender shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

Section 6.11. ***Interest on Unpaid Amounts and Default Rate for Nonpayment.*** In the event that principal of or interest payable on the Funding Loan is not paid when due, there shall be payable on the amount not timely paid, on each Interest Payment Date, interest at the Default Rate, to the extent permitted by law. Interest on the Funding Loan shall accrue at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

Section 6.12. ***Assignment of Project Loan; Remedies Under the Project Loan.***

(a) The Funding Lender Representative shall have the right, with respect to the Project Loan, in its sole and absolute discretion, without directing the Fiscal Agent to effect an acceleration

of the Funding Loan, to instruct the Fiscal Agent in writing to assign the Project Note, the Security Instrument and the other Financing Documents to the Funding Lender Representative, in which event the Fiscal Agent shall (a) endorse and deliver the Project Note to the Funding Lender Representative and assign (in recordable form) the Security Instrument, (b) execute and deliver to the Funding Lender Representative all documents prepared by the Funding Lender Representative necessary to assign (in recordable form) all other Project Loan Documents to the Funding Lender Representative and (c) execute all such documents prepared by the Funding Lender Representative as are necessary to legally and validly effectuate the assignments provided for in the preceding clauses (a) and (b). The Fiscal Agent's assignments to the Funding Lender Representative pursuant to this Section 6.12 shall be without recourse or warranty except that the Fiscal Agent shall represent and warrant in connection therewith (A) that the Fiscal Agent has not previously endorsed or assigned any such documents or instruments and (B) that the Fiscal Agent has the corporate authority to endorse and assign such documents and instruments and such endorsements and assignments have been duly authorized.

(b) The Funding Lender Representative shall have the right, in its own name or on behalf of the Governmental Lender or the Fiscal Agent, to declare any default and exercise any remedies under the Project Loan Agreement, the Project Note or the Security Instrument, whether or not the Governmental Note has been accelerated or declared due and payable by reason of an Event of Default or the occurrence of a mandatory prepayment.

Section 6.13. **Substitution.** Upon receipt of written notice from the Funding Lender Representative and the written approval of the Governmental Lender as and to the extent permitted under the Tax Regulatory Agreement, the Fiscal Agent shall exchange the Project Note and the Security Instrument for a new Project Note and Security Instrument, evidencing and securing a new loan (the "New Project Loan"), which may be executed by a person other than the Borrower (the "New Borrower"), provided that if the Fiscal Agent, the Funding Lender or a nominee of the Fiscal Agent or the Funding Lender has acquired the Project through foreclosure, by accepting a deed in lieu of foreclosure or by comparable conversion of the Project, no approval from the Governmental Lender of such exchange shall be required. Prior to accepting a New Project Loan, the Fiscal Agent shall have received (i) written evidence that the New Borrower shall have executed and recorded a document substantially in the form of the Tax Regulatory Agreement (or executed and recorded an assumption of all of the Borrower's obligations under the Tax Regulatory Agreement) and that the Financing Documents have been modified as necessary to be applicable to the New Project Loan, and (ii) an opinion of Bond Counsel, to the effect that such exchange and modification, in and of itself, shall not affect the exclusion, from gross income, for federal income tax purposes of the interest payable on the Governmental Note.

ARTICLE VII.

CONCERNING THE FISCAL AGENT

Section 7.01. **Standard of Care.** The Fiscal Agent, prior to an Event of Default as defined in Section 6.01 hereof and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement. The Fiscal Agent, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this

Funding Loan Agreement and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its breach of trust, own negligence or willful misconduct, except that:

(a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Fiscal Agent shall be determined solely by the express provisions of this Funding Loan Agreement, and the Fiscal Agent shall not be liable except with regard to the performance of such duties and obligations as are specifically set forth in this Funding Loan Agreement; and

(ii) in the absence of bad faith on the part of the Fiscal Agent, the Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Fiscal Agent by the Person or Persons authorized to furnish the same;

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Fiscal Agent shall not be liable for any error of judgment made in good faith by an officer or employee of the Fiscal Agent except for willful misconduct or negligence by the officer or employee of the Fiscal Agent as the case may be; and

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

Section 7.02. ***Reliance Upon Documents.*** Except as otherwise provided in Section 7.01 hereof:

(a) the Fiscal Agent may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document of the proper party or parties, including any Electronic Notice as permitted hereunder or under the Project Loan Agreement;

(b) any notice, request, direction, election, order or demand of the Governmental Lender mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Governmental Lender by an Authorized Officer of the Governmental Lender (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Governmental Lender may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by an Authorized Officer of the Governmental Lender;

(c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by a secretary or other authorized representative of the Borrower;

(d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

(e) any notice, request, direction, election, order or demand of the Funding Lender Representative mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Funding Lender Representative by any Authorized Officer of the Funding Lender Representative (unless other evidence in respect thereof be herein specifically prescribed);

(f) [Intentionally Omitted];

(g) [Intentionally Omitted];

(h) in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Fiscal Agent may consult with counsel (who may be counsel for the Governmental Lender, the Servicer or the Funding Lender Representative) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

(i) whenever in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may, in the absence of negligence or willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of an officer or authorized agent of the Governmental Lender or the Borrower and such certificate shall in the absence of bad faith on the part of the Fiscal Agent be full warrant to the Fiscal Agent for any action taken or permitted by it under the provisions of this Funding Loan Agreement, but in its discretion the Fiscal Agent may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable

(j) the recitals herein and in the Governmental Note (except the Fiscal Agent's certificate of authentication thereon) shall not be considered as made by or imposing any obligation or liability upon the Fiscal Agent. The Fiscal Agent makes no representations as to the value or condition of the Pledged Security or any part thereof, or as to the title of the Governmental Lender or the Borrower to the Pledged Security, or as to the security of this Funding Loan Agreement, or of the Governmental Note issued hereunder, and the Fiscal Agent shall incur no liability or responsibility in respect of any of such matters;

(k) the Fiscal Agent shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Pledged Security except for its own willful misconduct or negligence; and every provision of this Funding Loan Agreement relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section 7.02(k);

(l) the Fiscal Agent shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements (except to the extent they obligate the Fiscal Agent) herein or in any contracts or securities assigned or conveyed to or pledged with the Fiscal Agent hereunder, except Events of Default that are evident under Section 6.01(a) hereof. The Fiscal Agent shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) hereof to the extent they are collecting loan payments hereunder) unless the Fiscal Agent shall receive from the Governmental Lender or the Funding Lender Representative written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Fiscal Agent may conclusively assume that there is no such default. Every provision contained in this Funding Loan Agreement or related instruments or in any such contract or security wherein the duty of the Fiscal Agent depends on the occurrence and continuance of such default shall be subject to the provisions of this Section 7.02(l);

(m) the Fiscal Agent shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Fiscal Agent, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Funding Lender; and

(n) the Fiscal Agent shall be under no obligation to exercise those rights or powers vested in it by this Funding Loan Agreement, other than such rights and powers which it shall be obliged to exercise in the ordinary course of acting as Fiscal Agent under the terms and provisions of this Funding Loan Agreement and as required by law, at the request or direction of the Funding Lender Representative pursuant to Section 6.03 hereof, unless the Funding Lender Representative shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction.

None of the provisions contained in this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Fiscal Agent is authorized and directed to execute in its capacity as Fiscal Agent, the Project Loan Agreement and the Tax Regulatory Agreement and shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the delivery of the Governmental Note.

The Fiscal Agent or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Funding Loan Agreement.

Any resolution, certification, notice, request, direction, election, order or demand delivered to the Fiscal Agent pursuant to this Section 7.02 shall remain in effect until the Fiscal Agent receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party.

The Fiscal Agent shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 7.17 hereof.

Section 7.03. ***Use of Proceeds.*** The Fiscal Agent shall not be accountable for the use or application of the Governmental Note authenticated or delivered hereunder or of the proceeds of the Funding Loan except as provided herein.

Section 7.04. ***[Reserved].***

Section 7.05. ***Trust Imposed.*** All money received by the Fiscal Agent shall, until used or applied as herein provided, be held in trust for the purposes for which it was received.

Section 7.06. ***Compensation of Fiscal Agent.*** The Fiscal Agent shall be entitled to its Ordinary Fiscal Agent's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties of the Fiscal Agent hereunder or under any Financing Document to the extent money is available therefor, in accordance with Section 4.06 hereof, exclusive of Extraordinary Services. The Fiscal Agent shall be entitled to Extraordinary Fiscal Agent's Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder or under any of the Financing Documents; provided the Fiscal Agent shall not incur any Extraordinary Fiscal Agent's Fees and Expenses without the consent of the Funding Lender Representative. If any property, other than cash, shall at any time be held by the Fiscal Agent subject to this Funding Loan Agreement, or any supplement hereto, as security for the Funding Loan, the Fiscal Agent, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Funding Loan Agreement as such security for the Funding Loan, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Fiscal Agent for its services and reimbursement to the Fiscal Agent for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in the Project Loan Agreement and in Sections 4.06, 4.11 and 6.05 hereof. The Governmental Lender shall have no liability for Fiscal Agent's fees, costs or expenses. Subject to the provisions of Section 7.09 hereof, the Fiscal Agent agrees that it shall continue to perform its duties hereunder and under the Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Fiscal Agent's Fees and Expenses or, if applicable, the Extraordinary Fiscal Agent's Fees and Expenses as required by the Project Loan Agreement.

The Borrower shall indemnify and hold harmless the Fiscal Agent and its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants and servants, past, present or future, from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Funding Loan Agreement or transactions contemplated hereby, the Project, or the delivery of the Governmental Note or the Loans; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project, or the delivery of the Governmental Note or the Loans; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the gross negligence, willful misconduct or unlawful acts of such person or which arise from events occurring after the Borrower ceases to own the Project. In the event that any action or proceeding is brought or claim made against the Fiscal Agent, or any of its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel. The provisions of this Section 7.06 shall survive the termination of this Funding Loan Agreement.

Section 7.07. ***Qualifications of Fiscal Agent.*** There shall at all times be a Fiscal Agent hereunder which shall be an association or a corporation organized and doing business under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Fiscal Agent shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of an association or corporation that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.11 hereof. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section 7.07, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Fiscal Agent shall cease to be eligible in accordance with the provisions of this Section 7.07 and another association or corporation is eligible, the Fiscal Agent shall resign immediately in the manner and with the effect specified in Section 7.09 hereof.

Section 7.08. ***Merger of Fiscal Agent.*** Any association or corporation into which the Fiscal Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, ipso facto, be and become successor Fiscal Agent hereunder and vested with all the title to the whole property or Pledged Security and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of

the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Fiscal Agent in respect of the legal interest of the Fiscal Agent in the Loans.

Section 7.09. ***Resignation by the Fiscal Agent.*** The Fiscal Agent may at any time resign from the trusts hereby created by giving written notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative. Such notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative may be served personally or sent by certified mail or overnight delivery service. The resignation of the Fiscal Agent shall not be effective until a successor Fiscal Agent has been appointed as provided herein and such successor Fiscal Agent shall have agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.10. ***Removal of the Fiscal Agent.*** The Fiscal Agent may be removed at any time, either with or without cause, with the consent of the Funding Lender Representative (which consent of the Funding Lender Representative shall not be unreasonably withheld), by a written instrument signed by the Governmental Lender and delivered to the Fiscal Agent, the Servicer and the Borrower. The Fiscal Agent may also be removed by a written instrument signed by the Funding Lender Representative and delivered to the Fiscal Agent, the Servicer, the Governmental Lender and the Borrower. In each case written notice of such removal shall be given to the Servicer, the Borrower, the Governmental Lender and the Funding Lender. Any such removal shall take effect on the day specified in such written instrument(s), but the Fiscal Agent shall not be discharged from the trusts hereby created until a successor Fiscal Agent has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.11. ***Appointment of Successor Fiscal Agent.***

(a) In case at any time the Fiscal Agent shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Fiscal Agent or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Fiscal Agent or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Fiscal Agent hereunder, and the Borrower, with the written consent of the Funding Lender Representative and Governmental Lender, shall promptly appoint a successor Fiscal Agent. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Governmental Lender. If the Governmental Lender or the Borrower fails to appoint a successor Fiscal Agent within ten (10) days following the resignation or removal of the Fiscal Agent pursuant to Section 7.09 or Section 7.10 hereunder, as applicable, the Funding Lender Representative may appoint a successor Fiscal Agent.

(b) If, in a proper case, no appointment of a successor Fiscal Agent shall be made pursuant to subsection (a) of this Section 7.11 within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.09 hereof or of removal of the Fiscal Agent pursuant to Section 7.10 hereof, the retiring Fiscal Agent may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Fiscal Agent.

Section 7.12. **Concerning Any Successor Fiscal Agent.** Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Governmental Lender a written instrument accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Pledged Security and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Governmental Lender, the Borrower or the Funding Lender Representative, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Fiscal Agent all the Pledged Security and the rights, powers and trusts of such predecessor hereunder; and every predecessor Fiscal Agent shall deliver all securities and money held by it as Fiscal Agent hereunder to its successor. Should any instrument in writing from the Governmental Lender be required by a successor Fiscal Agent for more fully and certainly vesting in such successor the Pledged Security and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender. The resignation of any Fiscal Agent and the instrument or instruments removing any Fiscal Agent and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Fiscal Agent in each recording office where this Funding Loan Agreement shall have been filed and/or recorded. Each successor Fiscal Agent shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Funding Lender.

Section 7.13. **Successor Fiscal Agent.** In the event of a change in the office of Fiscal Agent, the predecessor Fiscal Agent which shall have resigned or shall have been removed shall cease to be Fiscal Agent with respect to the Governmental Note, and the successor Fiscal Agent shall become such Fiscal Agent.

Section 7.14. **Appointment of Co-Fiscal Agent or Separate Fiscal Agent.** It is the intent of the Governmental Lender and the Fiscal Agent that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under or connected with this Funding Loan Agreement, the Project Loan Agreement or any of the other Financing Documents, and, in particular, in case of the enforcement of any remedies on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Fiscal Agent or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent, with the consent of the Governmental Lender and the Funding Lender Representative, appoint an additional individual or institution as a co-fiscal agent or separate fiscal agent.

In the event that the Fiscal Agent appoints an additional individual or institution as a co-fiscal agent or separate fiscal agent, in the event of the incapacity or lack of authority of the Fiscal Agent, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers, trusts and remedies granted to the Fiscal Agent herein or to hold title to the Pledged Security or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate,

title, interest and lien expressed or intended by this Funding Loan Agreement to be imposed upon, exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be imposed upon, exercisable by and vest in such separate fiscal agent or co-fiscal agent, but only to the extent necessary to enable such co-fiscal agent or separate fiscal agent to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-fiscal agent or separate fiscal agent shall run to and be enforceable by either of them, subject to the remaining provisions of this Section 7.14. Such co-fiscal agent or separate fiscal agent shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Governmental Lender and the Fiscal Agent.

Should any instrument in writing from the Governmental Lender be required by the co-fiscal agent or separate fiscal agent so appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender, the Fiscal Agent and the Borrower. If the Governmental Lender shall fail to deliver the same within thirty (30) days of such request, the Fiscal Agent is hereby appointed attorney-in-fact for the Governmental Lender to execute, acknowledge and deliver such instruments in the Governmental Lender's name and stead. In case any co-fiscal agent or separate fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-fiscal agent or separate fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a new Fiscal Agent or successor to such co-fiscal agent or separate fiscal agent.

Every co-fiscal agent or separate fiscal agent shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) the Governmental Note shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Funding Loan Agreement conferred upon the Fiscal Agent in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Fiscal Agent;

(b) all rights, powers, trusts, duties and obligations conferred or imposed upon the Fiscal Agent shall be conferred or imposed upon or exercised or performed by the Fiscal Agent, or by the Fiscal Agent and such co-fiscal agent, or separate fiscal agent jointly, as shall be provided in the instrument appointing such co-fiscal agent or separate fiscal agent, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed the Fiscal Agent shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-fiscal agent or separate fiscal agent;

(c) any request in writing by the Fiscal Agent to any co-fiscal agent or separate fiscal agent to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking or the refraining from taking of such action by such co-fiscal agent or separate fiscal agent;

(d) any co-fiscal agent or separate fiscal agent to the extent permitted by law shall delegate to the Fiscal Agent the exercise of any right, power, trust, duty or obligation, discretionary or otherwise;

(e) the Fiscal Agent at any time by an instrument in writing with the concurrence of the Governmental Lender evidenced by a certified resolution may accept the resignation of or remove any co-fiscal agent or separate fiscal agent appointed under this Section 7.14 and in case an Event of Default shall have occurred and be continuing, the Fiscal Agent shall have power to accept the resignation of or remove any such co-fiscal agent or separate fiscal agent without the concurrence of the Governmental Lender, and upon the request of the Fiscal Agent, the Governmental Lender shall join with the Fiscal Agent in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-fiscal agent or separate fiscal agent so resigned or removed may be appointed in the manner provided in this Section 7.14;

(f) no Fiscal Agent or co-fiscal agent hereunder shall be personally liable by reason of any act or omission of any other Fiscal Agent hereunder;

(g) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Funding Lender Representative and delivered to the Fiscal Agent shall be deemed to have been delivered to each such co-fiscal agent or separate fiscal agent; and

(h) any money, papers, securities or other items of personal property received by any such co-fiscal agent or separate fiscal agent hereunder shall forthwith, so far as may be permitted by law, be turned over to the Fiscal Agent.

The total compensation of the Fiscal Agent and any co-fiscal agent or separate fiscal agent shall be as, and may not exceed the amount, provided in Section 7.06 hereof.

Section 7.15. ***Notice of Certain Events.*** The Fiscal Agent shall give written notice to the Governmental Lender, the Servicer and the Funding Lender Representative of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Determination of Taxability of which a Responsible Officer has actual knowledge.

Section 7.16. ***[Reserved].***

Section 7.17. ***Filing of Financing Statements.*** The Fiscal Agent shall, at the expense of the Borrower, file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Delivery Date in connection with the security for the Funding Loan pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Fiscal Agent shall immediately notify the Governmental Lender, the Borrower, the Funding Lender Representative and the Servicer that the same has been done. If direction is given by the Servicer or the Funding Lender Representative, the Fiscal Agent shall file all continuation statements in accordance with such directions.

Section 7.18. ***USA Patriot Act Requirements of the Fiscal Agent.*** To help the government of the United States of America fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual Person such as a business entity, a charity, a trust, or other legal entity, the Fiscal Agent may request documentation to verify

such Person's formation and existence as a legal entity. The Fiscal Agent may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

ARTICLE VIII.

AMENDMENTS OF CERTAIN DOCUMENTS

Section 8.01. ***Amendments to this Funding Loan Agreement.*** Any of the terms of this Funding Loan Agreement and the Governmental Note may be amended or waived only by an instrument signed by the Fiscal Agent and the Governmental Lender, and with the prior written consent of the Funding Lender Representative.

Section 8.02. ***Amendments to Financing Documents Require Consent of Funding Lender Representative.*** Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of any Financing Document without the prior written consent of the Funding Lender Representative. The Fiscal Agent shall enter into such amendments to the Financing Documents as shall be directed by the Funding Lender Representative, including entering into the amendments attached as exhibits to the Construction Phase Financing Agreement on the Conversion Date.

Section 8.03. ***Opinion of Bond Counsel Required.*** No amendment to this Funding Loan Agreement, the Governmental Note, the Project Loan Agreement, the Project Note, the Security Instrument, the Tax Regulatory Agreement or the Tax Exemption Agreement shall become effective unless and until (i) the Funding Lender Representative shall have consented to the same in writing in its sole discretion and (ii) the Funding Lender Representative, the Governmental Lender and the Fiscal Agent shall have received, at the expense of the Borrower, (A) a Favorable Opinion of Bond Counsel, and (B) an opinion of counsel acceptable to the Funding Lender Representative and the Governmental Lender to the effect that any such proposed such amendment, change or modification is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE IX.

SATISFACTION AND DISCHARGE OF FUNDING LOAN AGREEMENT

Section 9.01. ***Discharge of Lien.*** If the Governmental Lender shall pay or cause to be paid to the Funding Lender the principal, interest and premium, if any, to become due with respect to the Funding Loan at the times and in the manner stipulated herein and in the Governmental Note, in any one or more of the following ways:

(a) by the payment of all unpaid principal of (including Prepayment Premium, if any) and interest on the Funding Loan; or

(b) after the Conversion Date (or, if the Conversion Date does not occur, the latest date on which Conversion was permitted to occur under the Construction Phase Financing Agreement) and prior to the Window Period, by the deposit to the account of the Fiscal Agent, in trust, of

money or securities in the necessary amount to pay the principal, Prepayment Premium and interest to the Maturity Date; or

(c) by the delivery of the Governmental Note by the Funding Lender to the Fiscal Agent for cancellation;

and shall have paid all amounts due and owing under the other Financing Documents, and shall have paid all fees and expenses of and any other amounts due to the Fiscal Agent, the Servicer and the Rebate Analyst, and if the Governmental Lender shall keep, perform and observe all and singular the covenants and promises in the Governmental Note and in this Funding Loan Agreement expressed as to be kept, performed and observed by it or on its part, then these presents and the estates and rights hereby granted shall cease, determine and be void, and thereupon the Fiscal Agent shall cancel and discharge the lien of this Funding Loan Agreement and execute and deliver to the Governmental Lender such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Governmental Lender the estate hereby conveyed, and assign and deliver to the Governmental Lender any interest in property at the time subject to the lien of this Funding Loan Agreement which may then be in its possession, except amounts held by the Fiscal Agent for the payment of principal of, interest and premium, if any, on the Governmental Note, the payment of any amounts owed to the United States of America pursuant to Section 4.12 hereof.

After the Conversion Date (or, if the Conversion Date does not occur, the latest date on which Conversion was permitted to occur under the Construction Phase Financing Agreement) and prior to the Window Period and subject to the satisfaction of the conditions set forth in Section 4.04(c) of the Project Loan Agreement, the Funding Loan shall, prior to the Maturity Date, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 9.01 based on a deposit of moneys or securities with the Fiscal Agent pursuant to Section 9.01(b) if, under circumstances which do not cause interest on the Governmental Note to become includable in the holders' gross income for purposes of federal income taxation, the following conditions shall have been fulfilled: (a) there shall be on deposit with the Fiscal Agent either money or noncallable and nonprepayable direct obligations of the United States of America (or other defeasance securities constituting Qualified Investments approved in writing by the Funding Lender Representative) in an amount, together with anticipated earnings thereon (but not including any reinvestment of such earnings), which will be sufficient to pay, when due, the principal and interest due and to become due on the Funding Loan up to and on the Maturity Date; (b) the Fiscal Agent shall have received a verification report of a firm of certified public accountants or financial analyst reasonably acceptable to the Fiscal Agent and the Funding Lender Representative as to the adequacy of the amounts or securities so deposited to fully pay the Funding Loan; (c) the Fiscal Agent and the Funding Lender Representative shall have received a written opinion of nationally recognized counsel experienced in bankruptcy matters to the effect that if the Borrower, the Sole Member, any guarantor of the Borrower, or the Governmental Lender were to become a debtor in a proceeding under the Bankruptcy Code (x) payment of such money to the Funding Lender would not constitute a voidable preference under Section 547 of the Bankruptcy Code and (y) the automatic stay provisions of Section 362(a) of the Bankruptcy Code would not prevent application of such money to the payment of the Funding Loan; (d) the Fiscal Agent and the Funding Lender Representative shall have received an opinion of Bond Counsel to the effect that the defeasance of the Funding Loan is in accordance with the provisions of the Funding Loan Agreement and that such defeasance will not adversely affect the exclusion of interest on the

Governmental Note from gross income for federal income tax purposes; and (e) the Fiscal Agent shall have received written confirmation that all fees, expenses or reimbursement of any advances due to the Funding Lender and the Servicer under the Financing Documents have been fully paid.

Section 9.02. ***Discharge of Liability on Funding Loan.*** Upon the deposit with the Fiscal Agent, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.01 above) to pay or prepay the Funding Loan (whether upon or prior to their maturity or the prepayment date of the Funding Loan) provided that, if the Funding Loan is to be prepaid prior to the maturity thereof, notice of such prepayment shall have been given as in Article III provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, all liability of the Governmental Lender in respect of the Funding Loan shall cease, terminate and be completely discharged, except only that thereafter the Funding Lender shall be entitled to payment by the Governmental Lender, and the Governmental Lender shall remain liable for such payment, but only out of the money or securities deposited with the Fiscal Agent as aforesaid for their payment, subject, however, to the provisions of Section 9.03 hereof.

Section 9.03. ***Payment of Funding Loan After Discharge of Funding Loan Agreement.*** Notwithstanding any provisions of this Funding Loan Agreement, and subject to applicable unclaimed property laws of the State, any money deposited with the Fiscal Agent or any paying agent in trust for the payment of the principal of, interest or premium on the Governmental Note remaining unclaimed for two years after the maturity or earlier payment date shall be reported and disposed of by the Fiscal Agent in accordance with the applicable unclaimed property laws of the State, whereupon all liability of the Governmental Lender and the Fiscal Agent with respect to such money shall cease, and the Funding Lender shall thereafter look solely to the Borrower for payment of any amounts then due. All money held by the Fiscal Agent and subject to this Section 9.03 shall be held uninvested and without liability for interest thereon.

ARTICLE X.

INTENTIONALLY OMITTED

ARTICLE XI.

MISCELLANEOUS

Section 11.01. ***Servicing of the Loans.*** The Funding Lender Representative may appoint a Servicer (which may be the Funding Lender Representative if the Funding Lender Representative elects to service the Loans) to service the Loans as provided in Section 3.02 of the Project Loan Agreement.

Section 11.02. ***Limitation of Rights.*** With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Funding Loan Agreement or the Governmental Note is intended or shall be construed to give to any Person other than the Parties hereto, the Funding Lender, the Funding Lender Representative, the Servicer and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Funding Loan Agreement or any covenants, conditions and provisions hereof.

Section 11.03. *Construction of Conflicts; Severability.* Notwithstanding anything provided herein, or in any of the documents referred to herein, in the event that any contracts or other documents executed by the Borrower or any other arrangements agreed to by the Borrower in order to finance or refinance the Project with the proceeds of the Funding Loan, the interest on which is excluded from gross income for federal income tax purposes under Section 103(a) of the Code are inconsistent with the Project Loan Documents, then the Project Loan Documents shall be controlling in all respects. If any provision of this Funding Loan Agreement shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Funding Loan Agreement contained, shall not affect the remaining portions of this Funding Loan Agreement, or any part thereof.

Section 11.04. *Notices.*

(a) Whenever in this Funding Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by this Funding Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Governmental Lender: Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
Attention: Teresa Morales
Email: teresa.morales@tdhca.state.tx.us
Telephone: (512) 475-3344

The Fiscal Agent: U.S. Bank, National Association
Corporate Trust Services
13737 Noel Road, Suite 800
Dallas, Texas 75240
Attention: Brian Jensen
Email: brian.jensen@usbank.com
Telephone: (972) 581-1623

The Borrower: HOUSTON LEASED HOUSING ASSOCIATES
OWNER VIII, LLC
c/o Dominion Development & Acquisition, LLC
11001 W. 120th Ave. Suite 400
Broomfield, CO 80021
Attention: Russell C. Condas
Email: rcondas@dominiuminc.com
Telephone: (763) 354-5637

with a copy to: Winthrop & Weinstine, P.A.
(which copy shall not constitute notice to
Borrower)
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402
Attention: John M. Stern
Email: jstern@winthrop.com
Telephone: (612) 604-6588

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

With a copy to: Nixon Peabody LLP
Exchange Place
53 State Street
Boston, MA 02109
Attention: Roger W. Holmes

Funding Lender
Representative and Servicer
(during the Construction Phase):

Merchants Capital Corp.
410 Monon Blvd
Carmel, IN 46032
Attention: Robert Burtner
Email: rburtner@merchantscapital.com
Telephone: (317) 324-4622

with a copy to:

Fox Rothschild LLP
222 South Ninth Street, Suite 2000
Minneapolis, MN 55402-3338
Attention: Michelle L. Witzany, Esq.
Email: mwitzany@foxrothschild.com
Telephone: (612) 607-7008

Funding Lender (from Conversion
Date to Freddie Mac Purchase Date)
and Servicer (as of Freddie Mac
Purchase Date):

Merchants Capital Corp.
255 Kellogg Blvd. E, Suite 103
Saint Paul, MN 55101
Attention: Lisa Lundeen
Email: gse-asset-mgmt@merchantscapital.com

With a copy to:

Merchants Capital Corp.
410 Monon Blvd. 5th Floor
Carmel, IN 46032
Attention: Investor Accounting
Email: investor-accounting@merchantscapital.com

Funding Lender Representative (as of
Freddie Mac Purchase Date):

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, VA 22102
Attention: Multifamily Operations –
Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, VA 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: guy_nelson@freddiemac.com
Telephone: (703) 903 2000

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Funding Lender Representative and by any party to the Funding Lender Representative to the Servicer.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Funding Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative, the Governmental Lender and the Servicer (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01 hereof and (ii) any written information or other written communication received by the Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from the Funding Lender Representative and the Servicer for any such information or other communication.

Section 11.05. *Funding Lender Representative.*

(a) The Initial Funding Lender is the initial Funding Lender Representative with respect to the Governmental Note. Upon the Conversion Date, the Freddie Mac Seller/Servicer shall become the Funding Lender Representative and upon the Freddie Mac Purchase Date, Freddie Mac shall become the Funding Lender Representative. The Funding Lender Representative shall be entitled to all the rights and privileges of the Funding Lender hereunder and under the other Financing Documents.

(b) The Funding Lender Representative may provide written notice to the Fiscal Agent designating particular individuals or Persons authorized to execute any consent, waiver, approval, direction or other instrument on behalf of the Funding Lender Representative and such notice may be amended or rescinded by the Funding Lender Representative at any time by subsequent written notice. The Funding Lender Representative may be removed and a successor appointed by a written notice in the form of Exhibit B hereto given by the Funding Lender to the Fiscal Agent, the Governmental Lender, the Servicer and the Borrower. The removal and reappointment shall be effective immediately upon receipt of such notice by the Fiscal Agent. The Funding Lender may appoint any Person to act as Funding Lender Representative, including, without limitation, the Servicer. If, for any reason, a Funding Lender Representative resigns by written notice provided to the Fiscal Agent, the Funding Lender, the Governmental Lender, the Servicer and the Borrower, all references to Funding Lender Representative herein and in the other Financing Documents shall be deemed to refer to the Funding Lender until a successor Funding Lender Representative is appointed by the Funding Lender.

(c) Whenever pursuant to this Funding Loan Agreement or any other Financing Document, the Funding Lender Representative exercises any right given to it to approve or disapprove, any arrangement or term hereof, the decision of the Funding Lender Representative to approve or disapprove or to decide whether arrangements or terms are acceptable or not acceptable shall be in the sole discretion of the Funding Lender Representative, except as otherwise specifically indicated.

(d) Each Funding Lender, by their purchase or other acquisition of the Funding Loan, shall be deemed to have acknowledged and agreed to the provisions of this Funding Loan Agreement and the other Financing Documents with respect to the Funding Lender Representative and the rights and privileges thereof, including but not limited to the right to control all remedies in respect of the Governmental Note and the Loans.

Section 11.06. ***Payments Due on Non-Business Days.*** In any case where a date of payment with respect to the Funding Loan shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date provided that payment is made on such next succeeding Business Day.

Section 11.07. ***Counterparts.*** This Funding Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.08. ***Laws Governing Funding Loan Agreement.*** The effect and meanings of this Funding Loan Agreement and the rights of all parties hereunder shall be governed by, and construed according to, the internal laws of the State without regard to conflicts of laws principles.

Section 11.09. ***No Recourse.*** No recourse under or upon any obligation, covenant or agreement contained in this Funding Loan Agreement or in the Governmental Note shall be had against any member, officer, commissioner, director or employee (past, present or future) of the Governmental Lender, either directly or through the Governmental Lender or its governing body or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, or otherwise, of any sum that may be due and unpaid by the Governmental Lender or its governing body upon the Governmental Note. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such member, officer, commissioner, director or employee, as such, to respond by reason of any act or omission on his/her part or otherwise, for the payment for or to the Funding Lender or otherwise of any sum that may remain due and unpaid with respect to the Funding Loan hereby secured is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the delivery of the Governmental Note.

Section 11.10. ***Successors and Assigns.*** All the covenants and representations contained in this Funding Loan Agreement by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not

Section 11.11. ***Compliance with Texas Government Code.*** Each of the Fiscal Agent and Initial Funding Lender hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Funding Loan Agreement, the Project Loan Agreement, the Regulatory Agreement the Tax Exemption Agreement, and any other Financing Document to which it is a party, and such representation is hereby incorporated by reference into each of such documents. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Each of the Fiscal Agent and Initial Funding Lender understands 'affiliate' to mean an

entity that controls, is controlled by, or is under common control with such entity and exists to make a profit.

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

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

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

[Signature Pages Follow]

IN WITNESS WHEREOF, the Governmental Lender, the Initial Funding Lender and the Fiscal Agent have caused this Funding Loan Agreement to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

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

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

MERCHANTS BANK OF INDIANA, an Indiana
state bank, as Initial Funding Lender

By: _____
Name: _____
Title: _____

**U.S. BANK, NATIONAL ASSOCIATION, as
Fiscal Agent**

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF GOVERNMENTAL NOTE

MULTIFAMILY NOTE

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

US \$28,000,000

Dated Date: August 1, 2020

No. _____

Texas Department of Housing and Community Affairs
Multifamily Note
(Vermillion Apartments) Series 2020

FOR VALUE RECEIVED, the undersigned, TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the "**Governmental Lender**"), promises to pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement referenced below) to the order of MERCHANTS BANK OF INDIANA, (the "**Funding Lender**"), and its assigns, the principal sum of TWENTY EIGHT MILLION DOLLARS (US \$28,000,000.00), plus premium, if any, and interest thereon and to pay the other amounts owing from time to time hereunder, all as set forth below.

This Multifamily Note (this "**Note**") is being delivered pursuant to that certain Funding Loan Agreement dated as of August 1, 2020 (together with any and all amendments, modifications, supplements and restatements, the "**Funding Loan Agreement**"), among the Funding Lender, the Governmental Lender and U.S. BANK, NATIONAL ASSOCIATION (the "**Fiscal Agent**"), pursuant to which the Governmental Lender has incurred a loan in the aggregate principal amount of \$28,000,000 (the "**Funding Loan**"), and this Note is entitled to the benefits of the Funding Loan Agreement and is subject to the terms, conditions and provisions thereof. The Governmental Lender is using the proceeds of the Funding Loan to make a loan to HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC (the "**Borrower**") pursuant to the Project Loan Agreement dated as of August 1, 2020 (the "**Project Loan Agreement**"), among the Governmental Lender, the Borrower and the Fiscal Agent.

1. **Defined Terms.** As used in this Note, (i) the term "Funding Lender" means the holder of this Note, and (ii) the term "Indebtedness" means the principal of, premium, if any, and interest on or any other amounts due at any time under this Note or the Funding Loan Agreement. "Event of Default" and other capitalized terms used but not defined in this Note shall have the meanings given to such term in the Funding Loan Agreement.

2. **Payments of Principal and Interest.** The Governmental Lender shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) on the first calendar day of each month commencing [_____] 1, 2020, interest on this Note at (i) the Construction Phase Interest Rate during the Construction Phase and (ii) the Permanent Phase

Interest Rate during the Permanent Phase, and shall also pay interest on this Note at the applicable interest rate on the date of any optional or mandatory prepayment or acceleration of all or part of the Funding Loan pursuant to the Funding Loan Agreement, in an amount equal to the accrued and unpaid interest to the date of prepayment on the portion of this Note subject to prepayment (each such date for payment an “**Interest Payment Date**”).

The Governmental Lender shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) the outstanding principal of this Note in full on September 1, 2038 (the “**Maturity Date**”) and in monthly installments on each date set forth on the Funding Loan Amortization Schedule attached as Schedule 1 hereto in an amount equal to the corresponding amounts set forth thereon (as such Schedule 1 may be replaced by a new Funding Loan Amortization Schedule provided by the Freddie Mac Seller/Service on the Conversion Date as provided in Section 2.01(e) of the Funding Loan Agreement) or at such earlier times and in such amounts as may be required, in the event of an optional or mandatory prepayment or acceleration of the Funding Loan pursuant to the Funding Loan Agreement. The outstanding principal hereof is subject to acceleration at the time or times and under the terms and conditions, and with notice, if any, as provided under the Funding Loan Agreement.

3. **Manner of Payment.** All payments under this Note shall be made in lawful currency of the United States and in immediately available funds as provided for herein and in the Funding Loan Agreement.

4. **Application of Payments.** If at any time the Funding Lender receives any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, the Funding Lender may apply that payment to amounts then due and payable in any manner and in any order determined by the Funding Lender, in the Funding Lender’s discretion. Neither the Funding Lender’s acceptance of a payment in an amount that is less than all amounts then due and payable nor the Funding Lender’s application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured by, among other things, the Pledged Security pledged pursuant to the Funding Loan Agreement.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, and all other amounts payable under this Note shall at once become due and payable, at the option of the Funding Lender, as governed by the Funding Loan Agreement, without any prior notice to the Governmental Lender (unless required by applicable law). The Funding Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Prepayment; Prepayment Premium.** This Note is subject to prepayment as specified in the Funding Loan Agreement. Prepayment Premium shall be payable as specified in the Funding Loan Agreement.

8. **Forbearance.** Any forbearance by the Funding Lender in exercising any right or remedy under this Note or any other document evidencing or securing the Funding Loan or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or

any other right or remedy. The acceptance by the Funding Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of the Funding Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by the Funding Lender of any security for the obligations under this Note shall not constitute an election by the Funding Lender of remedies so as to preclude the exercise of any other right or remedy available to the Funding Lender.

9. **Waivers.** Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness are waived by the Governmental Lender and all endorsers and guarantors of this Note and all other third-party obligors.

10. **Loan Charges.** Neither this Note nor any of the other Financing Documents will be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate greater than the rate of interest which results in the maximum amount of interest allowed by applicable law pursuant to Chapter 1204 of the Texas Government Code (the "**Maximum Interest Rate**"). If any applicable law limiting the amount of interest or other charges permitted to be collected from Governmental Lender in connection with the Funding Loan is interpreted so that any interest or other charge provided for in any Financing Document, whether considered separately or together with other charges provided for in any other Financing Document, violates that law, and Governmental Lender is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Funding Lender in excess of the permitted amounts will be applied by Funding Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Governmental Lender has been violated, all indebtedness that constitutes interest, as well as all other charges made in connection with the indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

11. **Governing Law.** This Note shall be governed by the internal law of the State of Texas (the "**Property Jurisdiction**").

12. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

13. **Address for Payment.** All payments due under this Note shall be payable at the principal office of the Funding Lender as designated by the Funding Lender in writing to the Fiscal Agent and the Servicer.

14. **Default Rate.** So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate (the "**Default**

Rate”) equal to the lesser of (i) the Construction Phase Interest Rate or the Permanent Phase Interest Rate, as applicable, otherwise in effect notwithstanding the default, plus four percent (4%) per annum, or (ii) the Maximum Interest Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the lesser of the Default Rate or the Maximum Interest Rate.

15. Limited Obligation. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE GOVERNMENTAL LENDER MAY INCUR UNDER THE FUNDING LOAN AGREEMENT OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION THEREWITH THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER, BUT SHALL BE A LIMITED OBLIGATION PAYABLE SOLELY FROM THE PLEDGED SECURITY. THIS NOTE SHALL CONSTITUTE A VALID CLAIM OF THE HOLDER HEREOF AGAINST THE PLEDGED SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THE FUNDING LOAN AGREEMENT. THIS NOTE SHALL BE A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER GIVING RISE TO NO CHARGE AGAINST THE GOVERNMENTAL LENDER’S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE PLEDGED SECURITY. PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE GOVERNMENTAL LENDER (EXCEPT TO THE EXTENT OF THE PLEDGED SECURITY). THIS NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

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

HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS NOTE.

16. **Funding Loan Agreement Controlling.** The terms of this Note are subject in all respects to the terms of the Funding Loan Agreement. If there is a conflict between the provisions of this Note and the Funding Loan Agreement, the Funding Loan Agreement shall control.

THIS NOTE SHALL NOT BE ENTITLED to any benefit under the Funding Loan Agreement or be valid or obligatory for any purpose until the Fiscal Agent shall have executed the Certificate of Authentication appearing hereon.

IN WITNESS WHEREOF, the Governmental Lender has caused this Governmental Note to be duly executed in the name of the Governmental Lender under its official seal and by the manual or facsimile signature of its Chair or Vice Chair, and attested by the manual or facsimile signature of its Secretary, as of the date shown above.

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

(SEAL)

By: _____
[Vice] Chair

ATTEST:

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

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

Date of Authentication: _____

U.S. BANK, NATIONAL ASSOCIATION

By: _____
Authorized Signer

SCHEDULE 1

FUNDING LOAN AMORTIZATION SCHEDULE

Prior to the Conversion Date, Borrower shall make monthly payments of accrued and unpaid interest, which interest shall accrue at an adjustable annual rate of interest that shall be determined monthly on the first (1st) calendar day of each month, as provided in the Funding Loan Agreement. Interest amounts through [September 1, 2023] (the initial Forward Commitment Maturity Date, which date may be subject to extension by Freddie Mac as provided in the Construction Phase Financing Agreement) reflected on the attached schedule are estimates.

[Schedule attached]

EXHIBIT B

**FORM OF NOTICE OF APPOINTMENT
OF FUNDING LENDER REPRESENTATIVE**

U.S. Bank, National Association
Corporate Trust Services
13737 Noel Road, Suite 800
Dallas, Texas 75240
Attention: Brian Jensen

HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC
c/o Dominion Development & Acquisition, LLC
2905 Northwest Boulevard, Suite 150
Plymouth, MN 55441-7400
Attention: Russell C. Condas
Email: rcondas@dominiuminc.com
Telephone: (763) 354-5637

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

Merchants Capital Corp.
255 Kellogg Blvd. E, Suite 103
Saint Paul, MN 55101
Attn: Lisa Lundeen
Email: gse-asset-mgmt@merchantscapital.com

Merchants Capital Corp.
410 Monon Blvd. 5th Floor
Carmel, IN 46032
Attn: Investor Accounting
Email: investor-accounting@merchantscapital.com

Re: Vermillion Apartments

Ladies and Gentlemen:

The undersigned is the holder (the “**Funding Lender**”) of the Multifamily Note dated August 1, 2020 (the “**Governmental Note**”) delivered pursuant to the Funding Loan Agreement dated as of August 1, 2020 (the “**Funding Loan Agreement**”), among MERCHANTS BANK OF INDIANA, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Governmental Lender**”) and U.S. BANK, NATIONAL ASSOCIATION (the “**Fiscal Agent**”). Pursuant to Section 11.05 of the Funding Loan Agreement, you are hereby notified that, effective immediately upon receipt

of this notice by the Fiscal Agent, the Funding Lender Representative appointed under Section 11.05 of the Funding Loan Agreement shall be _____. [The person or entity previously appointed as Funding Lender Representative shall upon the effectiveness of this notice no longer have any further rights or obligations as Funding Lender Representative.]

The following individual or individuals shall have the authority to execute any consent, waiver, approval, direction or other instrument on behalf of the Funding Lender Representative and the signature(s) set forth next to his/her (their) name(s) is (are) his/her (their) true and correct signature(s).

NAME	SIGNATURE
_____	_____
_____	_____
_____	_____
_____	_____

Additional individuals may be given such authority by written notice to you from the Funding Lender Representative or from the Funding Lender.

This notice is dated as of the _____ day of _____, _____.

MERCHANTS BANK OF INDIANA, an Indiana state bank, as Initial Funding Lender

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF TRANSFEREE REPRESENTATIONS LETTER

[To be prepared on letterhead by transferee]

[Date]

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

U.S. Bank, National Association
Corporate Trust Services
13737 Noel Road, Suite 800
Dallas, Texas 75240
Attention: Brian Jensen

Re: Vermillion Apartments

Ladies and Gentlemen:

The undersigned (the “Funding Lender”) hereby acknowledges receipt of the Multifamily Note (Vermillion Apartments), Series 2020 (the “Governmental Note”) delivered pursuant to the Funding Loan Agreement dated as of August 1, 2020 (the “Funding Loan Agreement”), among MERCHANTS BANK OF INDIANA, in its capacity as Initial Funding Lender (the “Initial Funding Lender”), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “Governmental Lender”) and U.S. BANK, NATIONAL ASSOCIATION (the “Fiscal Agent”). Capitalized terms used herein and not otherwise defined have the meanings given to such terms in the Funding Loan Agreement.

In connection with the purchase of the Governmental Note and the Funding Loan by the Funding Lender, the Funding Lender hereby makes the following representations upon which you may rely:

1. The Funding Lender has authority to purchase the Governmental Note and the Funding Loan and to execute this letter, and any other instruments and documents required to be executed by the Funding Lender in connection with the purchase of the Governmental Note and the Funding Loan.

2. The Funding Lender is an “accredited investor” under Regulation D of the Securities Act of 1933 (the “Act”), [INSERT FOR INITIAL FUNDING LENDER AND FREDDIE MAC SELLER/SERVICER TRANSFEREE REPRESENTATION LETTER: excluding Section 230.501(a)(4), (a)(5) and (a)(6)] [INSERT FOR FREDDIE MAC TRANSFEREE REPRESENTATION LETTER: excluding Section 230.501(a)(4)], or a “qualified institutional buyer” under Rule 144(a) of said Act (such “accredited investor” or “qualified institutional buyer”, is a “Qualified Transferee”), and therefore, has sufficient knowledge and

experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Governmental Note and the Funding Loan.

3. The Funding Lender acknowledges that it is purchasing the Governmental Note and the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof (except as set forth below), in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Governmental Note and the Funding Loan (except as set forth below); provided, however, that the Funding Lender may, notwithstanding the foregoing and the terms of Paragraph 4 below, (i) transfer the Funding Loan to any affiliate or other party related to the Funding Lender that is a Qualified Transferee or (ii) sell or transfer the Funding Loan to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Funding Loan or securitized interests therein are not expected to be sold except to (x) owners or beneficial owners thereof that are Qualified Transferees or (y) in circumstances where secondary market credit enhancement is provided for such securitized interests resulting in a rating thereof of at least "A" or better [INSERT FOR INITIAL FUNDING LENDER TRANSFEREE REPRESENTATION LETTER; provided, further, however, the Funding Lender shall pledge as collateral its interest in the Governmental Note and the Funding Loan upon the issuance of the same and Funding Lender has originated and funded the Funding Loan with the expectation that the Governmental Note and the Funding Loan will be sold to Merchants Capital Corp. on the Conversion Date and thereafter delivered to the Federal Home Loan Mortgage Corporation ("Freddie Mac") pursuant to the forward commitment dated [____], 2020 (the "Freddie Mac Commitment")] [INSERT FOR FREDDIE MAC SELLER/SERVICER TRANSFEREE REPRESENTATION LETTER; provided, further, however, the Funding Lender is purchasing the Funding Loan with the expectation that the Governmental Note and the Funding Loan will be sold to the Federal Home Loan Mortgage Corporation ("Freddie Mac") pursuant to the forward commitment dated [____], 2020 (the "Freddie Mac Commitment")].

4. In addition to the right to sell or transfer the Governmental Note and the Funding Loan as set forth in Paragraph 3 above, the Funding Lender further acknowledges its right to sell or transfer the Governmental Note and the Funding Loan, subject, as required under the Funding Loan Agreement, to the delivery to the Fiscal Agent of a transferee representations letter from the transferee to substantially the same effect as this Transferee Representations Letter or in such other form authorized by the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender.

5. The Funding Lender understands that the Governmental Note is not registered under the Act and that such registration is not legally required as of the date hereof; and further understands that the Governmental Note (a) is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

6. THE FUNDING LENDER UNDERSTANDS THAT:

(a) NEITHER THE STATE OF TEXAS NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF TEXAS, SHALL BE LIABLE OR OBLIGATED (GENERAL, SPECIALLY, MORALLY OR OTHERWISE) TO PAY THE

PRINCIPAL OF THE GOVERNMENTAL NOTE OR THE PREMIUM, IF ANY, OR INTEREST THEREON, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE GOVERNMENTAL NOTE; AND

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

7. The Funding Lender has either been supplied with or been given access to information, including financial statements and other financial information, which it considers necessary to make an informed decision in connection with the purchase of the Funding Loan. The Funding Lender has not relied upon the Governmental Lender for any information in connection with its purchase of the Governmental Note or the Funding Loan.

8. The Funding Lender has made its own inquiry and analysis with respect to the Governmental Note and the Funding Loan and the security therefor, and other material factors affecting the security and payment of the Governmental Note and the Funding Loan. The Funding Lender is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Governmental Note and the Funding Loan. The Funding Lender is not relying on any other party or person to undertake the furnishing or verification of information related to the referenced transaction. The Funding Lender has such knowledge and experience in business and financial matters and with respect to the purchase and ownership the Governmental Note, so as to enable it to understand and evaluate the risk of such investments and form an investment decision with respect thereto, and the Funding Lender is (or any account for which it is purchasing is) able to bear the risk of such investment for an indefinite period and to afford a complete loss thereof.

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

All agreements, representations and warranties made herein shall survive the execution and delivery of this letter agreement and, notwithstanding any investigation heretofore or hereafter, shall continue in full force and effect.

[SIGNATURE BLOCK]

By: _____
Name: _____
Title: _____

EXHIBIT D

**COSTS OF ISSUANCE REQUISITION
(Cost of Issuance Fund)**

U.S. Bank, National Association, as Fiscal Agent

Re: Vermillion Apartments

Fiscal Agent:

You are requested to disburse funds from the Cost of Issuance Fund pursuant to Section 4.13 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the “**Requisition**”). The terms used in this requisition shall have the meaning given to those terms in the Funding Loan Agreement (the “**Funding Loan Agreement**”), dated as of August 1, 2020 (the “**Funding Loan Agreement**”), among MERCHANTS BANK OF INDIANA, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Governmental Lender**”) and U.S. BANK, NATIONAL ASSOCIATION (the “**Fiscal Agent**”), securing the Governmental Lender’s Multifamily Note (Vermillion Apartments), Series 2020, dated August 1, 2020 (the “**Governmental Note**”).

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

The undersigned, on behalf of HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a limited liability company duly organized and existing under the laws of the State of Minnesota (the “**Borrower**”), certifies that:

- (a) the expenditures for which money is requisitioned by this Requisition represent proper charges against the Cost of Issuance Fund, have not been included in any previous requisition and are set forth in the Schedule attached to this Requisition, with invoices attached for any sums for which reimbursement is requested; and
- (b) the money requisitioned is not greater than those necessary to meet obligations due and payable or to reimburse the applicable party for funds actually advanced for Costs of Issuance; and
- (c) including amounts paid pursuant to this Requisition, not more than 2% of the sales proceeds of the Funding Loan will have been used for Costs of Issuance.

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

Date of Requisition: _____

**HOUSTON LEASED HOUSING
ASSOCIATES OWNER VIII, LLC,**
a Minnesota limited liability company

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

EXHIBIT E

**PROJECT LOAN FUND REQUISITION
(Project Loan Fund)**

U.S. Bank, National Association, as Fiscal Agent

Re: Vermillion Apartments

You are requested to disburse funds from the Project Loan Fund pursuant to Section 4.02 of the Funding Loan Agreement in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the “**Requisition**”). Except as provided herein, the terms used in this requisition shall have the meaning given to those terms in the Funding Loan Agreement (the “**Funding Loan Agreement**”), dated as of August 1, 2020 (the “**Funding Loan Agreement**”), among MERCHANTS BANK OF INDIANA, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Governmental Lender**”) and U.S. BANK, NATIONAL ASSOCIATION (the “**Fiscal Agent**”), securing the Governmental Lender’s Multifamily Note (Vermillion Apartments), Series 2020, dated August 1, 2020 (the “**Governmental Note**”).

REQUISITION NO.:

PAYMENT DUE TO:

AMOUNT(S) TO BE DISBURSED: \$ _____ from the Project Account
\$ _____ from the Borrower Equity Account

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

1. Purposes for which disbursement is requested are specified in the **attached Schedule**.
2. Party or parties to whom the disbursements shall be made are specified in the **attached Schedule** (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned); provided, that no reimbursement shall be made for advances and payments made prior to February 27, 2020).
3. The undersigned certifies that:
 - a. the conditions precedent to disbursement set forth in the Construction Continuing Covenant Agreement have been satisfied;
 - b. the disbursement requested pursuant to this Requisition will be used solely to pay a cost or costs allowable under the Funding Loan Agreement and the Construction Continuing Covenant Agreement;

- c. none of the items for which disbursement is requested pursuant to this Requisition has formed the basis for any disbursement previously made from the Project Loan Fund and all such items have been properly recorded in Borrower's books and are set forth on the Schedule attached hereto, along with paid invoices attached for any sum for which reimbursement is requested and invoices or bills of sales for all other items;
- d. all labor and materials for which disbursements have been requested have been incorporated into the Project in accordance with reasonable and standard building practices, the Construction Continuing Covenant Agreement and all applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Project;
- e. the materials, supplies and equipment furnished or installed for the Improvements are not subject to any lien or security interest or that the funds to be disbursed pursuant to this Requisition are to be used to satisfy any such lien or security interest;
- f. all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement and the Tax Exemption Agreement that relate to the tax-exempt status of the Funding Loan, including that none of the proceeds of the Funding Loan (including investment earnings thereon) will be used to provide an airplane, a skybox or any other private luxury box, any facility primarily used for gambling, health club facility or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;
- g. If this Requisition is not the Final Requisition from the Project Loan Fund, upon achieving completion of construction, not less than 95% of the Net Proceeds (as defined in the Tax Exemption Agreement) of the Governmental Note will have been used for Qualified Project Costs (as defined in the Tax Exemption Agreement); or

If this Requisition is the Final Requisition from the Project Loan Fund, not less than 95% of the sum of (A) the amounts requisitioned by this Requisition to be paid from the Project Account of the Project Loan Fund and (B) all amounts previously requisitioned and paid from the Net Proceeds (as defined in the Tax Exemption Agreement) of the Governmental Note will have been used for Qualified Project Costs (as defined in the Tax Exemption Agreement);

- h. Borrower is not in default under the Project Loan Agreement, the Construction Continuing Covenant Agreement or any other Project Loan Document to which it is a party and nothing has occurred to the knowledge of Borrower that would prevent the performance of its obligations under such documents;
- i. no amounts being requisitioned hereby will be used to pay, or reimburse, any Costs of Issuance incurred in connection with the delivery of the Governmental Note or pay debt service with respect to the Loans; and

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

[Following items may not be required for Initial Disbursement]

- 4. Estimated costs of completing the uncompleted construction as of the date of this Requisition: _____.
- 5. Percent of construction completed as of the date this request: _____%

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

Date: _____

**HOUSTON LEASED HOUSING
ASSOCIATES OWNER VIII, LLC,**
a Minnesota limited liability company

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

APPROVED:

MERCHANTS BANK OF INDIANA,
an Indiana state bank

By: _____
Name:
Title:

EXHIBIT F
[RESERVED]

PROJECT LOAN AGREEMENT

among

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

**U.S. BANK, NATIONAL ASSOCIATION,
as Fiscal Agent**

and

**HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC,
as Borrower**

Relating to

**VERMILLION APARTMENTS
HOUSTON, TEXAS**

Maximum Project Loan Principal Amount: \$28,000,000

Dated as of August 1, 2020

All of the right, title and interest of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (except for its Unassigned Rights) in and to this Project Loan Agreement are being assigned to U.S. BANK, NATIONAL ASSOCIATION, as Fiscal Agent, as security for the Funding Loan made pursuant to that certain Funding Loan Agreement dated as of August 1, 2020 by and among the Governmental Lender, the Initial Funding Lender named therein and the Fiscal Agent.

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PROJECT LOAN AGREEMENT

THIS PROJECT LOAN AGREEMENT (this “**Project Loan Agreement**”) is made and entered into as of August 1, 2020, by and among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (the “**Governmental Lender**”), a public and official agency of the State of Texas (the “**State**”), **U.S. BANK, NATIONAL ASSOCIATION**, a national banking association, organized and operating under the laws of the United States of America (together with any successor Fiscal Agents appointed under the Funding Loan Agreement, the “**Fiscal Agent**”), and **HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC**, a limited liability company duly organized and existing under the laws of the State of Minnesota (together with its successors and assigns permitted hereunder, the “**Borrower**”).

RECITALS

A. Pursuant to Chapter 2306, Texas Government Code (the “**Act**”) and this Project Loan Agreement, the Governmental Lender is agreeing to make a mortgage loan to the Borrower in the aggregate principal amount of \$28,000,000 (the “**Project Loan**”) to provide for the financing of the acquisition and rehabilitation of a multifamily rental housing development located in Houston, Texas known as Vermillion Apartments (the “**Project**”).

B. The Governmental Lender is making the Project Loan to the Borrower with the proceeds received from the loan in the aggregate principal amount of \$28,000,000 (the “**Funding Loan**” and together with the Project Loan, the “**Loans**”) made to the Governmental Lender pursuant to the Funding Loan Agreement (the “**Funding Loan Agreement**”), by and among Merchants Bank of Indiana, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), the Governmental Lender and the Fiscal Agent. The Funding Loan is evidenced by the Governmental Lender’s Multifamily Note dated as of the date hereof (together with all riders and addenda thereto, the “**Governmental Note**”) delivered by the Governmental Lender to the Initial Funding Lender.

C. The Initial Funding Lender, pursuant to the terms and subject to the conditions of the Funding Loan Agreement, the Construction Phase Financing Agreement and the Construction Continuing Covenant Agreement, has agreed to originate and fund the Funding Loan to the Governmental Lender on a fully funded basis, which proceeds of the Funding Loan will be used by the Governmental Lender to fund the Project Loan to the Borrower pursuant to this Project Loan Agreement. The Initial Funding Lender will administer the Loans during the Construction Phase in accordance with the Financing Documents.

D. The Borrower has agreed to use the proceeds of the Project Loan to finance the acquisition, rehabilitation and equipping of the Project.

E. The Borrower’s repayment obligations in respect of the Project Loan will be evidenced by a Multifamily Note dated as of the date hereof (together with all riders and modifications thereto, the “**Project Note**”) delivered to the Governmental Lender, which Project Note will be endorsed by the Governmental Lender to the Fiscal Agent as security for the Funding Loan.

F. To secure the Borrower's obligations under the Project Note, the Borrower will execute and deliver to the Governmental Lender a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing and an Assignment of Rents and Leases dated as of the date hereof (collectively, the "**Security Instrument**") with respect to the Project, which Security Instrument will be assigned by the Governmental Lender to the Fiscal Agent as security for the Funding Loan and the Governmental Note.

G. The Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise ("**Freddie Mac**") has entered into a commitment with Merchants Capital Corp. (the "**Freddie Mac Seller/Servicer**") dated [____], 2020 (the "**Freddie Mac Commitment**") whereby Freddie Mac has committed, subject to the satisfaction of the Conditions to Conversion set forth in the Construction Phase Financing Agreement on or before the Forward Commitment Maturity Date, to facilitate the financing of the Project in the Permanent Phase by purchasing the Funding Loan as evidenced by the Governmental Note from the Freddie Mac Seller/Servicer following the Conversion Date.

H. If the Conditions to Conversion are satisfied on or before the Forward Commitment Maturity Date as provided for in the Freddie Mac Commitment and the Construction Phase Financing Agreement, the Project Loan will convert from the Construction Phase to the Permanent Phase on the Conversion Date and, on such Conversion Date, the Initial Funding Lender shall deliver, and the Freddie Mac Seller/Servicer shall purchase, the Funding Loan, as evidenced by the Governmental Note. If the Conditions to Conversion are not satisfied on or before the Forward Commitment Maturity Date, the Project Loan will not convert from the Construction Phase to the Permanent Phase, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligation with respect to the purchase of the Funding Loan and the Initial Funding Lender will remain the owner of the Funding Loan as the holder of the Governmental Note.

I. As a Condition to Conversion, the Project Note and the Security Instrument are required to be amended and restated and the Borrower is required to enter into a Continuing Covenant Agreement with the Freddie Mac Seller/Servicer (the "**Freddie Mac Continuing Covenant Agreement**"), in each case pursuant to the forms attached to the Construction Phase Financing Agreement.

J. If the Conditions to Conversion are satisfied and the Funding Loan as evidenced by the Governmental Note is purchased by the Freddie Mac Seller/Servicer on the Conversion Date as set forth above, the Freddie Mac Seller/Servicer shall deliver the Funding Loan to Freddie Mac for purchase pursuant to the terms of the Freddie Mac Commitment and the Guide (such date of purchase by Freddie Mac being referred to as the "**Freddie Mac Purchase Date**").

K. Upon the occurrence of the Freddie Mac Purchase Date, the Freddie Mac Seller/Servicer will assign to Freddie Mac all of its rights and interest in the Funding Loan, the Governmental Note, the Funding Loan Agreement, the Freddie Mac Continuing Covenant Agreement and the other Financing Documents. The Freddie Mac Seller/Servicer will act as Servicer for the Loans on behalf of Freddie Mac, as Funding Lender, on and after the Freddie Mac Purchase Date.

NOW, THEREFORE, for and in consideration of the mutual covenants and representations hereinafter contained, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions. All words and phrases (except for Event of Default) defined in the Funding Loan Agreement and the Continuing Covenant Agreement shall have the same meanings for the purposes of this Project Loan Agreement. In addition to the words and phrases defined in the Funding Loan Agreement and elsewhere herein, the following words and phrases shall have the following meanings:

“*Completion Certificate*” means a certificate of the Borrower in the form attached as Exhibit A to this Project Loan Agreement.

“*Completion Date*” means the date the Project is substantially completed and available and suitable for use as multifamily housing, as set forth in the Completion Certificate.

“*Event of Default*” means any of those events specified in and defined by the applicable provisions of Article VII hereof to constitute an event of default.

“*Fee Component*” means the regular, ongoing fees due from time to time to the Governmental Lender, the Fiscal Agent and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the unpaid principal amount of the Funding Loan on an annual basis.

“*Project Loan Agreement*” means this Project Loan Agreement, together with any amendments hereto.

“*Project Loan Amortization Schedule*” means the Project Loan Amortization Schedule to be attached as Schedule 1 to the Project Note on the Conversion Date.

“*Project Loan Payment*” means each payment of the Project Loan on each Project Loan Payment Date pursuant to the Project Note and this Project Loan Agreement.

“*Project Loan Payment Date*” means (A) the first day of each calendar month, commencing [_____] 1, 2020 or (B) any other date on which the Project Loan is prepaid or paid, whether at scheduled maturity or upon prepayment or acceleration of the maturity thereof; provided, however, that if a Project Loan Payment Date is not a Business Day, payment shall be made on the first Business Day following such Project Loan Payment Date.

“*Servicing Fee*” means, (i) during the Construction Phase, the fee payable to the Servicer in connection with the servicing of the Project Loan and the Funding Loan payable monthly in an amount equal to one twelfth (1/12) of twenty-five one-hundredths percent (0.25%) of the outstanding principal balance of the Project Loan, computed on the basis of a 360-day year and the actual number of days elapsed, and (ii) during the Permanent Phase, the ordinary fee payable to the Servicer in connection with the servicing of the Project Loan and the Funding Loan payable

monthly in an amount equal to one twelfth of 0.10% of the outstanding principal balance of the Project Loan, computed on the basis of a 360-day year and the actual number of days elapsed.

“*Taxes*” means all taxes, water rents, sewer rents, assessments and other governmental or municipal or public or private dues, fees, charges and levies and any liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Project or any part thereof, or upon any leases pertaining thereto, or upon the rents, issues, income or profits thereof, whether any or all of the aforementioned be levied directly or indirectly or as excise taxes or as income taxes.

Section 1.02. *Interpretation.* Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. Words importing persons include firms, partnerships, limited liability companies, joint ventures, associations and corporations. References to Articles, Sections and other subdivisions of this Project Loan Agreement are the Articles, sections and other subdivisions of this Project Loan Agreement as originally executed.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Project Loan Agreement; the term “heretofore” means before the date of execution of this Project Loan Agreement; and the term “hereafter” means after the date of execution of this Project Loan Agreement.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01. *Representations, Warranties and Covenants of the Governmental Lender.* The Governmental Lender makes the following representations, warranties and covenants for the benefit of the Borrower, the Fiscal Agent, the Funding Lender and the Servicer:

- (a) The Governmental Lender is a public and official agency of the State of Texas.
- (b) The Governmental Lender has all necessary power and authority to issue the Governmental Note and to make the Project Loan from the proceeds thereof, and to execute, and deliver this Project Loan Agreement, the Funding Loan Agreement, and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.
- (c) The Governmental Lender has taken all action on its part to issue the Governmental Note and make the Project Loan from the proceeds thereof and for the sale, execution and delivery thereof.
- (d) Each of the Financing Documents to which the Governmental Lender is a party has been duly and validly authorized, executed and delivered by the Governmental Lender and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Governmental Lender, enforceable against the Governmental Lender in accordance with its respective terms,

except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

(e) The Governmental Lender 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 Governmental Lender described or contemplated in the Financing Documents. The execution and delivery of the Governmental Note and the Financing Documents to which the Governmental Lender is a party, the consummation of the transactions on the part of the Governmental Lender 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 Governmental Lender 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 Governmental Lender under the terms of any instrument or agreement.

(f) 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 Governmental Lender of, and performance by the Governmental Lender of its obligations under, the Financing Documents.

(g) There is no action, suit, or proceeding filed or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender by or before any court, governmental agency or public board or body, nor, to the Governmental Lender's knowledge, is there any basis therefor, which (i) affects or questions the existence or the territorial jurisdiction of the Governmental Lender or the title to office of any member of the governing body of the Governmental Lender; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any Financing Documents or the issuance, sale, execution or delivery of the Governmental Note; (iii) affects or questions the validity or enforceability of the Governmental Note or any Financing Document; (iv) questions the tax-exempt status of the Governmental Note; or (v) questions the power or authority of the Governmental Lender to perform its obligations under the Governmental Note or any Financing Document, or to carry out the transactions contemplated by the Governmental Note and the Financing Documents.

(h) No officer or other official of the Governmental Lender has any personal financial interest in the Project or the Borrower or in the transactions contemplated by this Project Loan Agreement.

It is expressly acknowledged that the Governmental Lender makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the issuance, sale, execution and delivery of the Governmental Note, or as to the correctness, completeness or accuracy of such statements.

Section 2.02. *Representations, Warranties and Covenants of the Borrower.* The Borrower makes the following representations, warranties and covenants, all of which, together with the other representations and agreements of the Borrower contained in this Project Loan Agreement, are relied upon by the Governmental Lender, the Funding Lender, the Servicer and the Fiscal Agent and serve as a basis for the undertakings of the Governmental Lender, the Servicer and the Fiscal Agent contained in this Project Loan Agreement:

(a) The Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the state in which it has been organized and is duly qualified to conduct its business under the laws of the State and in every other state in which the nature of its business requires such qualification, has full legal right, power and authority to enter into this Project Loan Agreement and the other Financing Documents, and to carry out and consummate all transactions contemplated hereby and by the other Financing Documents, and by proper action has duly authorized the execution, delivery and performance of this Project Loan Agreement and the other Financing Documents. The Sole Member is duly formed and in good standing under the laws of its state of formation and is duly qualified to transact business in the State as a foreign limited liability company. All membership interests in the Borrower and all partnership interests in the Sole Member are duly formed and in good standing under the laws of their respective states of formation and, to the extent required by the laws of the State, are duly qualified to transact business in the State as either domestic or foreign partnerships or limited liability companies, as applicable.

(b) The Borrower has the legal right, power and authority to (i) own its properties and assets, including, but not limited to, the Project, (ii) to carry on its business as now being conducted and the Borrower contemplates it to be conducted with respect to the Project and (iii) execute and deliver, carry out its obligations under, and close the transactions provided for in, the Financing Documents to which it is a party.

(c) Each of the Financing Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity.

(d) 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 or those necessary to be obtained during the course of rehabilitation of the Project, is required for the due execution and delivery or approval, as the case may be, by the Borrower of, and the performance by the Borrower of its obligations under, the Financing Documents.

(e) None of the execution and delivery of the Financing Documents to which the Borrower is a party, the consummation of the transactions provided for in the Financing Documents, or the Borrower's fulfillment of or compliance with the terms and conditions of the Financing Documents (i) violates or will violate any law, rule or regulation of any

governmental agency or body having jurisdiction over the Borrower, or any of its activities or properties, or any judgment, order, writ, injunction or decree to which the Borrower is subject, or any of the organizational or other governing documents of the Borrower, (ii) conflicts or will conflict with any agreement, instrument or license to which the Borrower is now a party or by which it or any of its properties or assets is bound or results or will result in a breach of, or constitutes or will constitute a default (with due notice or the passage of time or both) under, any such agreement, instrument or license, (iii) contravenes or will contravene any such law, rule or regulation or any such judgment, order, writ, injunction or decree, or (iv) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, except for any lien, charge or encumbrance permitted under the terms of the Financing Documents.

(f) There is no action, suit, proceeding, inquiry or investigation pending or, to the Borrower's knowledge, threatened against or affecting the Borrower or any of its properties (including, without limitation, the Project), which, if adversely determined, would (i) impair the right of the Borrower to carry on its business substantially as now conducted and as contemplated by the Financing Documents, (ii) adversely affect the financial condition of the Borrower, (iii) prohibit, restrain or enjoin the making of the Funding Loan or the Project Loan or the execution and delivery of any of the Financing Documents, (iv) adversely affect the validity or enforceability of any of the Financing Documents, or (v) adversely affect the exclusion from gross income for federal income tax purposes of interest on the Governmental Note.

(g) The Project and the operation of the Project (in the manner contemplated by the Financing Documents) conform and, following completion of the construction of the Project, will continue to conform in all material respects with the requirements of the Act as well as all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project.

(h) The Borrower or Sole Member, as applicable, has filed or caused to be filed all federal, state and local tax returns which are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(i) The Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would materially adversely affect the transactions contemplated by the Financing Documents or the operations of the Borrower or the enforceability of the Financing Documents to which the Borrower is a party or the ability of the Borrower to perform all obligations thereunder.

(j) The Borrower agrees to pay all costs of maintenance and repair, all Taxes and assessments, insurance premiums (including public liability insurance and insurance against damage to or destruction of the Project) concerning or in any way related to the Project, or any part thereof, and any expenses or renewals thereof, and any other

governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments concerning or in any way related to the Project.

(k) All of the ownership interests in the Borrower and the Sole Member are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests, other than as stated in or contemplated by the Organizational Documents, which shall be subordinate to the Security Instrument. Nothing in this Project Loan Agreement shall prevent the Borrower or Sole Member from (i) issuing additional ownership interests if such interests are issued in accordance with all applicable securities laws or (ii) pledging any ownership interests as security for repayment of the equity bridge loan in the amount of \$[] made to Borrower by Merchants Bank of Indiana.

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

(m) The information, statements or reports furnished in writing to the Governmental Lender, the Servicer and the Funding Lender Representative by the Borrower in connection with this Project Loan Agreement or the consummation of the transactions contemplated hereby do not contain any untrue statement of a material 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; and the representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Delivery Date, are true and correct in all material respects, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading; and any estimates or assumptions contained in any certificate of the Borrower delivered as of the Delivery Date are reasonable.

(n) To the knowledge of the Borrower, no commissioner, member, officer or employee of the Governmental Lender has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Financing 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 set forth in the Organizational Documents.

(o) 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 other than as contemplated in the Financing Documents.

(p) The Project is located wholly within the boundaries of the State of Texas.

(q) The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or adversely affect the excludability of the interest on the Governmental Note from gross income for federal income tax purposes. The Borrower shall operate the Project as required by the Tax Regulatory Agreement and the Tax Exemption Agreement.

(r) The Funding Loan Agreement has been submitted to the Borrower for examination, and the Borrower, by execution of this Project Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Funding Loan Agreement and that it is bound by, shall adhere to the provisions of, covenants and agrees to perform all obligations required of the Borrower pursuant to, and shall have the rights set forth by the applicable terms and conditions of, the Funding Loan Agreement.

(s) The Borrower will have a fee simple interest in the land and improvements on the Project, subject only to encumbrances and liens permitted under the Security Instrument.

(t) The Borrower acknowledges that (i) it understands the nature and structure of the transactions relating to the financing of the Project, (ii) it is familiar with the provisions of all of the documents and instruments relating to the financing, (iii) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (iv) it has not relied on the Governmental Lender, the Fiscal Agent, Freddie Mac, the Funding Lender, the Funding Lender Representative or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Financing Documents or otherwise relied on the Governmental Lender, the Fiscal Agent, Freddie Mac, the Funding Lender, the Funding Lender Representative or the Servicer in any manner.

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

(v) To the extent this Project Loan Agreement is a contract for goods or services, the Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or

Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

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

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

Section 2.03. *Representations and Warranties of the Fiscal Agent.* The Fiscal Agent makes the following representations and warranties for the benefit of the Governmental Lender, the Borrower, the Funding Lender and the Servicer:

(a) The Fiscal Agent is a national banking association, duly organized and existing under the laws of the United States. The Fiscal Agent is duly authorized to act as a fiduciary and to execute the trust created by the Funding Loan Agreement, and meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.

(b) The Fiscal Agent has complied with the provisions of law which are prerequisite to the consummation of, and has all necessary power (including trust powers) and authority (i) to execute and deliver this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) to perform its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) to consummate the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.

(c) The Fiscal Agent has duly authorized (i) the execution and delivery of this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) the performance by the Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) the actions of the Fiscal Agent contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.

(d) Each of the Financing Documents to which the Fiscal Agent is a party has been duly executed and delivered by the Fiscal Agent and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding obligation of the Fiscal Agent, enforceable against the Fiscal Agent in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and by general

principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(e) The Fiscal Agent meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.

(f) The Fiscal Agent has complied with the provisions of law which are prerequisites to the consummation of the transactions on the part of the Fiscal Agent described or contemplated in the Financing Documents.

(g) No approval, permit, consent, authorization or order of any court, governmental agency or public board or body not already obtained is required to be obtained by the Fiscal Agent as a prerequisite to (i) the execution and delivery of this Project Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party, (ii) the authentication or delivery of the Governmental Note, (iii) the performance by the Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, or (iv) the consummation of the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party. The Fiscal Agent makes no representation or warranty relating to compliance with any federal or state securities laws.

Section 2.04. *Arbitrage and Rebate Fund Calculations.* The Borrower will, on a timely basis, provide the Governmental Lender with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Exemption Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Governmental Lender to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Fiscal Agent as are required of it under the Tax Exemption Agreement. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Funding Loan Agreement and the Project Loan Agreement.

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

Section 2.05. *Tax Covenant of the Borrower.* The Borrower covenants that it shall not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the excludability of the interest on the Governmental Note from gross income for federal income tax purposes. Without limiting the generality of the foregoing,

the Borrower covenants that it will comply with the instructions and requirements of the Tax Exemption Agreement. The Borrower further covenants that the proceeds of the Funding Loan will be allocated to each building in the Project and the land upon which the buildings are located for purposes of compliance with Section 42(h)(4) of the Code in the same manner for which proceeds are allocated for purposes of the “95%” test. In the event of a conflict between the terms and requirements of this Section 2.05 and the Tax Exemption Agreement, the terms and requirements of the Tax Exemption Agreement shall control.

Section 2.06. Completion Date. The Borrower shall notify the Governmental Lender and the Fiscal Agent of the Completion Date by the delivery of a Completion Certificate signed by an Authorized Officer of the Borrower substantially in the form of Exhibit A attached hereto. The Completion Certificate shall be delivered as promptly as practicable, but no more than thirty (30) days after the occurrence of the event referred to in paragraph (a) of the Completion Certificate.

ARTICLE III

THE PROJECT LOAN

Section 3.01. Conditions to Funding the Project Loan. On the Delivery Date and thereafter, the Governmental Lender shall cause the proceeds of the Funding Loan to be deposited with the Fiscal Agent in accordance with Sections 2.01 and 2.11 of the Funding Loan Agreement and Section 3.03 hereof. The Fiscal Agent shall use such proceeds as provided in Article II of the Funding Loan Agreement to make the Project Loan, provided that no initial disbursements of proceeds shall be made until the following conditions have been met:

(a) The Borrower shall have executed and delivered to the Governmental Lender the Project Note and the Governmental Lender shall have endorsed the Project Note to the Fiscal Agent;

(b) The Security Instrument and the Assignment, with only such changes therein as shall be approved in writing by Funding Lender Representative, shall have been executed and delivered by the Borrower and the Governmental Lender, respectively, and delivered to the title company for recording in the appropriate office for officially recording real estate documents in the jurisdiction in which the Project is located (the “**Recorder’s Office**”);

(c) The Tax Regulatory Agreement shall have been executed and delivered by the parties thereto and shall have been delivered to the title company for recording in the Recorder’s Office, and the Fiscal Agent shall have received evidence satisfactory to it of such delivery;

(d) All other Financing Documents not listed above shall have been executed and delivered by all parties thereto and delivered to the Fiscal Agent; and

(e) The Borrower shall have delivered to the Fiscal Agent, the Governmental Lender, the Funding Lender Representative and the Servicer a certificate confirming, as of the Delivery Date, the matters set forth in Section 2.02 hereof and an opinion of its counsel

or other counsel satisfactory to the Fiscal Agent, the Governmental Lender, Bond Counsel, the Funding Lender Representative, Freddie Mac and the Servicer.

Section 3.02. *Terms of the Project Loan; Servicing.*

(a) The Project Loan shall (i) be evidenced by the Project Note; (ii) be secured by the Security Instrument; (iii) be in the aggregate principal amount of \$28,000,000; (iv) bear interest as provided in the Project Note; (v) provide for principal and interest payments in accordance with the Project Note; and (vi) be subject to optional and mandatory prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided herein and in the Project Note.

(b) The Funding Lender Representative may appoint a Servicer to service the Loans for all or a portion of the term of the Loans. The initial Servicer of the Loans during the Construction Phase is Merchants Capital Corp, an Indiana corporation. On the Freddie Mac Purchase Date, the Freddie Mac Seller/Servicer shall become the Servicer and shall service the Loans as required by the Freddie Mac Commitment and the Guide. The Funding Lender Representative may remove a Servicer or appoint a replacement Servicer, in its discretion, by written notice provided to the Governmental Lender, the Fiscal Agent and the Borrower. Any successor Servicer shall signify its acceptance of the duties and obligations imposed upon it by the Funding Loan Agreement and this Project Loan Agreement by executing such instrument(s) as shall be acceptable to the Funding Lender Representative, a copy of which shall be provided to the parties hereto.

(c) During any period that the Servicer services the Loans, (i) prior to Conversion, the Borrower shall make all payments in connection with the Project Loan to the Fiscal Agent, and the Fiscal Agent will (a) retain the allocable portion of the Ordinary Fiscal Agent's Fees and Expenses (if any), together with any other amounts due to the Fiscal Agent, for its own account, (b) remit to the Funding Lender all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender, (c) remit to the Servicer the allocable portion of the monthly Servicing Fee (if any), and (d) remit to the Governmental Lender the Governmental Lender Fees, together with any other amounts due to the Governmental Lender, and (ii) following Conversion, the Borrower shall make all payments in connection with the Project Loan to the Servicer, and the Servicer will (a) retain the allocable portion of the monthly Servicing Fee (if any) for its own account, (b) remit to the Fiscal Agent to be paid by the Fiscal Agent to the holder of the Governmental Note all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender, (c) remit to the Fiscal Agent the Ordinary Fiscal Agent's Fees and Expenses, together with any other amounts due to the Fiscal Agent, and (d) remit to the Fiscal Agent to be paid by the Fiscal Agent to the Governmental Lender the Governmental Lender Fees, together with any other amounts due to the Governmental Lender. During a period in which there is no Servicer, all notices to be sent to the Servicer shall be sent to the Funding Lender Representative (to the extent not already provided) and all amounts to be paid to the Servicer by the Borrower shall be paid directly to the Fiscal Agent (unless otherwise directed by the Funding Lender Representative). To ensure timely payment, all payments

required to be made to the Fiscal Agent in this Section 3.02(c) shall be made to the Fiscal Agent by 1:00 p.m., Eastern Time, on the [second] Business Day prior to each Project Loan Payment Date.

(d) The Governmental Lender, the Fiscal Agent and the Borrower hereby acknowledge and agree that (i) the Funding Lender Representative has appointed the Servicer to service and administer the Project Loan, (ii) the selection or removal of any Servicer is in the sole and absolute discretion of the Funding Lender Representative; and (iii) none of the Governmental Lender, the Fiscal Agent or the Borrower shall terminate or attempt to terminate any Servicer as the servicer for the Project Loan or appoint or attempt to appoint a substitute servicer for the Project Loan. The Governmental Lender, the Fiscal Agent and the Borrower further hereby acknowledge and agree with respect to the Servicer during the Permanent Phase that: (i) the *Guide* is subject to amendment without the consent of the Fiscal Agent, the Governmental Lender or the Borrower; and (ii) none of the Fiscal Agent, the Governmental Lender or the Borrower shall have any rights under, or be a third party beneficiary of, the *Guide*.

Section 3.03. Deposits. On the Delivery Date the proceeds of the Funding Loan shall be deposited in the Project Account of the Project Loan Fund, including the initial deposit in the amount of \$28,000,000. On the Delivery Date, the Borrower will deposit with the Fiscal Agent the sum of (i) \$[] for credit to the Cost of Issuance Fund; and (ii) \$[0] for credit to the Borrower Equity Account of the Project Loan Fund. The Borrower will deposit with the Servicer the sum of \$[0] as the Initial Debt Service Deposit. Subject to the conditions listed in Section 3.01 hereof, amounts on deposit in the Project Loan Fund are to be disbursed to the Borrower or otherwise as provided in Sections 2.11(d) and 4.02 of the Funding Loan Agreement.

To the extent that amounts in the Cost of Issuance Fund from the above-mentioned sources are insufficient to pay all costs of closing the Loans, the Borrower shall cause the payment of such additional costs of closing the Loans to be made on its behalf as such amounts become due.

Section 3.04. Pledge and Assignment to Fiscal Agent. The parties hereto acknowledge, and the Borrower consents to, the pledge and assignment by the Governmental Lender to the Fiscal Agent pursuant to the Funding Loan Agreement of all of the Governmental Lender's right, title and interest in this Project Loan Agreement (excluding the Unassigned Rights), the Project Loan, the Project Note, the Security Instrument, the other Project Loan Documents and the Revenues as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due under the Financing Documents.

Section 3.05. Investment of Funds. Except as otherwise provided in the Funding Loan Agreement, any money held as a part of any fund or account established under the Funding Loan Agreement shall be invested or reinvested by the Fiscal Agent in Qualified Investments in accordance with Section 4.08 of the Funding Loan Agreement.

Section 3.06. Damage; Destruction and Eminent Domain. If, prior to payment in full of the Project Loan, the Project or any portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Project or any portion thereof shall have been taken by the exercise of the power of eminent domain, and the Governmental Lender,

the Borrower, the Fiscal Agent or the Servicer receives Net Proceeds from insurance or any condemnation award in connection therewith, such Net Proceeds shall be utilized as provided in the Project Loan Documents and the Funding Loan Agreement.

Section 3.07. *Enforcement of Financing Documents.* The Fiscal Agent or the Funding Lender Representative may enforce and take all reasonable steps, actions and the proceedings necessary for the enforcement of all terms, covenants and conditions of the Funding Loan Agreement and the other Financing Documents as and to the extent set forth herein and therein.

ARTICLE IV

LOAN PAYMENTS

Section 4.01. *Payments Under the Project Note; Independent Obligation of Borrower.*

(a) **Payment Obligations.** The Borrower agrees to repay the Project Loan on each Project Loan Payment Date as provided in the Project Note, and in all instances at the times and in the amounts necessary to enable the Fiscal Agent, on behalf of the Governmental Lender or the Servicer, to pay all amounts payable with respect to the Governmental Note and the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise. To ensure such timely payment during the Construction Phase, the Fiscal Agent shall collect from the Borrower, and the Borrower shall provide to the Fiscal Agent the foregoing payments by 1:00 p.m., Eastern Time, on the [second (2nd)] Business Day prior to each Project Loan Payment Date. To ensure such timely payment during the Permanent Phase, the Servicer (or the Fiscal Agent if no Servicer is engaged) shall collect from the Borrower, and the Borrower shall provide to the Servicer or Fiscal Agent, as applicable, the foregoing payments not less than [three (3) Business Days] prior to each respective Project Loan Payment Date.

The obligation of the Borrower to make the payments set forth in this Article IV shall be an independent obligation of the Borrower, separate from its obligation to make payments under the Project Note, provided that in all events payments made by the Borrower under and pursuant to the Project Note shall be credited against the Borrower's obligations hereunder on a dollar for dollar basis. If for any reason the Project Note or any provision of the Project Note shall be held invalid or unenforceable against the Borrower by any court of competent jurisdiction, the Project Note or such provision of the Project Note shall be deemed to be the obligation of the Borrower pursuant to this Project Loan Agreement to the full extent permitted by law and such holding shall not invalidate or render unenforceable any of the provisions of this Article IV and shall not serve to discharge any of the Borrower's payment obligations hereunder or eliminate the credit against such obligations to the extent of payments made under the Project Note.

(b) **Obligations Unconditional; No Set-Off.** The obligation of the Borrower to repay the Project Loan, to perform all of its obligations under the Project Loan Documents, to provide indemnification pursuant to Section 6.01 hereof, to pay costs, expenses and charges pursuant to Section 4.02 hereof and to make any and all other

payments required by this Project Loan Agreement, the Funding Loan Agreement or any other documents contemplated by this Project Loan Agreement or by the Project Loan Documents shall, subject to the limitations set forth in Section 4.06 hereof, be absolute and unconditional, and shall be paid or performed without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Project or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Governmental Lender's legal organization or status, or any default of the Governmental Lender or the Fiscal Agent hereunder or under any other Financing Document, and regardless of the invalidity of any action of the Governmental Lender or the invalidity of any portion of this Project Loan Agreement.

(c) **Payments from Borrower to Fiscal Agent or Servicer.** Each payment by the Borrower hereunder or under the Project Note shall be made in immediately available funds (i) prior to Conversion, to the Fiscal Agent, and (ii) following Conversion, to the Servicer on each Project Loan Payment Date or such other date when such payment is due; provided, however, such Project Loan Payment shall be made directly to the Fiscal Agent if there is no Servicer or if the Borrower is so directed in writing by the Funding Lender Representative. Each such payment shall be made to the Fiscal Agent or the Servicer, as applicable, by deposit to such account as the Fiscal Agent or the Servicer may designate by written notice to the Borrower. Whenever any Project Loan Payment or any other payment under this Project Loan Agreement or under the Project Note shall be stated to be due on a day that is not a Business Day, such payment shall be made on the first Business Day immediately thereafter.

Section 4.02. *Additional Payments Under the Project Note and this Project Loan Agreement.*

(a) In addition to the payments set forth in Section 4.01 hereof, payments to be made by the Borrower under the Project Note include certain money to be paid in respect of, among others, the Fee Component, the Servicing Fee, and amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents, as set forth in subsection (b) of this Section 4.02. To the extent that any portion of the Fee Component, the Servicing Fee, and amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents remain due and owing at any time, such amounts remaining due and owing shall be payable from money on deposit in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement or from other money of the Borrower, to the extent that money in the Administration Fund is insufficient for such purposes. All other fees and expenses shall be payable from money of the Borrower as provided in subsection (b) of this Section 4.02.

(b) In addition to the funding of the initial deposits required of the Borrower described in Section 3.03, the Borrower shall pay (or cause to be paid by the Servicer or the Fiscal Agent (to the extent paid from money on deposit in the Administration Fund or the Cost of Issuance Fund, as applicable)), in consideration of the funding of the Project Loan, the following fees, expenses and other money payable in connection with the Loans:

(i) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Initial Funding Lender, its origination fees, together with all third party and out-of-pocket expenses of the Initial Funding Lender (including but not limited to the fees and expenses of counsel to the Initial Funding Lender) in connection with the Loans.

(ii) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to Freddie Mac, all third party and out-of-pocket expenses of Freddie Mac (including but not limited to the fees and expenses of counsel to Freddie Mac) in connection with the Loans.

(iii) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Governmental Lender, an initial financing fee in an amount equal to 0.50% of the initial principal amount of the Funding Loan (\$[140,000]), together with all third party and out-of-pocket expenses of the Governmental Lender (including but not limited to the fees and expenses of Bond Counsel) in connection with the Loans and the issuance of the Governmental Note.

(iv) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Freddie Mac Seller/Servicer, its commitment fees and application fees, together with all third party and out-of-pocket expenses of the Freddie Mac Seller/Servicer (including but not limited to the fees and expenses of counsel to the Freddie Mac Seller/Servicer, if any) in connection with the Loans.

(v) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Fiscal Agent, an acceptance fee in an amount equal to \$1,500, together with all third party and out-of-pocket expenses of the Fiscal Agent (including but not limited to the fees and expenses of counsel to the Fiscal Agent) in connection with the Loans and the issuance of the Governmental Note.

(vi) To the Fiscal Agent, the Ordinary Fiscal Agent's Fees and Expenses and the Extraordinary Fiscal Agent's Fees and Expenses when due from time to time.

(vii) To the Fiscal Agent to be paid by Fiscal Agent to the Governmental Lender, the Governmental Lender Fees when due and any extraordinary expenses not covered by the Governmental Lender Fees the Governmental Lender may incur in connection with the Financing Documents or the Project from time to time.

(viii) To the Rebate Analyst, the reasonable fees and expenses of such Rebate Analyst in connection with the computations relating to arbitrage rebate required under the Funding Loan Agreement and the Tax Exemption Agreement when due from time to time.

(ix) To the Funding Lender Representative, any amount due and owing the Funding Lender Representative from time to time but unpaid under the Continuing Covenant Agreement.

(x) To the Servicer, the amount of any portion of the Servicing Fee remaining unpaid and any fees, costs and expenses of the Servicer as provided in the Continuing Covenant Agreement.

(xi) To the Servicer, the amounts required to be deposited in respect of reserves and impounds required under the Continuing Covenant Agreement and the other Project Loan Documents.

(xii) If the Fiscal Agent is collecting and remitting loan payments under the Funding Loan Agreement, to the Fiscal Agent, within two (2) Business Days of receipt by Borrower from the Fiscal Agent of a notice of deficiency in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement, the amount of any such deficiency in the Administration Fund.

Section 4.03. *Payments to Rebate Fund.* The Borrower shall direct payment when due to the Fiscal Agent at the Principal Office of the Fiscal Agent any amount required to be deposited in the Rebate Fund in accordance with the Funding Loan Agreement and the Tax Exemption Agreement.

Section 4.04. *Prepayment.*

(a) **Optional Prepayment of the Project Loan.** The Borrower shall have the option to prepay the Project Loan in whole, together with all accrued and unpaid interest thereon, as provided in the Project Note.

(b) **Mandatory Prepayment of the Project Loan.** The Borrower shall be required to prepay all or a portion of the outstanding principal balance of the Project Loan, together with accrued interest thereon, and together with any Prepayment Premium due under the Project Note, as provided in the Project Note. Additionally, the Borrower shall be required to prepay all or a portion of the outstanding principal balance of the Project Loan, together with accrued interest thereon, and together with any Prepayment Premium due under the Project Note, in connection with the following:

(i) in part, in the event the Borrower elects to make a Pre-Conversion Loan Equalization Payment; and

(ii) in whole or in part, on or after the Forward Commitment Maturity Date, at the written direction of the Initial Funding Lender, if the Conversion Notice is not issued by the Freddie Mac Seller/Servicer prior to the Forward Commitment Maturity Date.

(c) **Defeasance of the Funding Loan.** In addition, after the Conversion Date and prior to the Window Period, the Borrower may cause a defeasance of the Funding Loan resulting in a release of the Pledged Security by satisfying the conditions set forth hereunder and in Article IX of the Funding Loan Agreement. In connection therewith, the Borrower will give written notice (a “**Defeasance Notice**”) to the Funding Lender Representative, the Servicer, the Governmental Lender and the Fiscal Agent of the date the Borrower desires to defease the Funding Loan (the “**Defeasance Date**”). The Defeasance Date may not be more than 60 calendar days, nor less than 30 calendar days, after the delivery of the Defeasance Notice. In connection with the delivery of the Defeasance Notice, the Borrower shall cause to be paid to the Funding Lender Representative the Defeasance Fee set forth in the Continuing Covenant Agreement. In addition to, and not in limitation of any other provisions of this Project Loan Agreement, the Borrower shall pay all fees, costs and expenses in connection with any defeasance whether or not such defeasance occurs. Following such defeasance in accordance with the terms and conditions hereof and the Funding Loan Agreement, the Project Loan shall be deemed paid in full, and the Borrower shall be entitled to the release of the Security Instrument, the Pledged Security and other security provided by it for the Project Loan, subject to the terms and conditions hereof and the other Financing Documents.

Section 4.05. Borrower’s Obligations Upon Prepayment. In the event of any prepayment, the Borrower will timely pay, or cause to be paid through the Servicer who shall remit to the Fiscal Agent, an amount equal to the principal amount of the Funding Loan or portion thereof called for prepayment, together with interest accrued to the prepayment date and premium, if any. In addition, the Borrower will timely pay all fees, costs and expenses associated with any prepayment of the Funding Loan.

Section 4.06. Limits on Personal Liability.

(a) During the Construction Phase, the obligations of the Borrower under this Project Loan Agreement and the other Financing Documents shall be full recourse liabilities of the Borrower. During the Permanent Phase, except as otherwise set forth in the Project Note and subsection 4.06(b) below, the obligations of the Borrower under this Project Loan Agreement and the other Financing Documents are non-recourse liabilities of the Borrower which shall be enforced only against the Project and other property of the Borrower encumbered by the Financing Documents and not personally against the Borrower, the Sole Member, or any partner of the Sole Member or any of their respective successors or assigns. However, nothing in this Section 4.06 shall limit the right of the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative to proceed against the Borrower to recover any fees owing to any of them or any actual out-of-pocket expenses (including but not limited to actual out-of-pocket attorneys’ fees incurred by any of them) incurred by any of them in connection with the enforcement of any rights under this Project Loan Agreement or the other Financing Documents. Nothing in this Section 4.06 shall limit any right that the Servicer or the Funding Lender Representative may have to enforce the Project Note, the Security Instrument, or any other Financing Document in accordance with their terms.

(b) During the Permanent Phase, notwithstanding anything contained in any other provision of this Project Loan Agreement to the contrary (but subject to the provisions of Section 7.06 hereof), the following obligations of the Borrower shall be and remain the joint and several full recourse obligations of the Borrower, the Sole Member and the general partner of the Sole Member: (i) the Borrower's obligations to the Governmental Lender and the Fiscal Agent under subsections (b)(iii), (b)(v), (b)(vi), and (b)(vii) of Section 4.02 hereof; (ii) the Borrower's obligations under Sections 2.05 and 6.01 hereof; (iii) the Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 2.04 and 4.03 of this Project Loan Agreement and the Tax Exemption Agreement; and (iv) the Borrower's obligation to pay legal fees and expenses under Section 7.04 hereof.

ARTICLE V

SPECIAL COVENANTS OF BORROWER

Section 5.01. *Performance of Obligations.* The Borrower shall keep and faithfully perform all of its covenants and undertakings contained herein and in the Financing Documents, including, without limitation, its obligations to make all payments set forth herein and therein in the amounts, at the times and in the manner set forth herein and therein.

Section 5.02. *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 that may be enacted hereafter.

Section 5.03. *Funding Loan Agreement Provisions.* The execution of this Project Loan Agreement shall constitute conclusive evidence of approval of the Funding Loan Agreement by the Borrower. Whenever the Funding Loan Agreement 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 Funding Loan Agreement, and the Borrower shall carry out and perform all of its obligations under the Funding Loan Agreement as fully as if the Borrower were a party to the Funding Loan Agreement.

Section 5.04. *Reserved.*

Section 5.05. *Borrower to Maintain Its Existence; Certification of No Default.*

(a) The Borrower agrees to maintain its existence and maintain its current legal status with authority to own and operate the Project.

(b) In addition to performing all other similar requirements under the Financing Documents to which the Borrower is a party, the Borrower shall, within 30 days after the end of each calendar year, render to the Fiscal Agent a certificate executed by an Authorized Officer of the Borrower to the effect that the Borrower is not, as of the date of such certificate, in default of any of its covenants, agreements, representations or warranties under any of the Financing Documents to which the Borrower is a party and

that, to the best of the Borrower's knowledge, after reasonable investigation, there has occurred no default or Event of Default (as such terms are defined in each respective Financing Document) under any of the Financing Documents.

Section 5.06. *Borrower to Remain Qualified in State and Appoint Agent.* The Borrower will remain duly qualified to transact business in the State and will maintain an agent in the State on whom service of process may be made in connection with any actions against the Borrower.

Section 5.07. *Sale or Other Transfer of Project.* The Borrower may convey and transfer the Project only upon strict compliance with the provisions of the Financing Documents, and upon receipt of the prior written consent of the Governmental Lender and the Funding Lender Representative.

Section 5.08. *Right to Perform Borrower's Obligations.* In the event the Borrower fails to perform any of its obligations under this Project Loan Agreement, the Governmental Lender, the Fiscal Agent, the Servicer and/or the Funding Lender Representative, after giving requisite notice, if any, and subject to Section 5.05 of the Funding Loan Agreement, may, but shall be under no obligation to, perform such obligation and pay all costs related thereto, and all such costs so advanced shall become an additional obligation of the Borrower hereunder, payable on demand and if not paid on demand with interest thereon at the default rate of interest payable under the Project Loan Documents.

Section 5.09. *Notice of Certain Events.* The Borrower shall promptly advise the Governmental Lender, the Fiscal Agent, the Funding Lender Representative and the Servicer in writing of the occurrence of any Event of Default hereunder or any event which, with the passage of time or service of notice or both, would constitute an Event of Default, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.10. *Survival of Covenants.* The provisions of Sections 2.04, 2.05, 4.02, 4.03, 6.01 and 7.04 hereof shall survive the expiration or earlier termination of this Project Loan Agreement and, with regard to the Fiscal Agent, the resignation or removal of the Fiscal Agent.

Section 5.11. *Access to Project; Records.* Subject to reasonable notice and the rights of tenants at the Project, the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, and the respective duly authorized agents of each, shall have the right (but not any duty or obligation) at all reasonable times and during normal business hours: (a) to enter the Project and any other location containing the records relating to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents and if not available at the Project or other location containing the records, the Borrower shall deliver such records to the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative; (b) to inspect and audit any and all of the Borrower's records or accounts pertaining to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents; and (c) to require the Borrower, at the Borrower's sole expense, (i) to furnish such documents to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, as the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative, as the case may be, from time to time, deems

reasonably necessary in order to determine that the provisions of the Financing Documents have been complied with and (ii) to make copies of any records that the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative or the respective duly authorized agents of each, may reasonably require. The Borrower shall make available to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, such information concerning the Project, the Security Instrument and the Financing Documents as any of them may reasonably request.

Section 5.12. *Tax Regulatory Agreement.* The covenants of the Borrower in the Tax Regulatory Agreement shall be deemed to constitute covenants of the Borrower running with the land and an equitable servitude for the benefit of the Governmental Lender and the Funding Lender and shall be binding upon any owners of the Project until such time as such restrictions expire as provided in the Tax Regulatory Agreement. The Borrower covenants to file of record the Tax Regulatory Agreement and such other documents, and to take such other steps as are necessary in order to assure that the restrictions contained in the Tax Regulatory Agreement will, subject to the terms of the Tax Regulatory Agreement, be binding upon all owners of the Project. The Borrower covenants to include such restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has notice of, and is bound by, the Tax Regulatory Agreement. Subject to the provisions of Section 7.06 of this Project Loan Agreement, the Governmental Lender and the Fiscal Agent shall have the right to seek specific performance of or injunctive relief to enforce the requirements of any covenants of the Borrower contained in the Tax Regulatory Agreement.

Section 5.13. *Damage, Destruction and Condemnation.* If prior to full payment of the Funding Loan (or provision for payment of the Funding Loan in accordance with the provisions of the Funding Loan Agreement) the Project or any portion of it is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Project or any portion of it shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, or shall be transferred pursuant to an agreement or settlement in lieu of eminent domain proceedings, the Borrower shall nevertheless be obligated to continue to pay the amounts specified in this Project Loan Agreement and in the Project Note to the extent the Project Loan is not prepaid in full in accordance with the terms of the Project Loan Documents.

Section 5.14. *Obligation of the Borrower To Acquire and Rehabilitate the Project.* The Borrower shall proceed with reasonable dispatch (and in no event later than required under the Financing Documents) to complete the acquisition, rehabilitation and equipping of the Project as required by the Financing Documents. If amounts on deposit in the Project Loan Fund designated for the Project and available to be disbursed to the Borrower are not sufficient to pay the costs of the acquisition, rehabilitation and equipping, the Borrower shall pay such additional costs from its own funds or other funds available to Borrower. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender Representative or the Funding Lender in respect of any such additional costs or to any diminution or abatement in the repayment of the Project Loan. None of the Fiscal Agent, the Governmental Lender, the Funding Lender, the Funding Lender Representative or the Servicer makes any representation or warranty, either express or implied, that money which will be paid into the Project Loan Fund or otherwise made available to the Borrower will be sufficient to complete the

Project, and none of the Fiscal Agent, the Governmental Lender, the Funding Lender, the Funding Lender Representative or the Servicer shall be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.15. *Filing of Financing Statements.* The Borrower shall file or record or cause to be filed or recorded on or prior to the Delivery Date all UCC financing statements which are required to be filed or recorded in order fully to protect and preserve the security interests relating to the priority of the Project Loan, the Funding Loan, the Pledged Security and the Security Instrument, and the rights and powers of the Governmental Lender, the Fiscal Agent and the Funding Lender in connection with such security interests. The Borrower shall cooperate with the Fiscal Agent in connection with the filing of any continuation statements for the purpose of continuing without lapse the effectiveness of such financing statements.

ARTICLE VI

INDEMNIFICATION

Section 6.01. *Indemnification.*

(a) ***Indemnification of the Governmental Lender.***

(i) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE GOVERNMENTAL LENDER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS PROJECT LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS PROJECT LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL NOTE, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE GOVERNMENTAL LENDER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER OR ANY OF ITS RESPECTIVE GOVERNING BOARD

MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE; PROVIDED, HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(ii) IT IS THE INTENTION OF THE PARTIES HERETO THAT THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS PROJECT LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN CONNECTION WITH THE ISSUANCE OF THE GOVERNMENTAL NOTE, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS PROJECT LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE GOVERNMENTAL LENDER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE GOVERNMENTAL LENDER THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE GOVERNMENTAL

LENDER AND THE BORROWER SHALL PAY THE GOVERNMENTAL LENDER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE GOVERNMENTAL LENDER; PROVIDED HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(iii) NOTWITHSTANDING ANY PROVISION OF THIS PROJECT LOAN AGREEMENT TO THE CONTRARY, THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM SUCH PARTY'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

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

Notwithstanding anything else in this Project Loan Agreement to the contrary, except as otherwise provided in Section 6.01(a)(iii), the Borrower shall be responsible for the fees, costs and expenses of counsel to the Governmental Lender and Fiscal Agent at all times; provided that the Governmental Lender maintains control of the selection of its counsel at all times.

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

(b) **Indemnified Losses for Fiscal Agent, Servicer and Funding Lender.** To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Fiscal Agent, the Servicer, the Funding Lender and each of their respective officers, governing commissioners, members, directors, officials, employees, attorneys and agents (collectively, the "**Indemnified Parties**" and individually an "**Indemnified Party**"), against any and all losses, damages (including, but not limited to, consequential and punitive damages), claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise (collectively, "**Losses**"), to the extent arising, directly or indirectly, out of or based upon or in any way relating to:

(i) any breach by the Borrower of its obligations under the Financing Documents or the execution, amendment, restructuring or enforcement thereof, or in connection with transactions contemplated thereby, including the issuance, sale, transfer or resale of the Governmental Note;

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

(iii) any accident, injury to, or death of persons or loss of or damage to property occurring in, on or about the Project or any part thereof;

(iv) any lien (other than liens permitted under the Continuing Covenant Agreement) or charge upon payments by the Borrower to the Servicer hereunder, or any Taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project (other than income and similar taxes on fees received or earned in connection therewith);

(v) any violation of any environmental law, rule or regulation with respect to, or the release of any hazardous materials from, the Project or any part thereof;

(vi) [Reserved];

(vii) the enforcement of, or any action taken by the Fiscal Agent or the Funding Lender Representative related to remedies under this Project Loan Agreement, the Funding Loan Agreement or any other Financing Document;

(viii) any untrue statement of a material fact or alleged untrue statement of a material fact by the Borrower contained in any offering statement or document for the Governmental Note or any of the Financing Documents to which the Borrower is a party, or any omission or alleged omission by the Borrower of a material fact from any offering statement or document for the Governmental Note necessary to be stated therein in order to make the statements made therein by the Borrower, in the light of the circumstances under which they were made, not misleading;

(ix) any declaration of taxability of interest on the Governmental Note (other than to a substantial user or related party) or allegations (or regulatory inquiry) that interest on the Governmental Note is includable in gross income for federal income tax purposes;

(x) any audit or inquiry by the Internal Revenue Service with respect to the Project and/or the tax-exempt status of the Governmental Note; or

(xi) the Fiscal Agent's acceptance or administration of the trust of the Funding Loan Agreement, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Governmental Note to which it is a party;

except (A) in the case of the foregoing indemnification of the Fiscal Agent, or any of its respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the negligence, unlawful acts or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the Servicer or the Funding Lender or any of their respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the gross negligence or willful misconduct of the Servicer or the Funding Lender.

Except as set forth in the Project Note, and notwithstanding the foregoing, during the Permanent Phase, nothing in this section (b) shall impose any recourse liability on the Borrower, the Sole Member or the partners of the Sole Member for the payment of any principal or interest on the Project Loan.

(c) **Procedures.** In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from such Indemnified Party, shall 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; provided, however, the failure to give such notice shall not affect the indemnification obligations of the Borrower hereunder, except (other than with respect to the Governmental Lender) to the extent the Borrower shall have been prejudiced by such failure and such failure could not be mitigated or remedied and arose directly from the negligence or willful misconduct of the Indemnified Party. 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's good faith judgment, 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) **Borrower to Remain Obligated.** Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Project Loan Agreement, the Security Instrument and the Tax Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer unless (i) such subsequent owner assumed in writing at the time of such transfer all obligations of the Borrower under this Section 6.01 (including obligations under this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer) and (ii) any such transfer is in compliance with the requirements of the Financing Documents.

(e) **Survival.** The provisions of this Section 6.01 shall survive the termination of this Project Loan Agreement.

Section 6.02. *Limitation With Respect to the Funding Lender.* Notwithstanding anything in this Project Loan Agreement to the contrary, in the event that the Funding Lender (or its nominee) shall become the owner of the Project as a result of a foreclosure or a deed in lieu of foreclosure, or comparable conversion of the Project Loan, the Funding Lender (or its nominee) shall not be liable for any breach or default of any prior owner of the Project under this Project Loan Agreement and shall only be responsible for defaults and obligations incurred or occurring during the period that the Funding Lender (or its nominee) is the owner of the Project. Accordingly, during any period that the Funding Lender (or its nominee) owns the Project and that this Article VI is applicable to the Funding Lender (or its nominee), the Funding Lender's (or its nominee's) obligations under this Article VI shall be limited to acts and omissions of the Funding Lender (or its nominee) occurring during the period of the Funding Lender's (or its nominee's) ownership of the Project.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. *Events of Default.* The following shall be “**Events of Default**” under this Project Loan Agreement, and the term “Event of Default” shall mean, whenever it is used in this Project Loan Agreement, one or all of the following events:

(a) Any representation or warranty made by the Borrower in the Financing Documents or any certificate, statement, data or information furnished by the Borrower in connection therewith or included by the Borrower in its application to the Governmental Lender for assistance proves at any time to have been incorrect when made in any material respect;

(b) Failure by the Borrower to pay any amounts due under this Project Loan Agreement, the Project Note or the Security Instrument at the times and in the amounts required by this Project Loan Agreement, the Project Note and the Security Instrument, subject to any applicable notice, grace and cure periods expressly provided for therein;

(c) The Borrower shall fail to observe or perform any other term, covenant, condition or agreement (after taking into account any applicable cure period) set forth in this Project Loan Agreement, which failure continues for a period of 30 days after notice of such failure by the Governmental Lender, the Fiscal Agent or the Funding Lender Representative to the Borrower (unless such default cannot with due diligence be cured within 30 days but can be cured within a reasonable period and will not, in the Funding Lender Representative's sole discretion, adversely affect the Funding Lender or result in impairment of this Project Loan Agreement or any other Financing Document, in which case no Event of Default shall be deemed to exist so long as Borrower shall have commenced to cure the default or Event of Default within 30 days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion); provided, however, no such notice or grace periods shall apply in the case of any such failure which could, in the Funding Lender Representative's judgment, absent immediate exercise by the Funding Lender Representative of a right or remedy under this Agreement, result in harm

to the Funding Lender, impairment of this Project Loan Agreement or any other Financing Document;

(d) The occurrence of a default under the Continuing Covenant Agreement or the Security Instrument (after taking into account any applicable cure period thereunder) shall at the discretion of the Funding Lender Representative constitute an Event of Default under this Project Loan Agreement but only if the Fiscal Agent is provided written notice by the Funding Lender Representative that an Event of Default has occurred under such Financing Document and the Fiscal Agent is instructed by the Funding Lender Representative that such default constitutes an Event of Default hereunder. The occurrence of an Event of Default hereunder shall in the discretion of the Funding Lender Representative constitute a default under the other Financing Documents;

Nothing contained in this Section 7.01 is intended to amend or modify any of the provisions of the Financing Documents or to bind the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative to any notice and cure periods other than as expressly set forth in the Financing Documents.

Notwithstanding the foregoing, the Tax Credit Investor or any of its successors, assigns or affiliates, shall have the right, but not the obligation, to cure such defaults, and the Governmental Lender shall accept such cure as if made by Borrower.

Section 7.02. Remedies on Default. Subject to Section 7.06 hereof, whenever any Event of Default hereunder shall have occurred and be continuing, the Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender), may take any one or more of the following remedial steps:

(a) The Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender) may take such action, without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Project Loan to be immediately due and payable (including, without limitation, declaring the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Project Note to be immediately due and payable).

(b) The Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender) may, without being required to give any notice (other than to the Governmental Lender or the Fiscal Agent, as applicable), except as provided herein, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.

(c) The Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender) may take whatever action at law or in equity may appear necessary or desirable to collect the payments under this Project Loan Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Project Loan Agreement.

In addition, subject to Section 7.06 hereof, the Governmental Lender and the Fiscal Agent may pursue remedies with respect to the Unassigned Rights.

Any amounts collected pursuant to Article IV hereof and any other amounts which would be applicable to payment of principal of and interest and any premium on the Funding Loan collected pursuant to action taken under this Section 7.02 shall be applied in accordance with the provisions of the Funding Loan Agreement.

Section 7.03. *No Remedy Exclusive.* Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available against the Borrower hereunder or under the Financing Documents or otherwise at law or in equity may be exercised by the Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender), at any time and from time to time, whether or not the Funding Lender has accelerated the Project Loan, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Financing Documents. No remedy conferred upon or reserved to the Funding Lender or the Fiscal Agent by this Project Loan Agreement 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 Project Loan Agreement 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 Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender) 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 expressly required by this Project Loan Agreement.

Section 7.04. *Agreement to Pay Attorneys' Fees and Expenses.* In the event the Borrower shall default under any of the provisions of this Project Loan Agreement and the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative shall employ attorneys or incur other expenses for the collection of loan payments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Project Loan Agreement or in the Project Note, the Borrower shall on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred.

Section 7.05. *No Additional Waiver Implied by One Waiver.* In the event any agreement contained in this Project Loan Agreement shall be breached by any party and thereafter waived by the other parties, 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. *Control of Proceedings.*

(a) If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Project Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Project Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at

any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of the Fiscal Agent or the Governmental Lender. In no event shall the exercise of any of the foregoing rights result in an acceleration of the Project Loan without the express direction of the Funding Lender Representative.

(b) The Governmental Lender and the Fiscal Agent covenant that they will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

(i) prosecute any action with respect to a lien on the Project; or

(ii) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Project Loan; or

(iii) interfere with or attempt to influence the exercise by the Funding Lender Representative of any of its rights under the Financing Documents upon the occurrence of any event of default by the Borrower under the Financing Documents; or

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

(c) Notwithstanding Sections 7.06(a) and 7.06(b) hereof, the Governmental Lender or the Fiscal Agent may:

(i) specifically enforce the tax covenants of the Borrower specified in Section 2.04 and 2.05 hereof and in the Tax Exemption Agreement or seek injunctive relief against acts which may be in violation thereof;

(ii) specifically enforce the Tax Regulatory Agreement or seek injunctive relief against acts which may be in violation of the Tax Regulatory Agreement or are otherwise inconsistent with the operation of the Project in accordance with applicable requirements of the Code and state law;

(iii) but in neither the case of subsection (c)(i) above nor this subsection (c)(ii) may the Governmental Lender or the Fiscal Agent seek any form of monetary damages from the Borrower in connection with such enforcement.

In addition, notwithstanding Section 7.06(a) and 7.06(b) hereof, the Governmental Lender and the Fiscal Agent may seek specific performance of the other Unassigned Rights (provided no monetary damages are sought), and nothing herein shall be construed to limit the rights of the Governmental Lender, the Fiscal Agent or any Indemnified Party related to the Governmental Lender or the Fiscal Agent under Section 6.01 hereof (each a "Related Indemnified Party") to enforce their respective rights against the Borrower under Sections 4.02, 4.03, 6.01 and 7.04 hereof, provided that no obligation of the Borrower to the Governmental Lender, the Fiscal Agent or any Related Indemnified Party under such sections shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Governmental

Lender, the Fiscal Agent or any Related Indemnified Party, and all such obligations are and shall be subordinate in priority, in right to payment and in all other respects to all other obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Financing Documents (except for the Fiscal Agent's right to receive payment of reasonable fees and expenses pursuant to Section 6.05(a) of the Funding Loan Agreement after an event of default with respect to the Funding Loan, which reasonable fees and expenses of the Fiscal Agent shall be payable as provided thereunder). Accordingly, none of the Governmental Lender, the Fiscal Agent or any Related Indemnified Party shall have the right to enforce any monetary obligation arising under such sections other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Section 7.07. Assumption of Obligations. In the event that the Fiscal Agent or the Funding Lender or their respective assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Project Loan Agreement, the Project Note, the Tax Regulatory Agreement, and any other Financing Documents to which the Borrower is a party or with respect to which it is a third-party beneficiary. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notices.

(a) Whenever in this Project Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth in Section 11.04 of the Funding Loan Agreement or as required or permitted by this Project Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Funding Lender Representative and a duplicate copy of each notice or other communication given hereunder by any party to the Funding Lender Representative shall be given to the Servicer.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Project Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative and the Servicer (i) prompt notice of the occurrence of any Event of Default hereunder and (ii) any written information or other communication received by the Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from the Funding Lender Representative for any such information or other communication.

Section 8.02. *Concerning Successors and Assigns.* All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the financing herein contemplated and shall continue in full force and effect so long as the obligations hereunder are outstanding. Whenever in this Project Loan Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Project Loan Agreement shall bind its successors and assigns and inure to the benefit of the successors and assigns of the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender and the Funding Lender Representative, as applicable.

Section 8.03. *Governing Law.* This Project Loan Agreement and the Exhibits attached hereto shall be construed in accordance with and governed by the internal laws of the State and, where applicable, the laws of the United States of America.

Section 8.04. *Modifications in Writing.* Modification or the waiver of any provisions of this Project Loan Agreement or consent to any departure by the parties therefrom, shall in no event be effective unless the same shall be in writing approved by the parties hereto and shall require the prior written consent of the Funding Lender Representative and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle it to any other or further notice or demand in the same circumstances.

Section 8.05. *Further Assurances and Corrective Instruments.* The Governmental Lender, the Fiscal Agent and the Borrower agree that they 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 (including such supplements or further instruments requested by the Funding Lender Representative) for correcting any inadequate or incorrect description of the performance of this Project Loan Agreement.

Section 8.06. *Captions.* The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Project Loan Agreement.

Section 8.07. Severability. The invalidity or unenforceability of any provision of this Project Loan Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

Section 8.08. Counterparts. This Project Loan Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 8.09. Amounts Remaining in Loan Payment Fund or Other Funds. It is agreed by the parties hereto that any amounts remaining in the Loan Payment Fund or other funds and accounts established under the Funding Loan Agreement upon expiration or sooner termination of the term hereof and the repayment in full of the Project Loan and all other amounts owing under the Project Loan Documents, shall be paid in accordance with the Funding Loan Agreement.

Section 8.10. Effective Date and Term. This Project Loan Agreement shall become effective upon its execution and delivery by the parties hereto, shall be effective and remain in full force from the date hereof, and, subject to the provisions hereof, shall expire on such date as the Funding Loan Agreement shall terminate.

Section 8.11. Cross References. Any reference in this Project Loan Agreement to an “Exhibit,” an “Article,” a “Section,” a “Subsection” or a “Paragraph” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit attached to this Project Loan Agreement, an article of this Project Loan Agreement, a section of this Project Loan Agreement, a subsection of the section of this Project Loan Agreement in which the reference appears and a paragraph of the subsection within this Project Loan Agreement in which the reference appears. All exhibits attached to or referred to in this Project Loan Agreement are incorporated by reference into this Project Loan Agreement.

Section 8.12. Funding Lender Representative and Servicer as Third-Party Beneficiaries. The parties hereto agree and acknowledge that the Funding Lender Representative and the Servicer are third party beneficiaries of this Project Loan Agreement.

Section 8.13. Reserved.

Section 8.14. Non-Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or Prepayment Premium) of or interest on the Funding Loan, except from Revenues and other money and assets received by the Fiscal Agent on behalf of the Governmental Lender pursuant to this Project Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of the Governmental Lender or any member is pledged to the payment of the principal (or prepayment premium) or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Project Loan Agreement, the Funding Loan or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Project Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender’s sole source of money to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to

this Project Loan Agreement, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment premium) and interest on the Funding Loan as the same shall become due (whether by maturity, prepayment, acceleration or otherwise), then upon notice from the Fiscal Agent, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment premium) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Fiscal Agent, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Fiscal Agent, the Governmental Lender or any such third party, as the case may be, therefor.

Section 8.15. *No Liability of Officers.* No recourse under or upon any obligation, covenant, or agreement or in the Governmental Note, or under any judgment obtained against the Governmental Lender, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner, employee, agent or officer, as such, past, present, or future, of the Governmental Lender, either directly or through the Governmental Lender, or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may be due and unpaid by the Governmental Lender upon the Funding Loan. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner, employee, agent or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may remain due and unpaid upon the Funding Loan, is hereby expressly waived and released as a condition of and consideration for the execution of this Project Loan Agreement and the issuance of the Governmental Note.

Section 8.16. *Capacity of the Fiscal Agent.* The Fiscal Agent is entering into this Project Loan Agreement solely in its capacity as Fiscal Agent and shall be entitled to the rights, protections, limitations from liability and immunities afforded it as Fiscal Agent under the Funding Loan Agreement. The Fiscal Agent shall be responsible only for the duties of the Fiscal Agent expressly set forth herein and in the Funding Loan Agreement.

Section 8.17. *Reliance.* The representations, covenants, agreements and warranties set forth in this Project Loan Agreement may be relied upon by the Governmental Lender, the Fiscal Agent, Bond Counsel, the Servicer, the Funding Lender and the Funding Lender Representative. In performing their duties and obligations under this Project Loan Agreement and under the Funding Loan Agreement, the Governmental Lender and the Fiscal Agent may rely upon statements and certificates of the Borrower, upon certificates of tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project. In addition, the Governmental Lender and the Fiscal Agent may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender or the Fiscal Agent under this Project Loan Agreement and under the Funding Loan Agreement in good faith and in conformity with the opinion of such counsel. It is

expressly understood and agreed by the parties to this Project Loan Agreement (other than the Governmental Lender) that:

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

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

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

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Project Loan Agreement, all as of the date first set forth above.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____

Name: James B. "Beau" Eccles

Title: Secretary to the Board

**U.S. BANK, NATIONAL ASSOCIATION, as
Fiscal Agent**

By: _____
Name: _____
Title: _____

**HOUSTON LEASED HOUSING ASSOCIATES
OWNER VIII, LLC,**
a Minnesota limited liability company,
as Borrower

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

EXHIBIT A

\$28,000,000

Texas Department of Housing and Community Affairs
Multifamily Note (Vermillion Apartments)
Series 2020

COMPLETION CERTIFICATE

Pursuant to Section 2.06 of the Project Loan Agreement (the “**Project Loan Agreement**”) among the Texas Department of Housing and Community Affairs (the “**Governmental Lender**”) and Houston Leased Housing Associates Owner VIII, LLC, a Minnesota limited liability company (the “**Borrower**”) and the Fiscal Agent named therein, dated as of August 1, 2020, relating to the captioned Governmental Note, the undersigned Authorized Officer of the Borrower hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Project Loan Agreement or the Tax Exemption Agreement):

(a) The Project was substantially completed and available and suitable for use as multifamily housing on _____ (the “**Completion Date**”).

(b) The acquisition, construction, equipping and improvement of the Project has been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar Governmental regulations.

(c) The costs of the Project financed with the loans from the Governmental Lender were \$ _____.

(d) [Reserved].

(e) The proceeds of the Governmental Note were used in accordance with the requirements of the Tax Exemption Agreement, including the requirement that at least 95% of the proceeds of the Governmental Note be expended for Qualified Project Costs and no more than 2% of the proceeds of the Governmental Note be expended for Costs of Issuance. The Project will be operated in accordance with the terms of the Tax Exemption Agreement and the Regulatory Agreement.

(f) 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 Officer has set his or her hand as of the _____ day of _____, 20__.

Authorized Officer

By: _____

REGULATORY AND LAND USE RESTRICTION AGREEMENT

Among

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

U.S. BANK, NATIONAL ASSOCIATION,
a national banking association,
as Fiscal Agent,

and

HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC,
a Minnesota limited liability company,
as Borrower

Dated as of August 1, 2020

Relating to

Vermillion Apartments
Houston, Harris County, Texas 77021

Original Governmental Note Principal Amount: \$28,000,000

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REGULATORY AND LAND USE RESTRICTION AGREEMENT

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (as amended, modified or supplemented from time to time, this “**Agreement**” or this “**Regulatory Agreement**”) dated as of August 1, 2020 is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “**Governmental Lender**”), a public and official agency of the State of Texas (the “**State**”), **U.S. BANK, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Fiscal Agent under the hereinafter defined Funding Loan Agreement (together with any successor fiscal agent under the Funding Loan Agreement described below and their respective successors and assigns, the “**Fiscal Agent**”), and **HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC**, a Minnesota limited liability company (together with its permitted successors and assigns, the “**Owner**” or “**Borrower**”).

RECITALS

WHEREAS, pursuant to the Act (as hereinafter defined), the Governmental Lender is authorized to issue the Governmental Note (as defined herein) and to use the proceeds thereof to provide monies to aid in financing the acquisition, equipping and rehabilitation of residential rental property for dwelling units in the State; and

WHEREAS, the Borrower has requested the assistance of the Governmental Lender in financing a multifamily residential rental housing development located on the real property described in Exhibit A hereto (as defined herein, the “**Development Site**”) and described in Exhibit B-1 hereto (as defined herein, the “**Development Facilities**” and, together with the Development Site, the “**Development**”), and, as a condition to such assistance, the Borrower has agreed to enter into this Regulatory Agreement, setting forth certain restrictions with respect to the Development; and

WHEREAS, the Governmental Lender has determined to assist in the financing of the Development by issuing its Multifamily Note (Vermillion Apartments), Series 2020 in the aggregate principal amount of \$28,000,000 (the “**Governmental Note**”), and loaning the proceeds of such Governmental Note to the Borrower, upon the terms and conditions set forth in the Project Loan Agreement (as hereinafter defined); and

WHEREAS, in order for interest on the Governmental Note to be excluded from gross income for federal income tax purposes under the Code (as defined herein), and in order to comply with the Act, the use and operation of the Development must be restricted in certain respects; and

WHEREAS, the Governmental Lender, the Fiscal Agent and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, equipping, rehabilitation and operation of the Development and in order to ensure that the Development will be acquired, rehabilitated, used and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Governmental Lender, the Fiscal Agent and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. In addition to terms defined above, capitalized terms have the respective meanings assigned to them in this Section 1 or as elsewhere defined in this

Regulatory Agreement, in the Funding Loan Agreement, the Project Loan Agreement, or the Tax Exemption Agreement, unless the context in which they are used clearly requires otherwise:

“Act” means Chapter 2306, Texas Government Code, as amended from time to time.

“Agreement” or “Regulatory Agreement” means this Regulatory and Land Use Restriction Agreement, as it may be amended from time to time.

“Annual Income” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by Section 142(d) of the Code.

“Available Unit” means a Unit (except for any Unit reserved for a resident manager, security personnel or maintenance personnel that is reasonably required for the Development) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Development is acquired by the Borrower or (ii) the Delivery Date is not an “available unit” and does not become an “available unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “available unit” and does not become an “available unit” until it has been leased for the first time after the renovations are completed.

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

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent and successor Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Compliance Monitoring Rules” means the rules published by the Governmental Lender in Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code.

“Delivery Date” has the meaning given such term in the Funding Loan Agreement.

“Development” means the Development Facilities and the Development Site.

“Development Amenities” means the amenities for which the Development was awarded points by the Governmental Lender, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process, as more fully set forth in Exhibit B-2 hereto.

“Development Facilities” means the multifamily housing structures and related buildings and other improvements on the Development Site as more fully set forth in Exhibit B-1 hereto, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Development.

“Development Site” means the parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances appertaining thereunto.

“Eligible Tenants” means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined by the Governmental Lender under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability of interest payable on the Governmental Note from gross income for federal income tax purposes under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Note or other customary exceptions acceptable to the recipient(s) thereof).

“Funding Lender” has the meaning set forth in the Funding Loan Agreement.

“Funding Loan Agreement” means the Funding Loan Agreement of even date herewith among the Governmental Lender, the Funding Lender and the Fiscal Agent, relating to the issuance of the Governmental Note, and any funding loan agreement supplemental thereto.

“Housing Act” means the United States Housing Act of 1937, as amended, or a successor thereto.

“HUD” means the United States Department of Housing and Urban Development or its successors.

“Low-Income Tenant” means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under Sections 142(d)(2)(B) and (D) of the Code and in accordance with this Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of Section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under Section 42(i)(3)(D) of the Code.

“Low-Income Unit” means a Unit that is included as a Unit satisfying the requirements of the Set Aside.

“Multifamily Tax Subsidy Program Income Limit” (or successor term) means the income limits provided by HUD pursuant to Section 142(d) of the Code.

“Official Intent Date” means February 27, 2020.

“Organizational Documents” means (i) with respect to the Borrower, the Amended and Restated Operating Agreement of the Borrower dated as of [_____], and (ii) with respect to the Sole Member, the Amended and Restated Agreement of Limited Liability Limited Partnership of the Sole Member dated as of [_____], as any of the foregoing may be amended, modified, supplemented or restated from time to time.

“Persons with Special Needs” means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Governmental Lender as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Governmental Lender.

“Project Loan Agreement” means the Project Loan Agreement of even date herewith among the Governmental Lender, the Borrower and the Fiscal Agent, as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Funding Loan Agreement.

“Qualified Project Period” means, with respect to the Development, the period beginning on the first day on which 10 percent of the Units are occupied (which date may be the Delivery Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 % of the Units are occupied (which date may be the Delivery Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Development is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Development under Section 8 of the Housing Act terminates.

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

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Reserve” means the reserve required to be established by the Continuing Covenant Agreement dated as of the date hereof by and between the Borrower and the Funding Lender.

“Security Instrument” means, collectively, the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, and an Assignment of Rents and Leases, from the Borrower, as the grantor, in favor of Governmental Lender, and any amendments thereto.

“Set Aside” means the requirement that at least 40% of the available units be occupied or set aside for occupancy at all times by Low-Income Tenants.

“Sole Member” means Houston Leased Housing Associates VIII, LLLP, a limited liability limited partnership duly organized and existing under the laws of the state of Minnesota, as the sole member of Borrower, and its permitted successors and assigns.

“State Conversion Date” means the date of the first amortization payment on the Project Note relating to the Project Loan.

“State Reserve Period” means, with respect to the Development, the period beginning on the State Conversion Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Development; (b) the date on which the Borrower suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored; (c) the date on which the Development is demolished; (d) the date on which the Development ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

“State Restrictive Period” means, with respect to the Development, the period beginning on the first day on which the Borrower takes legal possession of the Development, and ending on the latest of (a) the date that is 30 years after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Development is outstanding for federal income

tax purposes, and (c) the date on which any assistance provided with respect to the Development from the federal government terminates.

“Tax Exemption Agreement” means the Tax Exemption Certificate and Agreement of even date herewith, among the Governmental Lender, the Borrower, and the Fiscal Agent, as in effect on the Delivery Date and as it may thereafter be amended, supplemented or restated in accordance with its terms.

“Tenant Income Certification” means a certification form available on the Governmental Lender’s website at the time of submission used to certify income and other matters executed by the household members of each Unit in the Development.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Development; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code).

“Unit Status Report” means the certified residential rental housing program compliance report with respect to the Development to be filed by the Borrower with the Governmental Lender electronically through the filing system available on the Governmental Lender’s website in the form available on the Governmental Lender’s website at the time of submission of the report or in such other form as the Governmental Lender may reasonably prescribe in writing to the Borrower pursuant to Section 4(e) hereof.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender include each other gender, and words of the singular number include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof are to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms are to be determined by reference to this Section 1, notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and do not in any way modify or restrict any of the terms or provisions hereof and are not to be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

Section 1A. Acquisition, Equipping and Rehabilitation of the Development. The Borrower hereby represents, covenants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Governmental Lender or the Fiscal Agent (or both), including specifically the representations and expectations set forth in the Tax Exemption Agreement, are true and correct in all material respects.

(b) The Borrower will submit to the Governmental Lender and the Fiscal Agent evidence of construction completion as required in the Project Loan Agreement and within 30 days of completion in the format prescribed by the Governmental Lender as required pursuant to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code. The Borrower further agrees to cause the architect of record to submit a certification that the Development was rehabilitated in compliance with all applicable laws and the engineer of record (if applicable) must submit a certification that the Development was rehabilitated in compliance with design requirements.

(c) The Borrower will take or not fail to take, as is applicable, all actions necessary to cause the proceeds of the Governmental Note to be applied in a manner consistent with the requirements of the Funding Loan Agreement, the Project Loan Agreement, the Tax Exemption Agreement and this Regulatory Agreement. The Borrower acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Borrower and the Development.

(d) The Borrower is a qualified “housing sponsor” as defined in the Act.

(e) The Borrower will not seek an exemption from ad valorem taxation for the Development without prior written notice to the Governmental Lender.

Section 2. Tax-Exempt Status of the Governmental Note. The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Governmental Note from gross income for federal income tax purposes (subject to the inclusion of any exceptions contained in the opinion delivered upon the original issuance of the Governmental Note). With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that prior to the final maturity of the Governmental Note, unless it has received and filed with the Governmental Lender and Fiscal Agent a Favorable Opinion of Bond Counsel:

(a) That the Development will be owned, managed and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Development will be comprised of residential Units and facilities functionally related and subordinate thereto, in accordance with Section 142(d) of the Code;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Development will be functionally related and subordinate to the Units comprising the Development and will be of a character and size that is commensurate with the character and size of the Development;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than six months (unless the Unit serves as a single room occupancy unit or transitional housing for the homeless (as described in Section 42(i)(3)(B) of the Code), in which case such lease may be on a month-to-month basis) or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Development will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one

or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Development will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Development tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Development, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Development that contains fewer than five Units be occupied by the Borrower;

(viii) that each Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in this Regulatory Agreement, the Tax Exemption Agreement and the Project Loan Agreement) at all times during the longer of (A) the remaining term of the Governmental Note or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low-Income Tenants and other Eligible Tenants as provided herein, and that at no time will any portion of the Development be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that except, if applicable, during the 12-month "transition period" beginning on the Delivery Date, as provided under Revenue Procedure 2004-39, 2004-2 C.B. 49, the Development will meet the Set Aside. For the purposes of this Section 2(a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low-Income Tenant of the same family size and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file (A) Tenant Income Certifications and supporting documentation from each Low-Income Tenant dated immediately prior to the initial occupancy of such Low-Income Tenant in the Development and (B) thereafter, annual certification regarding, at a minimum, information regarding household composition and student status in the form available on the Governmental Lender's website; provided that, if any Units in the Development are ever made available to tenants who are not Low-Income Tenants, then the Borrower will obtain, complete and

maintain annual Tenant Income Certifications in accordance with Section 142(d)(3)(A) of the Code. The Borrower will obtain such additional information as may be required in the future by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the income information provided by an applicant in any certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Governmental Lender's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Governmental Lender, the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Governmental Lender's website at the time of such submission to the Governmental Lender (via the electronic filing system available on the Governmental Lender's website) in accordance with Section 4(e) hereof. The Borrower will retain all documentation required by this Section 2(a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable prior written notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Governmental Lender, the Fiscal Agent, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect and photocopy the books and records of the Borrower pertaining to the Development, including those records pertaining to the occupancy of the Low-Income Units. The Borrower will retain all records maintained in accordance with this Section 2(b) until the date that is three years after the end of the Qualified Project Period.

(c) That, as of the Delivery Date, at least 50% of the Units are occupied. The Borrower will provide to the Fiscal Agent and the Governmental Lender on the Delivery Date a certificate in the form attached hereto as Exhibit E certifying the dates on which (i) 10% of the Units were occupied, and (ii) 50% of the Units were occupied..

(d) That the Borrower will prepare and submit to the Governmental Lender and the Fiscal Agent, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form; however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in this Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Governmental Lender and the Fiscal Agent may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower

in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower hereunder or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Governmental Note.

Section 3. Modification of Tax and Other Restrictive Covenants. The Borrower, the Fiscal Agent and the Governmental Lender hereby agree as follows:

(a) During the Qualified Project Period and the State Restrictive Period, to the extent any amendments to the Act or the Code, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent, the Funding Lender, and the Borrower, impose requirements upon the ownership or operation of the Development more restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as is necessary to document such automatic amendment hereof. In addition, this Regulatory Agreement will be amended to the extent required by, and in accordance with, the Project Loan Agreement.

(b) During the Qualified Project Period and the State Restrictive Period, to the extent that the Act, the Code, or any amendments thereto, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent, the Funding Lender, and the Borrower, impose requirements upon the ownership or operation of the Development less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, the Fiscal Agent and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All costs, including fees and out-of-pocket expenses actually incurred by the Governmental Lender and the Fiscal Agent, in connection with compliance with the requirements of this Section will be paid by the Borrower and its successors in interest.

Section 4. Housing Development During the State Restrictive Period. The Governmental Lender and the Borrower hereby recognize and declare their understanding and intent that the Development is to be owned, managed and operated as a “housing development,” as such term is defined in Section 2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Governmental Lender until the expiration of the State Restrictive Period.

To the same end, the Borrower hereby represents, covenants and agrees as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Development, to assure that 100% of the Units are reserved for Eligible Tenants;

(b) to assure that the provisions of Sections 2(a)(viii) and 2(a)(ix) hereof continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant in the Development (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant’s initial occupancy of a Unit in the Development, and, if required as described in (a)(x) hereof, at least annually thereafter in the manner as described in (a)(x) hereof, and to

maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant in the Development (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Governmental Lender to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument and this Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of this Regulatory Agreement and the Project Loan Agreement are substantial and material obligations of tenancy in the Development, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Fiscal Agent and the Governmental Lender, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;

(e) to cause to be prepared and submitted to the Governmental Lender (via the electronic filing system available on the Governmental Lender's website) by the tenth calendar day of each January, April, July and October or other schedule as determined by the Governmental Lender with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Governmental Lender's website at the time of submission or in such other form as the Governmental Lender may reasonably prescribe in writing to the Borrower with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable prior written notice to permit any duly authorized representative of the Governmental Lender, the Funding Lender or the Fiscal Agent to inspect the books and records of the Borrower pertaining to the Development or the incomes of Development tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Governmental Lender's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Governmental Lender's website) the Annual Owner's Compliance Report to the Governmental Lender in the form available on the Governmental Lender's website at the time of submission by April 30 of each year, commencing April 30, 2022;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached hereto as Exhibit C in the manner provided in such Exhibit or from any additional supportive services added to the Governmental Lender's rules at any future date, as agreed to in writing by the Governmental Lender in accordance with Title 10, Part 1, Chapter 10, Subchapter E, Section 10.405 of the Texas Administrative Code. The Borrower must maintain documentation satisfactory to the Governmental Lender of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Governmental Lender upon request. The Borrower must provide the social services throughout the State Restrictive Period.

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, regarding tenant and manager selection, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Development sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Governmental Lender must first provide notice of any default or breach to Borrower and the Funding Lender, and the Borrower will have 30 days following receipt of such notice to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Development pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Development with, a housing developer that (i) is on the Governmental Lender's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Governmental Lender with respect to its compliance and oversight requirements and to cause the manager of the Development to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under Section 2(a)(ix) hereof will be distributed evenly throughout the Development and will include a reasonably proportionate amount of each type of Unit available in the Development; and

(o) to ensure that the Development conforms to the federal Fair Housing Act.

Section 4.A. Repairs and Maintenance Required by State Law. The Borrower will maintain the Replacement Reserve required by and created pursuant to the Continuing Covenant Agreement or a similar account for the longer of: (a) the period of time required pursuant to the Continuing Covenant Agreement, or (b) the State Reserve Period as required by Section 2306.186 of the Texas Government Code.

Section 4.B. Development Amenities. The Borrower hereby represents, covenants and agrees that the Development will include the Development Amenities as described in Exhibit B-2 attached hereto.

Section 5. **[Reserved]**

Section 6. Persons With Special Needs. The Borrower represents, covenants and warrants that during the State Restrictive Period, it will make at least 5% of the Units within the Development available for occupancy by Persons with Special Needs.

Section 7. Consideration. The Governmental Lender has issued the Governmental Note to provide funds to make the Project Loan to finance the Development, all for the purpose, among others, of inducing the Borrower to acquire, rehabilitate, equip and operate the Development. In consideration of the issuance of the Governmental Note by the Governmental Lender, the Borrower has entered into this

Regulatory Agreement and has agreed to restrict the uses to which the Development can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Governmental Lender, the Fiscal Agent and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality and validity of the Governmental Note, and in the excludability of interest on the Governmental Note from gross income for federal income tax purposes under existing law. In performing their duties and obligations hereunder, the Borrower, the Governmental Lender and the Fiscal Agent may rely upon statements and certificates of the Low-Income Tenants or Eligible Tenants and the Governmental Lender and the Fiscal Agent may rely upon (i) statements and certifications by the Borrower; (ii) audits of the books and records of the Borrower pertaining to the Development; and (iii) with respect to the Fiscal Agent, any other information provided to the Fiscal Agent, pursuant to this Regulatory Agreement. In addition, the Governmental Lender, the Borrower and the Fiscal Agent may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender, the Borrower or the Fiscal Agent hereunder in good faith and in conformity with such opinion. In determining whether any default by the Borrower exists under this Regulatory Agreement, the Fiscal Agent is not required to conduct any investigation into or review of the operations or records of the Borrower and may rely on any written report, notice or certificate or other information delivered to the Fiscal Agent, as required by this Regulatory Agreement, by any Person retained to review the Borrower's compliance with this Regulatory Agreement or by the Borrower or the Governmental Lender with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice or certificate is erroneous or misleading.

Section 9. Development in Harris County. The Borrower hereby represents that the Development is located entirely within Harris County, Texas.

Section 10. Sale or Transfer of the Development or Change in Managing Member.

(a) The Borrower covenants and agrees not to sell, transfer or otherwise dispose of the Development, prior to the expiration of the Qualified Project Period (other than pursuant to the lease of Units to Eligible Tenants), without (i) providing 30 days prior written notice to the Governmental Lender, (ii) complying with any applicable provisions of this Regulatory Agreement, the Project Loan Agreement, the Tax Exemption Agreement and other Project Loan Documents and (iii) obtaining the prior written consent of the Governmental Lender. Such consent of the Governmental Lender will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by the Governmental Lender: (A) there is delivered to the Fiscal Agent and the Governmental Lender a written opinion of independent legal counsel reasonably satisfactory to the Fiscal Agent and the Governmental Lender, addressed to the Fiscal Agent and the Governmental Lender, concluding that the transferee has duly assumed all of the rights and obligations of the Borrower under this Regulatory Agreement, the Project Loan Agreement, the Tax Exemption Agreement and the other Project Loan Documents and that each of the documents executed by the transferee in connection therewith has been duly authorized, executed and delivered by the transferee and is a valid and enforceable obligation of the transferee, subject to customary qualifications, (B) the Governmental Lender receives a Favorable Opinion of Bond Counsel, with a copy to the Fiscal Agent, which opinion will be furnished at the expense of the Borrower or the transferee, (C) the Governmental Lender receives an assumption fee equal to 0.25% of the principal balance of the Governmental Note Outstanding at the time of such transfer, (D) the proposed purchaser or assignee executes any document requested by the Governmental Lender with respect to assuming the obligations of the Borrower under this Regulatory Agreement, the Project Loan Agreement, the Tax Exemption

Agreement and the other Project Loan Documents, and (E) the Governmental Lender has performed a previous participation review on the proposed purchaser or assignee or any affiliated party, the results of which are satisfactory to the Governmental Lender in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Governmental Lender does not further have any reason to believe the proposed purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or assignee relating to the Development, including but not limited to this Regulatory Agreement, the Project Loan Agreement, the Security Instrument and other Project Loan Documents. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Governmental Lender, provided that written notice thereof has been provided to the Governmental Lender, (a) the transfer by Tax Credit Investor of its non-controlling interest in the Sole Member in accordance with the terms of Organizational Documents of the Sole Member, (b) the removal of the general partner of the Sole Member in accordance with the Organizational Documents and the temporary replacement thereof with Tax Credit Investor or any of its affiliates, (c) the transfer of ownership interests in Tax Credit Investor, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of Tax Credit Investor in the Sole Member to the general partner of the Sole Member or any of its affiliates, and (e) any amendment to the Organizational Documents to memorialize the transfers or removal described above. For the purposes of the preceding sentence, "Control" or "Controlling" has the meaning given to such term in Title 10, Part 1, Subchapter A, Section 11.1, Texas Administrative Code. The Borrower hereby expressly stipulates and agrees that any sale, transfer or other disposition of the Development in violation of this subsection will be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Upon any sale, transfer or other disposition of the Development in compliance with this Regulatory Agreement, the Borrower so selling, transferring or otherwise disposing of the Development will have no further liability for obligations under the Project Loan Agreement, this Regulatory Agreement or any loan document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Borrower as set forth in the Project Loan Agreement, this Regulatory Agreement or any loan document with respect to matters arising prior to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Development.

(b) No transfer of the Development will release the Borrower from its obligations under this Regulatory Agreement arising prior to the date of such transfer, but any such transfer in accordance with this Regulatory Agreement will relieve the Borrower of further liability for obligations under this Regulatory Agreement or the Security Instrument arising after the date of such transfer.

(c) (c) Except as set forth in Section 10(a) above, the Borrower will not change the Sole Member or the general partner of the Sole Member by transfer, sale or otherwise without the prior written consent of the Governmental Lender, which consent will not be unreasonably withheld. A change in the Sole Member or the general partner of the Sole Member includes any transfer of any controlling ownership interest in the Sole Member or the general partner of the Sole Member other than by death or incapacity. Notwithstanding the foregoing, the replacement of the Sole Member or the general partner of the Sole Member for cause in accordance with the Organizational Documents shall not require the consent of the Governmental Lender provided that (a) the Tax Credit Investor provide notice to the Governmental Lender as soon as possible following such replacement, (b) the Sole Member or the general partner of the Sole Member is replaced with

an affiliate of Tax Credit Investor (an “Investor Affiliate”), and (c) the Tax Credit Investor shall replace such Investor Affiliate within thirty (30) days of the replacement of the Sole Member, or the general partner of the Sole Member, as applicable, by the Investor Affiliate with a new managing member or general partner, as applicable, approved by the Governmental Lender in its reasonable discretion.

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Note, discharge of the Project Loan, termination of the Project Loan Agreement and defeasance or termination of the Funding Loan Agreement; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein will terminate, without the requirement of any consent by the Governmental Lender or the Fiscal Agent, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Delivery Date which prevents the Governmental Lender or the Fiscal Agent from enforcing the provisions hereof, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Governmental Note is retired in full or amounts received as a consequence of such event are used to provide a “qualified residential rental project” that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in Sections 1A through 6, 10, 11 and 12 of this Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Development for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Governmental Lender, the Fiscal Agent and the Borrower upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Governmental Lender and the Fiscal Agent incurred in connection with the termination of this Regulatory Agreement will be paid by the Borrower and its successors in interest.

Section 12. Covenants To Run With the Land. The Borrower hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender, the Fiscal Agent and the Borrower hereby declare that the covenants, reservations and restrictions set forth herein are covenants running with the land and will pass to and be binding upon the Borrower’s successors in title to the Development; provided, however, that upon the termination of this Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof prior to the termination of this Regulatory Agreement will conclusively be held to have

been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

No breach of any of the provisions of this Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Development or any portion thereof.

Section 13. Burden and Benefit. The Governmental Lender, the Fiscal Agent and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Development is rendered less valuable thereby. The Governmental Lender, the Fiscal Agent and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Low-Income Tenants and Eligible Tenants and by furthering the public purposes for which the Governmental Note was issued.

Section 14. Uniformity; Common Plan. The covenants, reservations and restrictions hereof will apply uniformly to the entire Development in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 15. Default; Enforcement by the Fiscal Agent and Governmental Lender. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured by the Borrower for a period of 60 days after written notice thereof has been given by the Governmental Lender or the Fiscal Agent to the Borrower and the Tax Credit Investor, then the Fiscal Agent, acting on its own behalf or on behalf of the Governmental Lender, will declare an "Event of Default" to have occurred hereunder; provided, however, that, if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default will not constitute an Event of Default hereunder and will not be declared an Event of Default so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) the Borrower delivers to the Governmental Lender and the Fiscal Agent a Favorable Opinion of Bond Counsel. The Tax Credit Investor, or any of its successors, assigns or affiliates, shall have the right, but not the obligation, to cure such Event of Default and such cure shall be accepted as if made by the Borrower.

Section 16. Following the declaration of an Event of Default hereunder, the Fiscal Agent or the Governmental Lender, each subject to being indemnified to its satisfaction with respect to the costs and expenses of any proceeding may, at its option, take any one or more of the following steps:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender or the Fiscal Agent hereunder;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Development during regular business hours following reasonable prior written notice; and
- (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder;

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender and the Fiscal Agent may obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder. In addition, if the Governmental Lender succeeds in an action for specific performance of an obligation, covenant or agreement of the Borrower contained herein, it is entitled to the relief provided in Section 17(b) hereof to the extent provided in that provision.

All rights and remedies herein given or granted are cumulative, nonexclusive and in addition to any and all rights and remedies that the parties may have or may be given by reason of any law, statute, ordinance, document or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Governmental Lender will to the extent that it has actual knowledge thereof, by notice in writing, use its best efforts to inform the Fiscal Agent and the Borrower (provided that the failure to notify will not adversely affect the Governmental Lender's or the Fiscal Agent's rights under this Regulatory Agreement) that a violation of this Regulatory Agreement has occurred.

It is specifically declared that this Regulatory Agreement or obligations hereunder may not be enforced by tenants or prospective tenants of the Development (except as described in Section 17 below) or, except as specifically provided in the Funding Loan Agreement, by the owners of the Governmental Note.

Section 17. Enforcement of Certain Provisions by Tenants and other Private Parties.

(a) Following the declaration of an Event of Default hereunder with respect to Sections 44(i) and 44(j) hereof only, a tenant of the Development or any private party may, at its option by mandamus or other suit, including injunctive relief, require the Borrower to perform its obligations and covenants under Sections 44(i) and 44(j) hereof.

(b) If the Governmental Lender, a tenant of the Development, or any private party brings an action to enforce the obligations and covenants of the Borrower under Sections 44(i) and 44(j) hereof, such party has the right to recover attorney's fees directly from the Borrower, without recourse to the Development, if such party is successful in an action seeking enforcement of the obligations and covenants of the Borrower hereunder. This is the only monetary relief a tenant of the Development or other private parties may receive under this Regulatory Agreement and any such recovery is subject to the provisions set forth in Section 15 above.

Section 18. The Fiscal Agent. The Fiscal Agent will act only as specifically provided herein and in the Funding Loan Agreement. Subject to the right of the Fiscal Agent to be indemnified as provided in the Funding Loan Agreement, the Fiscal Agent agrees to act as the agent of and on behalf of the Governmental Lender when requested in writing by the Governmental Lender to do so, and any act required to be performed by the Governmental Lender as herein provided will be deemed taken if such act is performed by the Fiscal Agent. The Fiscal Agent is entering into this Regulatory Agreement solely in its capacity as Fiscal Agent under the Funding Loan Agreement, and the duties, powers, rights and obligations of the Fiscal Agent in acting hereunder will be subject to the provisions of the Funding Loan Agreement, which are incorporated by reference herein. The incorporated provisions of the Funding Loan Agreement are intended to survive the retirement of the Governmental Note, discharge of the Project Loan, termination of the Project Loan Agreement and defeasance or termination of the Funding Loan Agreement.

Subject to the Fiscal Agent's rights under the Funding Loan Agreement, the Fiscal Agent will, at the direction of the Governmental Lender, take reasonable actions to enforce compliance by the Borrower

with the terms of this Regulatory Agreement. The Fiscal Agent may rely on certificates, reports or other information delivered to the Fiscal Agent, in accordance with this Regulatory Agreement, without independent investigation and the Fiscal Agent's responsibility to review and monitor compliance hereunder will not extend beyond the Fiscal Agent's receipt of the certificates, reports, and other documents required to be submitted to the Fiscal Agent pursuant to this Regulatory Agreement.

The Fiscal Agent may resign or be removed only as provided in Sections 7.09 or 7.10, respectively, of the Funding Loan Agreement. Such resignation or removal will not be effective until a successor Fiscal Agent satisfying the requirements of the Funding Loan Agreement is appointed and has accepted its appointment. The Fiscal Agent's right to indemnification provided in the Project Loan Agreement will survive the resignation or removal of the Fiscal Agent and the termination of this Regulatory Agreement.

Upon discharge of the Funding Loan Agreement, the Borrower will pay to the Fiscal Agent a fee, in an amount mutually agreed upon by the Borrower and the Fiscal Agent at the time of such discharge, for the performance of the Fiscal Agent's duties under this Agreement through the date upon which the Governmental Note is to be paid in full. After the date upon which all of the Governmental Note has been paid in full, the Fiscal Agent shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Fiscal Agent in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. The Borrower will cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Harris County, Texas and in such other places as the Governmental Lender or the Fiscal Agent may reasonably request. A file-stamped copy of this Regulatory Agreement and all amendments and supplements thereto will be delivered to the Fiscal Agent. The Borrower will pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 20. Reimbursement of Expenses. Notwithstanding any prepayment of the Project Loan and notwithstanding a discharge of the Funding Loan Agreement or the Tax Exemption Agreement, throughout the term of this Regulatory Agreement, the Borrower will continue to pay to the Governmental Lender and the Fiscal Agent all fees and reimbursement for all expenses actually incurred thereby required to be paid to the Governmental Lender and the Fiscal Agent by the Borrower pursuant to the Project Loan Agreement or the Tax Exemption Agreement, as applicable.

Section 21. Governing Law. This Regulatory Agreement is governed by the laws of the State of Texas. The Fiscal Agent's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement, the Project Loan Agreement, the Funding Loan Agreement and the Tax Exemption Agreement.

Section 22. Amendments. Subject to the provisions of Section 3 hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto, or their successors in title, and duly recorded in the real property records of Harris County, Texas, and only upon receipt by the Governmental Lender (with a copy to the Fiscal Agent and the Funding Lender) of a Favorable Opinion of Bond Counsel and an opinion of Bond Counsel that such action is not contrary to the provisions of the Act.

Section 23. Notices. Any notice required to be given hereunder to the Governmental Lender, the Funding Lender, the Fiscal Agent, the Tax Credit Investor or the Borrower will be given in the manner and to the address (or facsimile numbers) set forth in the Funding Loan Agreement.

Section 24. Severability. If any provision of this Regulatory Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof will not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which constitute one and the same instrument, and each of which is deemed to be an original.

Section 26. Authorization to Act for Governmental Lender. To the extent allowed by law, the Governmental Lender hereby authorizes the Borrower to take on behalf of the Governmental Lender all actions required or permitted to be taken by it hereunder, or under the Funding Loan Agreement and the Project Loan Agreement and to make on behalf of the Governmental Lender all elections and determinations required or permitted to be made by the Governmental Lender hereunder or under the Funding Loan Agreement and the Project Loan Agreement. In addition, the Governmental Lender hereby authorizes the Borrower to exercise, on behalf of the Governmental Lender, any election with respect to the Governmental Note pursuant to the Code or the Regulations, and the Governmental Lender agrees to cooperate with the Borrower and execute any form of statement required by the Code or the Regulations to perfect any such election.

Section 27. Incorporation of Freddie Mac Rider. During such time that Freddie Mac or the Freddie Mac Seller/Service is the Funding Lender Representative, the provisions of the Freddie Mac Rider attached to this Regulatory Agreement as Exhibit D (the "Freddie Mac Rider") are incorporated into this Regulatory Agreement by this reference as if fully set forth in this Section 26. Notwithstanding anything contained herein or in the Freddie Mac Rider, in no event shall the provisions of the Freddie Mac Rider be construed to contravene State law.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Governmental Lender, the Fiscal Agent and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

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

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

(SEAL)

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

On this the _____ day of _____, 2020 personally appeared James B. "Beau" Eccles, Secretary to the Governing Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

U.S. BANK, NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF MINNESOTA §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2020 by _____, _____ of U.S. Bank, National Association, a national banking association, on behalf of said banking association.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

EXHIBIT "A"

BEING ALL OF PARKSIDE POINT APARTMENTS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN FILM CODE NO. 551195, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

EXHIBIT B-1

DESCRIPTION OF DEVELOPMENT

Borrower: Houston Leased Housing Associates Owner VIII, LLC, a Minnesota limited liability company

Development: The Development is a 260-unit affordable multifamily community to be known as Vermillion Apartments and to be located at 3360 Alice Street, Houston, Harris County, Texas 77021. It consists of eleven (11) residential apartment buildings with approximately 261,040 net rentable square feet. The unit mix will consist of:

112	two-bedroom/two-bath units
148	three-bedroom/two bath units
260	Total Units

Unit sizes will range from approximately 894 square feet to approximately 1,096 square feet.

EXHIBIT B-2

DEVELOPMENT AMENITIES

“Development Amenities” means the amenities for which the Development was awarded points by the Governmental Lender, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program pre-application scoring process.

Development Common Amenities must include at least twenty-two (22) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of amenities from each section. The Borrower may change, from time to time, the amenities offered; however, the overall points must remain the same. The tenant must be provided written notice of the elections made by the Borrower.

(i) Community Space for Resident Supportive Services

(I) Except in Applications where more than 10% of the units in the proposed Development are Supportive Housing SRO Units, an Application may qualify to receive half of the points required under 10 TAC §11.101(b)(5)(A)(i)-(vi) by electing to provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site. To receive the points the Applicant must commit to all of items (-a-) through (-c-) of this subclause.

(-a-) Space and Design. The educational space for the HQ Pre-K program must be provided on the Development Site and must be a suitable and appropriately designed space for educating children that an independent school district or open-enrollment charter school can utilize to establish and operate a HQ Pre-K program. This space includes at a minimum a bathroom and large closet in the classroom space; appropriate design considerations made for the safety and security of the students; including limited and secure ingress and egress to the classroom space; and satisfaction of the requirements of all applicable building codes for school facilities. The Applicant must provide in the Application a copy of the current school facility code requirements applicable to the Development Site and Owner and Architect certifications that they understand the associated space and design requirements reflected in those code requirements. The Application must also include acknowledgement by all lenders, equity providers and partners that the Application includes election of these points.

(-b-) Educational Provider. The Applicant must enter into an agreement, addressing all items as described in subitems (-1-) through (-5-) below, and provide evidence of such agreement to the Department on or before submission of the Cost Certification . Lack of evidence of such agreement by the deadline will be cause for rescission of the Carryover Agreement.

(-1-) The agreement must be between the Owner and any one of the following: a school district; open-enrollment charter school; or Education Service Center. Private schools and private childcare providers, whether nonprofit or for profit, are not eligible parties, unless the private school or private childcare provider has entered into a partnership with a school district or open-enrollment charter school to provide a HQ Pre-K program in accordance with Texas Education Code Chapter 29, Subchapter E-1.

(-2-) The agreement must reflect that at the Development Site the educational provider will provide a HQ Pre-K program, in accordance with Texas Education Code Chapter 29, Subchapter E-1, at no cost to residents of the proposed Development and that is available for general public use, meaning students other than those residing at the Development may attend.

(-3-) Such agreement must reflect a provision that the option to operate the HQ Pre-K program in the space at the Development Site will continue to be made available to the school or provider until such time as the school or provider wishes to withdraw from the location. This provision will not limit the Owner's right to terminate the agreement for good cause.

(-4-) Such agreement must set forth the responsibility of each party regarding payment of costs to use the space, utility charges, insurance costs, damage to the space or any other part of the Development, and any other costs that may arise as the result of the operation of the HQ Pre-K program.

(-5-) The agreement must include provision for annual renewal, unless terminated under the provisions of item (-c-).

(-c-) If an education provider who has entered into an agreement becomes defunct or elects to withdraw from the agreement and provision of services at the location, as provided for in subitem (-b-)(-3-) of this subclause, the Owner must notify the Texas Commissioner of Education at least 30 days prior to ending the agreement to seek out any other eligible parties listed in subitem (-b-)(-1-) of this subclause above. If another interested open-enrollment charter school or school district is identified by the Texas Commissioner of Education or the Owner, the Owner must enter into a subsequent agreement with the interested open-enrollment charter school or school district and continue to offer HQ Pre-K services. If another interested provider cannot be identified, and the withdrawing provider certifies to the Department that their reason for ending the agreement is not due to actions of the Owner, the Owner will not be considered to be in violation of its commitment to the Department. If the Owner is not able to find a provider, they must notify the Commissioner annually of the availability of the space.

(II) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for children and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 15 square feet times the total number of Units, but need not exceed 2,000 square feet in total. This space must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (4 points);

(III) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for adults and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal 10 square feet times the total number of Units, but need not exceed 1,000 square feet in total. This space must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (2 points);

(IV) Service provider office in addition to leasing offices (1 point);

(ii) Safety

- (I) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point);
- (II) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);
- (III) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site (2 points);
- (IV) Twenty-four hour, seven days a week recorded camera / security system in each building (1 point);
- (V) The provision of a courtesy patrol service that, at a minimum, answers after-hour resident phone calls regarding noise and crime concerns or apartment rules violations and that can dispatch to the apartment community a courtesy patrol officer in a timely manner (3 points);

(iii) Health/ Fitness / Play

- (I) Accessible walking/jogging path, equivalent to the perimeter of the Development or a length that reasonably achieves the same result, separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
- (II) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 40 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (1 point);
- (III) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 20 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (2 points);
- (IV) One Children's Playscape Equipped for five to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (V) of this subparagraph is not selected; or
- (V) Two Children's Playscapes Equipped for five to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (IV) of this subparagraph is not selected;
- (VI) Horseshoe pit; putting green; shuffleboard court; pool table; or ping pong table in a dedicated location accessible to all residents to play such games (1 point);
- (VII) Swimming pool (3 points);
- (VIII) Splash pad/water feature play area (1 point);
- (IX) Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points);

(iv) Design / Landscaping

- (I) Full perimeter fencing that includes parking areas and all amenities (excludes guest or general public parking areas) (2 points);
- (II) Enclosed community sun porch or covered community porch/patio (1 point);
- (III) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash (requires that the Development allow dogs) (1 point);
- (IV) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);
- (V) Porte-cochere (1 point);
- (VI) Lighted pathways along all accessible routes (1 point);
- (VII) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (which may be subject to local water usage restrictions) (1 point);

(v) Community Resources

- (I) Gazebo or covered pavilion w/sitting area (seating must be provided) (1 point);
- (II) Community laundry room with at least one washer and dryer for every 40 Units (2 points);
- (III) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);
- (IV) Business center with workstations and seating internet access, 1 printer and at least one scanner which may be integrated with the printer, and either 2 desktop computers or laptops available to check-out upon request (2 points);
- (V) Furnished Community room (2 points);
- (VI) Library with an accessible sitting area (separate from the community room) (1 point);
- (VII) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- (VIII) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- (IX) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to residents; and seating (3 points);
- (X) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the clubhouse and/or community building (1 point);
- (XI) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the Development (2 points);
- (XII) Bicycle parking that allows for, at a minimum, one bicycle for every five Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);
- (XIII) Package Lockers. Automated Package Lockers provided at a location within the complex that can be accessed by residents 24/7 and at no charge to the resident. To qualify, there would need to be at least one locker for every eight residential units (2 points);

(XIV) Recycling Service (includes providing a storage location and service for pick-up) (1 point);

(XV) Community car vacuum station (1 point).

Unit, Development Construction and Energy and Water Efficiency Features. The Development must include at least nine (9) points selected from the following list. Rehabilitation Developments will start with a base score of five (5) points. At least two (2) points must be selected from clause (iii) Energy and Water Efficiency Features. The development must maintain the points associated with those amenities by maintaining the amenity selected or providing substitute amenities with equal or higher point values.

(i) Unit Features

(I) Covered entries (0.5 point);

(II) Nine foot ceilings in living room and all Bedrooms (at minimum) (1 point);

(III) Microwave ovens (0.5 point);

(IV) Self-cleaning or continuous cleaning ovens (0.5 point);

(V) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to Bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the Property site (0.5 point);

(VI) Covered patios or covered balconies (0.5 point);

(VII) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);

(VIII) Built-in (recessed into the wall) shelving unit (0.5 point);

(IX) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area for seating although actual seating such as bar stools does not have to be provided) (0.5 point);

(X) Walk-in closet in at least one Bedroom (0.5 point);

(XI) 48" upper kitchen cabinets (1 point);

(XII) Kitchen island (0.5 points);

(XIII) Kitchen pantry with shelving (may include the washer/dryer unit for Rehabilitation Developments only) (0.5 point);

(XIV) Natural stone or quartz countertops in kitchen and bath (1 point);

(XV) Double vanity in at least one bathroom (0.5 point); and

(XVI) Hard floor surfaces in over 50% of unit NRA (0.5 point).

(ii) Development Construction Features

(I) Covered parking (may be garages or carports, attached or freestanding) and include at least one covered space per Unit (1.5 points);

(II) Thirty year roof (0.5 point);

(III) Greater than 30% stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);

(IV) Electric Vehicle Charging Station (0.5 points);

(V) An Impact Isolation Class (IIC) rating of at least 55 and a Sound Transmission Class (STC) rating of 60 or higher in all Units, as certified by the architect or engineer of record (3 points); and

(VI) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Four (4) points may be selected from only one of the categories described in items (-a-) through (-d-) of this subclause. If the Development involves scattered sites, there must be green building features incorporated into each site in order to qualify for these points.

(-a-) Enterprise Green Communities. The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(-b-) Leadership in Energy and Environmental Design (LEED). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(-c-) ICC/ASHRAE - 700 National Green Building Standard (NGBS). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NGBS Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(-d-) 2018 International Green Construction Code.

(iii) Energy and Water Efficiency Features

(I) Energy-Star or equivalently rated refrigerator with icemaker (0.5 point);

(II) Energy-Star or equivalently rated laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);

(III) Recessed LED lighting or LED lighting fixtures in kitchen and living areas (1 point);

(IV) Energy-Star or equivalently rated ceiling fans in all Bedrooms (0.5 point);

(V) EPA WaterSense or equivalent qualified toilets in all bathrooms (0.5 point);

(VI) EPA WaterSense or equivalent qualified showerheads and faucets in all bathrooms (0.5 point);

(VII) 15 SEER HVAC, or in Region 13, an efficient evaporative cooling system. For Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided, (1 point);

(VIII) 16 SEER HVAC, for New Construction or Rehabilitation (1.5 points); and

(IX) A rainwater harvesting/collection system and/or locally approved greywater collection system (0.5 points).

EXHIBIT C

TENANT SUPPORTIVE SERVICES

The tenant supportive services to be provided must include at least eight (8) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of services from each section. The Borrower may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. Should the Department's rules in subsequent years provide difference services than those listed below, the Borrower may be allowed to select services listed therein as provided in 10 TAC §10.405(a)(2). The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Borrower.

(A) Transportation Supportive Services

- (i) shuttle, at least three days a week, to a grocery store and pharmacy and/or a major, big-box retailer that includes a grocery store and pharmacy, OR a daily shuttle, during the school year, to and from nearby schools not served by a school bus system for children who live at the Development (3.5 points);
- (ii) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);

(B) Children Supportive Services

- (i) provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site meeting the requirements of 10 TAC §11.101(b)(5)(C)(i)(I). (Half of the points required under 10 TAC §11.101(b)(7));
- (ii) Twelve hours of weekly, organized, on-site services provided to K-12 children by a dedicated service coordinator or third-party entity. Services include after-school and summer care and tutoring, recreational activities, character building programs, mentee opportunities, test preparation, and similar activities that promote the betterment and growth of children and young adults (3.5 points);

(C) Adult Supportive Services

- (i) Four hours of weekly, organized, on-site classes provided to an adult audience by persons skilled or trained in the subject matter being presented, such as English as a second language classes, computer training, financial literacy courses, health education courses, certification courses, GED preparation classes, resume and interview preparatory classes, general presentations about community services and resources, and any other course, class, or presentation that may equip residents with new skills that they may wish to develop (3.5 points);
- (ii) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) that also emphasizes how to claim the Earned Income Tax Credit (1 point);
- (iii) contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; may include resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);
- (iv) external partnerships for provision of weekly substance abuse meetings at the Development Site (1 point);

(D) Health Supportive Services

- (i) food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank (2 points);
- (ii) annual health fair provided by a health care professional (1 point);
- (iii) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);
- (iv) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(E) Community Supportive Services

- (i) partnership with local law enforcement and/or local first responders to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (2 points);
- (ii) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);
- (iii) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (1 point);
- (iv) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.) (1 point);
- (v) specific service coordination services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (3 points);
- (vi) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (vii) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);
- (viii) a part-time resident services coordinator with a dedicated office space at the Development or a contract with a third-party to provide the equivalent of 15 hours or more of weekly resident supportive services at the Development (2 points);
- (ix) provision, by either the Development Owner or a community partner, of an education tuition- or savings-match program or scholarships to residents who may attend college (2 points).

EXHIBIT D

FREDDIE MAC RIDER

This Freddie Mac Rider (the “Rider”) is attached to and forms a part of the Regulatory and Land Use Restriction Agreement (the “Regulatory Agreement”), dated as of August 1, 2020, by and among the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “Governmental Lender”), U.S. BANK, NATIONAL ASSOCIATION, as fiscal agent (together with any successor in such capacity, the “Fiscal Agent”), and HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “Borrower”).

1. Definitions. Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement and the Funding Loan Agreement. In addition, the following terms shall have the following meanings:

“**Freddie Mac**” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States.

“**Funding Lender**” means the holder of the Governmental Note, initially Merchants Capital Corp., and on the Freddie Mac Purchase Date, Freddie Mac, and any successors or assigns thereof.

“**Funding Loan Agreement**” means the Funding Loan Agreement dated as of August 1, 2020 by and among the Governmental Lender, the Initial Funding Lender set forth therein and the Fiscal Agent, as such Funding Loan Agreement may from time to time be amended or supplemented.

“**Governmental Note**” means the Multifamily Note (Vermillion Apartments), Series 2020 dated as of the Delivery Date delivered by the Governmental Lender pursuant to the Funding Loan Agreement.

“**Project Loan**” means the loan to the Borrower pursuant to the Project Loan Documents, which Project Loan is to be assigned to the Fiscal Agent.

“**Project Loan Agreement**” means the Project Loan Agreement dated as of August 1, 2020, among the Borrower, the Governmental Lender and the Fiscal Agent, as such Project Loan Agreement may from time to time be amended or supplemented.

“**Project Loan Documents**” means the Security Instrument, the Project Note, the Project Loan Agreement, the Regulatory Agreement, the Assignment, the Continuing Covenant Agreement, any Subordination Agreement(s) and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Project Loan or any portion thereof.

“**Project Note**” means the Project Note, including applicable addenda, to be executed by the Borrower in favor of the Governmental Lender, evidencing the Borrower’s financial obligations under the Project Loan, and to be endorsed by the Governmental Lender, without recourse, to the order of the Fiscal Agent, as the same may be amended, modified, supplemented or restated from time to time.

“Security Instrument” means the Amended and Restated Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, together with all riders thereto, securing the Project Note, to be executed by the Borrower with respect to the Project, as it may be amended, modified, supplemented or restated from time to time.

“Servicer” means Merchants Capital Corp., or any successor Servicer selected by Freddie Mac.

2. Applicability. The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. Indemnification. Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither the Funding Lender nor any successor in interest to the Funding Lender will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to the Funding Lender. The Funding Lender shall indemnify the Governmental Lender following acquisition of the Project by the Funding Lender, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan, during, and only during, any ensuing period that the Funding Lender owns and operates the Project, provided that the Funding Lender’s liability shall be strictly limited to acts and omissions of the Funding Lender occurring during the period of ownership and operation of the Project by the Funding Lender. The Funding Lender shall have no indemnification obligations with respect to the Governmental Note or the Project Loan Documents. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to the Funding Lender.

4. Sale or Transfer. Restrictions on sale or transfer of the Project or of any interest in the Borrower, Governmental Lender and/or Fiscal Agent consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to the Funding Lender or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Security Instrument or any of the other Project Loan Documents that requires the Borrower to obtain the consent of the Funding Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower, excluding transfers permitted by the Security Instrument. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to the Funding Lender upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan by the Funding Lender, or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement to the contrary: (i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Project Loan Documents, except as may be otherwise specified in the Project Loan Documents; and (ii) the occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Security

Instrument. No person other than the Funding Lender shall have the right to (a) declare the principal balance of the Project Note to be immediately due and payable or (b) commence foreclosure or other like action with respect to the Security Instrument. The Governmental Lender and the Fiscal Agent acknowledge and agree that the exercise of any rights and remedies under the Regulatory Agreement is subject to the provisions of the Project Loan Documents.

6. Notice of Violations. Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Governmental Lender or the Fiscal Agent shall, by notice in writing to the Borrower, the Servicer and the Funding Lender, inform the Borrower, the Servicer and the Funding Lender that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, neither the Governmental Lender nor the Fiscal Agent shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Project Loan, to enforce the Project Note or to foreclose on the Security Instrument.

7. Amendments. The Regulatory Agreement shall not be amended without the prior written consent of the Funding Lender.

8. Fees; Penalties. The Funding Lender shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project prior to the date of acquisition of the Project by the Funding Lender, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sec 1A, 2, 3, 4 and 11, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Project Loan Documents.

10. Third-Party Beneficiary. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of the Funding Lender and are entered into for the benefit of various parties, including the Funding Lender. The Funding Lender shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Governmental Lender and/or the Fiscal Agent, or to cause the Governmental Lender or the Fiscal Agent to enforce, the terms of the Regulatory Agreement. In addition, the Funding Lender is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

11. Notices. Copies of all notices under the Regulatory Agreement shall be sent to the Servicer at the address set forth below or to such other address as the Servicer may from time to time designate:

Merchants Capital Corp.
255 Kellogg Blvd. E, Suite 103
Saint Paul, MN 55101
Attn: Lisa Lundeen
Email: gse-asset-mgmt@merchantscapital.com

With a copy to:

Merchants Capital Corp.
410 Monon Blvd. 5th Floor
Carmel, IN 46032
Attn: Investor Accounting
Email: investor-accounting@merchantscapital.com

Any notice to be given to Freddie Mac shall be sent to Freddie Mac at the address set forth below or to such other address as Freddie Mac may from time to time designate:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, Virginia 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: guy_nelson@freddiemac.com
Telephone: (703) 903-2000

EXHIBIT E



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham, *Vice Chair*
Paul A. Braden, *Member*
Asusena Reséndiz, *Member*
Sharon Thomason, *Member*
Leo Vasquez, *Member*

**Multi Family Mortgage Revenue Bond
Qualified Project Period**

The Texas Department of Housing and Community Affairs require the information in Sections A and B below to compute the Qualified Project Period for Mortgage Revenue Bond properties. Please complete the form as the appropriate dates are identified. Upload this form in TDHCA's Compliance Monitoring Tracking System (CMTS) to the attention of Sussette Kenney immediately after the property reaches the 50% Occupancy Date.

Section A

Property Name	
Address	
Contact Name	
Contact Phone #	

Section B

Initial Bond Closing Date	
Date First Unit Occupied	
10% Occupancy Date	
50% Occupancy Date	
50% Occupancy Date + 15 years	

Signature _____ Date _____

Printed Name _____ Title _____



MULTIFAMILY NOTE

\$28,000,000

Houston, Texas
August 1, 2020

FOR VALUE RECEIVED, HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a Minnesota limited liability company (“Borrower”), promises to pay to the order of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its endorsees, successors and assigns and any subsequent holder hereof, “Payee” or “Governmental Lender”), the principal sum of TWENTY-EIGHT MILLION AND NO/100THS DOLLARS (\$28,000,000), or so much thereof as may have been advanced to or for the benefit of Borrower and remains unpaid from time to time (“Principal Balance”), with interest on the Principal Balance, until paid in full, at the rates per annum hereinafter specified, in coin or currency, which, at the time or times of payment, is legal tender for the payment of public and private debts in the United States of America, all in accordance with the terms hereinafter set forth.

Advances of the sums evidenced by this Note are to be made pursuant to the terms and conditions set forth in (i) that certain Project Loan Agreement dated as of August 1, 2020 (together with any amendments, modifications or supplements thereto, the “Project Loan Agreement”), by and among Governmental Lender, U.S. Bank National Association, a national banking association, duly organized and existing under the laws of the United States of America, having a corporate trust office in Saint Paul, Minnesota (in such capacity, “Fiscal Agent”), and (ii) that certain Note Purchase Agreement (Construction Continuing Covenant Agreement) dated as of August 1, 2020 (together with any amendments, modifications or supplements thereto, the “Construction Continuing Covenant Agreement”) executed by and among Borrower, Merchants Bank of Indiana, an Indiana state bank (“Initial Funding Lender”), and Merchants Capital Corp., an Indiana corporation (“Servicer”). Unless the context otherwise indicates, capitalized terms not otherwise defined herein shall have the meanings provided for such terms in the Construction Continuing Covenant Agreement. This Note is the “Project Note” referenced in the Construction Continuing Covenant Agreement. The holders hereof are entitled to all the benefits provided for in the Project Loan Agreement and the Construction Continuing Covenant Agreement, or referred to therein. The provisions of the Project Loan Agreement and the Construction Continuing Covenant Agreement are incorporated by reference herein with the same force and effect as if fully set forth herein.

Unless the Default Rate (as hereinafter defined) has been implemented and is in effect, interest shall accrue on the Principal Balance from the date hereof through September 1, 2038 (the “Maturity Date”), at an adjustable annual rate of interest equal to the LIBOR-Based Rate, such LIBOR-Based Rate to remain fixed until the next monthly adjustment date. Initial Funding Lender may replace the LIBOR-Based Rate with the Alternate Rate, and give notice of same to Borrower, if:

- (a) Initial Funding Lender determines in good faith (which determination shall be conclusive, absent manifest error) that by reason of circumstances affecting the London Interbank Eurodollar market, adequate and fair means do not exist for ascertaining the LIBOR-Based Rate to be applicable to the loan evidenced by this Note; or
- (b) after the date hereof, a Regulatory Change shall, in the reasonable determination of the Initial Funding Lender, make it unlawful for the Initial Funding Lender to make or maintain a loan using LIBOR.

For purposes of this Note, the following terms shall have the following meanings

“Alternate Rate” shall mean, commencing as of the date Initial Funding Lender elects to replace the LIBOR-Based Rate with the Alternate Rate in accordance with the terms of this Note, and effective as of any date of determination, an adjustable annual rate of interest to be determined monthly, on the first calendar day of each month, that shall be equal to the greater of: (1) the rate per annum equal to the Prime Rate minus one-half of one percent (0.50%), or (2) three and one-quarter percent (3.25%) per annum.

“Last LIBOR-Based Rate” shall mean the LIBOR-Based Rate determined as of the date Initial Funding Lender elects to replace the LIBOR-Based Rate with the Alternate Rate in accordance with the terms of this Note.

“LIBOR” shall mean for each LIBOR Interest Period, as of the applicable date and time for determination provided herein, a per annum rate of interest equal to the rate which Initial Funding Lender determines, in its sole discretion, is generally the one-month LIBOR rate offered by leading banks in the London interbank market, two (2) Eurodollar Business Days prior to the first day of the applicable LIBOR Interest Period, adjusted for any reserve requirements and any subsequent costs arising from a change in government regulation [such rate shall be expressed as a percentage rounded, if necessary, to the next highest multiple of 1/100 of a percent (0.01%) if the rate is not such a multiple]. Initial Funding Lender may make such determination based on the rate reported by any publicly available source of market data selected by Initial Funding Lender that, in its sole judgment, accurately reflects such rate offered by leading banks in the London interbank market, including without limitation any of the following sources which Initial Funding Lender may select to use in its sole discretion: (i) Reuters Screen LIBOR01 Page, (ii) the Wall Street Journal, “Money Rates” table, (iii) Bloomberg Financial Markets, or (iv) such other comparable financial information reporting service used by the Initial Funding Lender at the time such rate is determined. Notwithstanding anything to the contrary contained in this paragraph, for the purposes of this Note in no event shall LIBOR be deemed to be a rate less than 75/100 of a percent (0.75%).

“LIBOR-Based Rate” shall mean LIBOR plus two and fifty hundredths percent (2.50%).

“LIBOR Interest Period” shall mean a period extending from (and including) the first (1st) day of each calendar month during which any portion of the principal balance of this Note is outstanding and ending on (and including) the last day of such calendar month, provided however, if the effective date of this Note occurs other than on the first (1st) day of a calendar month, then the initial LIBOR Interest Period shall be the period that begins with the effective date of this Note and ends on (and including) the last day of the calendar month in which the effective date of this Note occurs.

“Maximum Interest Rate” shall mean the rate of interest which results in the maximum amount of interest allowed by applicable law pursuant to Chapter 1204 of the Texas Government Code.

“Prime Rate” shall mean a per annum rate of interest equal to the rate of interest from time to time published as the “U.S. Prime Rate” in the “Money Rate” section of The Wall Street Journal (such Prime Rate being the base rate on corporate loans posted by certain large U.S. money center commercial banks, provided such rate shall be expressed as a percentage rounded, if necessary, to the next highest multiple of 1/100 of a percent if the published rate is not such a multiple), with the interest rate hereunder to change effective on the same date as each change of such U.S. Prime Rate as reported in The Wall Street Journal, provided however, in the event such U.S. Prime Rate is not available or published at any point in time, or, if in the sole judgment of Initial Funding Lender such rate shall cease accurately to reflect the base rate offered for corporate loans at large U.S. money center commercial banks, upon notice to the Governmental Lender, Fiscal Agent and Borrower, the Prime Rate shall be based on the rate reported by any publicly available source of similar market data selected by Initial Funding Lender that, in its sole judgment, generally reflects the base rate on corporate loans offered by large U.S. money center commercial banks. In such event, such new Prime Rate will be conditioned upon the receipt of a Favorable Opinion of Bond Counsel (as defined in the Funding Loan Agreement). Such Prime Rate is not necessarily the rate at which Initial Funding Lender lends its funds. Such Prime Rate is only an index rate from which interest rates actually charged to Initial Funding Lender’s customers may be measured. The use of such Prime Rate does not constitute a commitment by Initial Funding Lender to lend money at a preferred rate.

“Regulatory Change” shall mean the introduction of, or any change in any applicable law, treaty, rule, regulation or guideline or in the interpretation or administration thereof by any governmental authority or any central bank or other fiscal, monetary or other authority having jurisdiction over Initial Funding Lender or its lending office.

“Servicing Fee” shall have the meaning set forth in the Project Loan Agreement.

Prior to Conversion, if any Regulatory Change (whether or not having the force of law)

shall (a) impose, modify or deem applicable any assessment, reserve, special deposit or similar requirement against assets held by, or deposits in or for the account of, or loans by, or any other acquisition of funds or disbursements by, Initial Funding Lender; (b) subject Initial Funding Lender or the Funding Loan to any tax, duty, charge, stamp tax or fee, or change the basis of taxation of payments to Initial Funding Lender of principal or interest due from Borrower hereunder (other than a change in the taxation of the overall net income of Initial Funding Lender); or (c) impose on Initial Funding Lender any other condition regarding the Funding Loan or Initial Funding Lender's funding thereof, and Initial Funding Lender shall determine (which determination shall be conclusive, absent manifest error) that the result of the foregoing is to actually increase the cost to Initial Funding Lender of maintaining the Funding Loan or to reduce the amount of principal or interest received by Initial Funding Lender under the Loan Documents, then Borrower shall pay to Payee, on demand, such additional amounts as Initial Funding Lender shall from time to time determine are sufficient to compensate and indemnify Initial Funding Lender for such increased costs or reduced amounts.

In accordance with Sections 3.02 and 4.01 of the Project Loan Agreement [and Section 2.01 of the Construction Continuing Covenant Agreement], all payments due under this Note shall be paid by automatic debit, wire transfer, check or in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and shall be made to the Fiscal Agent at the address set forth in the Funding Loan Agreement; provided however, that from and after the date the Freddie Mac Servicer purchases the Funding Loan from the Initial Funding Lender pursuant to the Freddie Mac Commitment, all payments due under this Note shall be made to the Freddie Mac Servicer at an address as directed by the Freddie Mac Servicer in a written notice to Borrower. Prior to Conversion, payment made by check shall be deemed paid on the date Initial Funding Lender receives such check; provided, however, that if such check is subsequently returned to Initial Funding Lender unpaid due to insufficient funds or otherwise, the payment shall not be deemed to have been made and shall continue to bear interest until collected. Notwithstanding the foregoing, the final payment due under this Note must be made by wire transfer or other immediately available funds. Prior to Conversion, each payment of principal or interest under this Note shall be paid to the Fiscal Agent not later than 1:00 P.M. Eastern Time on the second Business Day prior to the date due therefor and funds received after that hour shall be deemed to have been received by Fiscal Agent on the following Business Day. "Business Day" shall mean any day of the week (but not a Saturday, Sunday or holiday) on which the offices of Initial Funding Lender are open to the public for the conduct of business.

Interest accruing on the Principal Balance of the Project Loan and the Servicing Fee shall be due and payable commencing on September 1, 2020 and continuing on the first (1st) day of each consecutive month thereafter until and including the month in which the Maturity Date occurs. All unpaid Principal, accrued interest, Servicing Fee, and all other charges and sums due under this Note, the Project Loan Agreement and the Construction Continuing Covenant Agreement shall be due and payable in full on the Maturity Date.

Interest shall accrue on each and every advance made hereunder from and after the date it is made. Interest shall be calculated by multiplying the actual number of days elapsed in the period for which Interest is being calculated by a daily rate based on a 360 day year. All unpaid, accrued interest shall be paid in full at the time the Principal Balance is paid in full. If the Principal Balance and all interest accrued thereon have not been repaid on or before the Maturity Date or if an Event of Default occurs pursuant to the Construction Continuing Covenant Agreement or any other document or instrument securing this Note, then the entire Principal Balance shall (without notice to or demand upon Borrower), at the option of Payee, become due and payable on said date, together with all unpaid, accrued interest thereon, and with interest computed thereon from and after that date at a rate four percent (4.0 %) per annum plus the interest rate that otherwise would be in effect under this Note in the absence of any such failure to pay or Event of Default, or at the maximum lawful rate of interest which may be charged thereon, if any, whichever is less (hereinafter called "Default Rate"), until the Principal Balance is paid in full.

In the event that any required payment of principal, interest and/or Servicing Fee hereunder is not made on or before five (5) days after the due date thereof, Borrower shall pay to Payee a late payment charge equal to the greater of (i) twenty-five and no/100 dollars (\$25.00), or (ii) five percent (5%) of the amount of the overdue payment, for the purpose of reimbursing Payee for a portion of the expense incident to handling the overdue payment. This late payment charge shall apply individually to all payments past due and there will be no daily prorated adjustment. This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other rights Payee may have including the right to declare the entire unpaid principal and interest immediately due and payable. Borrower agrees that the "late payment charge" is a provision for liquidated damages and represents a fair and reasonable estimate of the damages Payee will incur by reason of the late payment considering all circumstances known to Borrower and Payee on the date of this Note. Borrower further agrees that proof of actual damages will be difficult or impossible for Payee to determine.

Borrower and Payee agree that no payment of interest or other consideration made or agreed to be made by Borrower to Payee pursuant to this Note, the Security Instrument, the Construction Continuing Covenant Agreement or any other instrument referring to or securing this Note shall, at any time, be deemed to have been computed at an interest rate in excess of the Maximum Interest Rate, if any. In the event such payments of interest or other consideration provided for in this Note, the Security Instrument, the Construction Continuing Covenant Agreement or any other instrument referring to or securing this Note shall result in payment of an effective rate of interest which, for any period of time, is in excess of the Maximum Interest Rate or any other law applicable to the loan evidenced hereby, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party or parties hereto, be applied to the Principal Balance immediately upon receipt of such monies by Payee with the same force and effect as though Borrower had

specifically designated, and Payee had agreed to accept, such extra payments as a principal payment, without premium or penalty. If the Principal Balance and all other indebtedness secured by this Note has been fully paid, any such excess amount shall be refunded to Borrower. This provision shall control over every other obligation of Borrower and Payee hereunder, under the Security Instrument, under the Construction Continuing Covenant Agreement and under any other instrument that secures this Note.

Otherwise, all payments made hereunder shall be applied in the following order, to any late payment charge or other fees, costs or other charges then due Payee, to accrued interest, to the Principal Balance and, if Payee, Fiscal Agent or Initial Funding Lender, as applicable, has advanced any sums under the terms of any instrument which secures this Note, to repayment of the funds so advanced, even though the same have become part of the Principal Balance, together with interest thereon at the Default Rate, in such order as Payee, at its option, may elect.

Upon at least five (5) Business Days' prior written notice to Payee, Fiscal Agent and Servicer, Borrower may voluntarily prepay the balance of this Note, without penalty or charge, provided Borrower has paid (i) all accrued interest, fees and other amounts then due and payable to Payee, (ii) if such prepayment is prior to the Conversion Date (as defined in the Funding Loan Agreement) the Exit Fee, unless the Exit Fee is waived by Initial Funding Lender pursuant to this paragraph, and (iii) all breakage and other termination fees which might be payable by Borrower in connection with any rate cap, SWAP or other rate management transaction entered into by Borrower and Initial Funding Lender or any affiliate of Initial Funding Lender. Prepayments shall be made on any Business Day. Borrower shall be obligated to pay the Exit Fee to Initial Funding Lender upon repayment in full of this Note or the acceleration or maturity thereof in accordance with the terms of any of the Loan Documents. In furtherance of the foregoing, Borrower expressly acknowledges and agrees that (i) Initial Funding Lender shall have no obligation to accept any prepayment of this Note unless and until Borrower shall have complied with this subsection, and (ii) Initial Funding Lender shall have no obligation to release any Loan Document upon payment of the Note in full unless and until Initial Funding Lender shall have received the Exit Fee. Borrower expressly acknowledges and agrees that the Exit Fee shall constitute additional consideration for the Project Loan. Notwithstanding the foregoing, Initial Funding Lender will waive the Exit Fee if (a) the balance of this Note is paid in full with the proceeds from a loan made by the Freddie Mac Seller/Servicer or any affiliate of Initial Funding Lender, or (b) Payee receives insurance or condemnation proceeds, which proceeds are applied toward the balance of this Note in accordance with the Loan Documents. For the purposes hereof, the term "Exit Fee" shall mean a fee equal to one percent (1.0%) of the face amount of this Note.

Borrower agrees that all loan fees, including, but not limited to, the Exit Fee, and other prepaid finance charges are earned fully as of the date of this Note and will not be subject to refund upon prepayment except as otherwise required by law. Any prepayment shall not reduce or suspend any required monthly payment or final payment due under this Note. All amounts

prepaid shall be applied as set forth in this Note.

Borrower shall pay to Initial Funding Lender on the closing date of the Loan, a loan fee (the "Loan Fee") equal to a fee equal to seventy-five one hundredths percent (.75%) of the face amount of this Note. The Loan Fee shall be paid in consideration of and as an inducement to Initial Funding Lender making the Funding Loan to Governmental Lender. The Loan Fee shall be earned by Initial Funding Lender on the Closing Date and is not refundable.

Payee shall not be obligated to re-advance to Borrower any sums prepaid by Borrower whether prepaid voluntarily or involuntarily. **This Note is subject to mandatory prepayment in accordance with Section 2.01(d) of the Construction Continuing Covenant Agreement and Section 4.04(b) of the Project Loan Agreement.**

The payment and performance of this Note is secured by the Security Instrument covering certain real property ("Premises") in Harris County, Texas, as described therein, and by other documents executed and delivered by Borrower in connection with the Project Loan (collectively "Other Security Documents", and each an "Other Security Document"), and is guaranteed by guaranties of payment and performance executed by Dominion Holdings II, LLC, a Minnesota limited liability company (collectively, "Guaranty"), all of even date herewith (the Security Instrument, the Guaranty and the Other Security Documents are, collectively, the "Security Documents"). Advances of the sums evidenced by this Note are to be made pursuant to the Project Loan Agreement.

Time is of the essence hereof. The occurrence of an Event of Default under any of the Loan Documents shall be an Event of Default hereunder. Upon the occurrence of an Event of Default, the entire Principal Balance, with all accrued interest thereon, together with all other sums secured by the Security Documents, shall, at the option of Payee, become immediately due and payable, without notice, demand or presentment for payment, and without notice of intention to accelerate or of acceleration, at the place of payment aforesaid. Failure to exercise this option, however often, shall not constitute a waiver of the right to exercise it thereafter. From and after the date of occurrence of any such Event of Default, and from and after the Maturity Date, interest shall accrue on the Principal Balance at the Default Rate and shall be payable on the first Business Day of each calendar month or on demand, at Payee's option; provided, however, that if, prior to the Maturity Date, all Events of Default are corrected and the indebtedness evidenced hereby is fully reinstated in accordance with Texas law, the interest payable thereon shall again be computed at interest rate that otherwise would be in effect under this Note in the absence of any such failure to pay or Event of Default, unless and until another Event of Default shall occur. Except as herein expressly provided, no modification or amendment of the terms of this Note shall be effective unless made in a writing signed by Borrower and Payee.

Each Borrower, co-maker, endorser, surety and guarantor hereby guaranties payment of this Note, and waives demand for payment, presentment for payment, notice of nonpayment,

protest, notice of protest, notice of dishonor, notice of intention to accelerate maturity, notice of acceleration of maturity, notice of intent to foreclose on any collateral securing this Note, all other notices as to this Note, diligence in collection as to each and every payment due hereunder, and all other requirements necessary to charge or hold such person or entity to any obligation hereunder, and agrees that without any notice Payee may take additional security herefor or may release any or all security herefor, or alone or together with any present or future owner or owners of any property covered by the Security Instrument or by any Other Security Documents, may from time to time extend, renew, or otherwise modify the date or dates or amount or amounts of payment above recited, or Payee may from time to time release any part or parts of the property and interest subject to the Security Instrument or the Other Security Documents from the Security Instrument and/or the Other Security Documents, with or without consideration, and that, in any such case, each Borrower, co-maker, endorser, surety and guarantor shall continue to be bound hereby and to be liable to pay the unpaid balance of the indebtedness evidenced hereby, as so additionally secured, extended, renewed or modified, and notwithstanding any such release, and further agrees to indemnify Payee against and hold Payee harmless from and pay all costs and expenses of collection, including court costs and reasonable attorneys' fees (prior to trial, at trial and on appeal) incurred in collecting the indebtedness evidenced hereby, or in exercising or defending, or obtaining the right to exercise, the rights of Payee hereunder, under the Construction Continuing Covenant Agreement or under any Security Document, whether suit be brought or not, and in foreclosure, in bankruptcy, insolvency, arrangement, reorganization and other debtor-relief proceedings, in probate, in other court proceedings, or otherwise, whether or not Payee prevails therein, and all costs and expenses incurred by Payee in protecting or preserving the property and interests which are subject to the Security Instrument and/or the Other Security Documents.

Payee shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies, and no waiver of any kind shall be valid unless in writing and signed by Payee. All rights and remedies of Payee under the terms of this Note, under the terms of the Construction Continuing Covenant Agreement and/or of any Security Document, and under any statutes or rules of law shall be cumulative and may be exercised successively or concurrently. Borrower agrees that Payee shall be entitled to all the rights of a holder in due course of negotiable instruments. Any provision of this Note which may be unenforceable or invalid under any law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof.

THIS NOTE WAS NEGOTIATED, EXECUTED AND DELIVERED IN THE STATE OF TEXAS. THIS NOTE, AND ALL MATTERS ARISING FROM THIS NOTE INCLUDING, BUT NOT LIMITED TO, PROVISIONS RELATED TO LOAN CHARGES, ARE GOVERNED BY FEDERAL LAW, AND, TO THE EXTENT NOT PREEMPTED BY FEDERAL LAW, BY THE SUBSTANTIVE LAW OF THE STATE OF TEXAS. Whenever possible, each provision of this Note and any other statement, instrument or transaction contemplated hereby or relating hereto shall be interpreted in such manner as to be effective and

valid under such applicable law, but, if any provision of this Note or any other statement, instrument or transaction contemplated hereby or relating hereto shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note or any other statement, instrument or transaction contemplated hereby or relating hereto.

THE BORROWER HEREBY ACKNOWLEDGES THAT THE TIME AND EXPENSE REQUIRED FOR TRIAL BY JURY OF ANY CONTROVERSY RELATED IN ANY WAY TO THIS NOTE WOULD EXCEED THE TIME AND EXPENSE REQUIRED FOR A BENCH TRIAL, AND HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, TRIAL BY JURY AND WAIVES ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF PAYEE.

The Borrower acknowledges that it has read and understood all the provisions of this Note, including the waiver of jury trial, and has been advised by counsel as necessary or appropriate.

The Borrower hereby submits and consents to personal jurisdiction to the courts of the county in which the Premises is located and Harris County, Texas and the courts of the United States of America located in such state for the enforcement of this Note and waives any and all personal rights under the laws of any state or the United States of America to object to jurisdiction in such courts. Litigation may be commenced in the state court of general jurisdiction for such counties or the United States District Court located in such state, at the election of the Payee. Nothing contained herein shall prevent the Payee from bringing any action in any other state or jurisdiction against any other person or exercising any rights against any security given to the Payee or against the Borrower personally or against any property of the Borrower in any other state or jurisdiction. Commencement of any such action or proceeding in any other state or jurisdiction shall not constitute a waiver of consent to jurisdiction of or the submission made by the Borrower to personal jurisdiction. In the event an action is commenced in another jurisdiction or venue under any tort or contract theory arising directly or indirectly from the relationship created by this Note, the Payee, at its option, shall be entitled to have the case transferred to one of the jurisdictions and venues above described or any other jurisdiction, or if such transfer cannot be accomplished under applicable law, to have such case dismissed without prejudice.

As provided in Section 3.04 of the Project Loan Agreement, on the date hereof the Governmental Lender will, in an allonge endorsement to this Note, assign all its right, title and interest in this Note to the Fiscal Agent, to be held for the benefit of Initial Funding Lender, as security for payment of the Funding Loan.

[Remainder of Page Intentionally Left Blank]

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Prepared by, and after recording return to:

FOX ROTHSCHILD LLP
222 South Ninth Street, Suite 2000
Minneapolis, MN 55402
Michelle L. Witzany, Esq.
Telephone: 612.607.7008

**DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

DATED AS OF

August 1, 2020

GRANTED BY

HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC,
a Minnesota limited liability company

TO

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
a public and official agency of the State of Texas

ATTENTION OF RECORDING OFFICER: This instrument is a deed of trust of both real and personal property and is, among other things, a Security Agreement and Financing Statement under the Uniform Commercial Code. This instrument creates a lien on rights in or relating to lands of Borrower which are described in Exhibit A hereto or in documents described in Exhibit A.

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter referred to as “Security Instrument”), made as of August 1, 2020, is granted by HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a Minnesota limited liability company, as grantor (“Borrower”), to _____, as trustee (“Trustee”), for the benefit of TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas, as beneficiary (collectively with its successors or assigns, “Governmental Lender”).

RECITALS:

- A. Pursuant to Chapter 2306, Texas Government Code (the “Act”), and the Project Loan Agreement dated as of August 1, 2020 (the “Project Loan Agreement”), by and among the Governmental Lender, U.S. Bank National Association, a national banking association (the “Fiscal Agent”), and Borrower, the Governmental Lender has agreed to make a mortgage loan to the Borrower in the maximum aggregate principal amount of \$28,000,000.00 (the “Project Loan”) to provide financing for a 260-unit multifamily rental housing development known as Vermillion Apartments (the “Project”), located in Houston, Texas and legally described on Exhibit A attached hereto and made a part hereof (as further defined herein, the “Real Estate”).
- B. The Governmental Lender is making the Project Loan to the Borrower with the proceeds received from the separate loan in the maximum aggregate principal amount of \$28,000,000.00 (the “Funding Loan” and together with the Project Loan, the “Loans”) made to the Governmental Lender pursuant to the Funding Loan Agreement dated as of August 1, 2020 (the “Funding Loan Agreement”), by and among Merchants Bank of Indiana, an Indiana state bank, in its capacity as the initial funding lender (“Initial Funding Lender”), Governmental Lender and Fiscal Agent. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Funding Loan Agreement. The Funding Loan is evidenced by the Governmental Lender’s Multifamily Note with designation as Multifamily Note (Vermillion Apartments), Series 2020 (the “Governmental Note”) dated August 1, 2020, and delivered by the Governmental Lender to the Initial Funding Lender.
- C. Borrower’s repayment obligations in respect of the Project Loan are evidenced by that certain Multifamily Note dated August 1, 2020 (the “Project Note” and together with the Governmental Note, the “Notes”) delivered by the Borrower to the Governmental Lender. Governmental Lender has endorsed the Project Note to Fiscal Agent for the benefit of Initial Funding Lender as security for the Funding Loan.
- D. Pursuant to the Funding Loan Agreement, the Governmental Lender has assigned to the Fiscal Agent , for the benefit of the Initial Funding Lender, all of the Governmental Lender’s right, title and interest in the Project Loan Agreement (except for certain unassigned rights), the Project Loan, the Project Note, this Security Instrument and the Premises (as described herein), as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due

thereunder and under the Funding Loan Agreement, the Project Loan Agreement, the Construction Continuing Covenant Agreement (as defined below), this Security Instrument and all other documents or instruments evidencing, securing or relating to the Loans (the “Financing Documents”).

- E. Pursuant to the Financing Documents, Borrower has covenanted, among other things, to make loan payments sufficient to pay when due the interest and principal payments on the Project Note, plus late fees, loan fees, exit fees and other amounts due thereon, in all instances at the times and in the amounts necessary to enable the Fiscal Agent, on behalf of the Governmental Lender, to pay all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise.
- F. The Borrower, the Initial Funding Lender and Merchants Capital Corp., an Indiana corporation, as servicer, have entered into that certain Note Purchase Agreement (Construction Continuing Covenant Agreement) dated as of the date hereof (together with any amendment thereto, the “Construction Continuing Covenant Agreement”), providing, among other things, certain conditions on which the Initial Funding Lender will originate and fund the Funding Loan to Governmental Lender and disburse the proceeds thereof to the Fiscal Agent, which proceeds of the Funding Loan will be used to fund the Project Loan and will be disbursed by the Fiscal Agent to First American Title Insurance Company (“Disbursing Agent”) for the benefit of the Borrower and will subsequently be disbursed by the Disbursing Agent pursuant to the Disbursing Agreement.
- G. The Notes will mature not later than September 1, 2038 (the “Maturity Date”), or such earlier date as set forth in the Notes.
- H. The Loans bear interest at a variable rate of interest as more fully set forth in the Financing Documents, except that during the period of and continuance of an Event of Default hereunder, the Loans shall bear interest at the Default Rate (as such term is defined in the Funding Loan Agreement); such rate as in effect from time to time pursuant to the Financing Documents is the “Interest Rate”.
- I. The Governmental Lender and the Initial Funding Lender have required, as a condition to entering into the Financing Documents, that the Borrower secure its obligations under the Project Note and the other Financing Documents by this Security Instrument.
- J. The Governmental Lender’s right, title and interest in and to this Security Agreement will be assigned to the Fiscal Agent pursuant to the Funding Loan Agreement and that certain Assignment of Security Instrument dated as of August 1, 2020.

WITNESSETH, that Borrower, in consideration of the Indebtedness (hereinafter described) and the sums advanced to Borrower in hand paid by Governmental Lender, receipt whereof is hereby acknowledged, does hereby MORTGAGE, GRANT, BARGAIN, SELL, ALIEN, REMISE, RELEASE, CONVEY, ASSIGN, TRANSFER, SECURITY INSTRUMENT, HYPOTHECATE, PLEDGE, DELIVER, SET OVER, WARRANT and CONFIRM unto Trustee,

for the benefit of Governmental Lender, its successors and assigns forever, in trust, all right, title and interest of Borrower in and to the following properties, subject in all respects to any exceptions to insured coverage set forth in Schedule B to the lender's policy of title insurance issued in connection with the Project Loan, which Initial Funding Lender, in its sole discretion, has determined are acceptable ("Permitted Exceptions"), to secure payment of the Project Note and all amounts owing under the Project Note and any documents securing the Project Note (all of the following being hereafter collectively referred to as the "Premises"):

A.
REAL PROPERTY

All the tracts or parcels of real property lying and being in the County of Harris, State of Texas, all as more fully described in Exhibit A attached hereto and made a part hereof ("Property"), together with all the estates and rights in and to the real property, and in and to lands lying in streets, alleys and roads adjoining the real property and all buildings, structures, improvements, fixtures and annexations, access rights, easements, rights of way or use, servitudes, licenses, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the real property, including, but not limited to, all Borrower's rights under any easements, licenses, contracts or agreements, written or oral, permitting the parking of motor vehicles; together with all water rights (whether riparian, appropriative or otherwise whether or not appurtenant) now or hereafter relating to or used in connection with the Property, and all shares of stock, if any evidencing such rights.

B.
BUILDINGS AND IMPROVEMENTS

All buildings, equipment, fixtures and improvements now, to be constructed or hereafter located on the Property, including, but not limited to, the 260-unit multifamily housing facility known as Vermillion Apartments ("Improvements").

C.
PERSONAL PROPERTY

All machinery, fittings, fixtures, apparatus, equipment or articles of personal property now or hereafter owned by Borrower and now or hereafter attached to, located at or on, or used in the operations of Borrower's business on the Premises including all such items used to supply energy, heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, and fire and sprinkler protection; all maintenance supplies and repair equipment; all draperies, carpeting, floor coverings, screens, storm windows and window coverings, blinds, awnings, shrubbery and plants; all elevators, escalators and shafts, motors, machinery, fittings and supplies necessary for their use; all building materials and supplies now or hereafter delivered to the Premises; all furniture, fixtures, carpeting, floor coverings, draperies, chests, chairs and other furniture, all equipment and fixtures of every kind and nature used in connection with any food and beverage facilities including but not limited to all kitchen equipment, tables, chairs, booths, bar equipment, flatware, restaurant equipment, ice machines and entertainment equipment; all televisions, radios, cabling, telephones, computer systems (hardware and software),

communications systems, switchboards, conduits, call systems, cash registers, safes, office equipment; all athletic, swimming pool and patio equipment and furniture; all lobby furniture and furnishings; all ground keeping, lawn sprinklers and lawn maintenance systems; all cleaning supplies and equipment; all laundry machines and equipment; all art work, and all other equipment and accouterments of any nature whatsoever used in operating the Project on the Premises (it being understood that the enumeration of any specific articles of property shall in no way be held to exclude any items of property not specifically enumerated), all fixtures, as well as renewals, replacements, proceeds, additions, accessories, increases, parts, fittings, insurance payments, awards and substitutes thereof, together with all interest of Borrower in any such items hereafter acquired, as well as the Borrower's interest in any lease, or conditional sales agreement under which the same is acquired, all of which personal property mentioned herein shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the Premises.

D.

RENTS, INCOME, LEASES AND PROFITS

All rents, income, contract rights, leases and profits now due or which may hereafter become due under or by virtue of any lease, license or agreement, whether written or verbal, for the use or occupancy of the Premises or any part thereof together with all tenant security deposits.

E.

ACCOUNTS

All "Accounts", as such term is defined in the Uniform Commercial Code as the same may, from time to time, be in effect in the State of Texas (hereinafter sometimes referred to as the "UCC," "Code," and/or "Uniform Commercial Code", provided, however, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the secured party's security interest in any collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Texas, the term shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions), now owned or hereafter acquired by the Borrower, including, but not limited to, each and every right of the Borrower to the payment of money, whether such right to payment now exists or hereafter arises, whether such right to payment arises out of a sale, lease or other disposition of goods or other property, out of a rendering of services, out of a loan, out of the overpayment of taxes or other liabilities, or otherwise arises under any contract or agreement, whether such right to payment is created, generated or earned by the Borrower or by some other person who subsequently transfers such person's interest to the Borrower, whether such right to payment is or is not already earned by performance, and howsoever such right to payment may be evidenced, together with all other rights and interests (including all Liens) that the Borrower may at any time have by law or agreement against any account debtor or other obligor obligated to make any such payment or against any property of such account debtor or other obligor; all including but not limited to all present and future accounts, contract rights, loans and obligations receivable, chattel

papers, bonds, notes and other debt instruments, tax refunds and rights to payment in the nature of general intangibles (collectively “Accounts”).

F.
CHATTEL PAPER

All “Chattel Paper” (as that item is defined in the UCC) now owned or hereafter acquired with respect to the Premises.

G.
COMMERCIAL TORT CLAIMS

All “Commercial Tort Claims” (as that item is defined in the UCC) now available or hereafter arising with respect to the Premises.

H.
DOCUMENTS

All “Documents” (as that item is defined in the UCC) now or hereafter acquired with respect to the Premises.

I.
EQUIPMENT

All of Borrower’s “Equipment” (as defined in the UCC), including, but not limited to, all machinery, apparatus, equipment, fittings, furniture, fixtures, motor vehicles and other tangible personal property (other than Inventory), and all parts, accessories and special tools therefor, and accessions thereto and, in any event, including all machinery and equipment, including processing equipment, conveyors, machine tools, data processing and computer equipment including embedded software and peripheral equipment and all engineering, processing and manufacturing equipment, office machinery, furniture, materials handling equipment, tools, attachments, accessories, automotive equipment, trailers, trucks, forklifts, molds, dies, stamps, motor vehicles, rolling stock and other equipment of every kind and nature, trade fixtures and fixtures not forming a part of real property, together with all additions and accessions thereto, replacements therefor, all parts therefor, all substitutes for any of the foregoing, fuel therefor, and all manuals, drawings, instructions, warranties and rights with respect thereto, and all products and proceeds thereof and condemnation awards and insurance proceeds with respect thereto (collectively “Equipment”).

J.
FIXTURES

All “Fixtures” (as that item is defined in the UCC) now owned or hereafter acquired with respect to the Premises.

K.
GENERAL INTANGIBLES

All “General Intangibles,” as that term is defined in the UCC, now or hereafter owned by Borrower, including without limitation equipment leases, partnership interests, limited liability company interests, member interests, joint venture interests, all patent rights, trademarks, copyrights, trade names, goodwill, registrations, license rights, rights in intellectual property, licenses, permits, business records, customer and subscriber lists, payment intangibles, computer programs, tapes, disks and related data processing software owned by or in which Borrower has an interest, rights to refunds or indemnification, the right to receive any insurance proceeds and all other intangible personal property of every kind and nature (collectively “General Intangibles”).

L.
GOODS

All “Goods” (as that item is defined in the UCC) now owned or hereafter acquired with respect to the Premises.

M.
INSTRUMENTS

All “Instruments” (as that item is defined in the UCC) now or hereafter acquired with respect to the Premises.

N.
INVENTORY

All “Inventory” (as that item is defined in the UCC) now owned or hereafter acquired by Borrower.

O.
INTELLECTUAL PROPERTY

All rights of Borrower in intellectual property now owned or hereafter acquired.

P.
INVESTMENT PROPERTY

All “Investment Property” (as that term is defined in the UCC) now owned or hereafter acquired.

Q.
ESCROWS AND RESERVES

All monies deposited with respect to the Premises, including, without limitation, security deposits, replacement revenue escrows, tax and insurance escrows and working capital reserves or escrow.

R.
INSURANCE PROCEEDS

All awards, payments, proceeds now or hereafter payable under any policy of insurance insuring the Premises including but not limited to the proceeds of casualty insurance, title insurance, business interruption/rents insurance or other insurance maintained with respect to the Premises.

S.
JUDGMENTS AND AWARDS

All awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Premises, including any awards for damages sustained to the Premises, for a temporary taking, change of grade of streets or taking of access.

T.
CONTRACTS, FILES AND RECORDS

All contracts, franchises, licenses, permits, management records, files, consents, governmental approvals and intangibles used, useful or required in the ownership and management of the Premises.

U.
PERMITS AND LICENSES

All soil reports, building permits, operating permits, regulatory approvals and licenses, variances, utility permits and other permits, licenses and agreements relating to the construction, equipping, operation or maintenance of the Premises, including without limitation, all warranties and contract rights.

V.
CONSTRUCTION CONTRACTS

Each contract or agreement for the design, engineering, construction, furnishing and equipping of the Project; together with all rights, title and interest of Borrower in and to any existing or future changes, extensions, revisions, modifications, guarantees or performance, or warranties of any kind under the foregoing.

W.
PLANS AND SPECIFICATIONS

All plans and specifications, all surveys, site plans, soil reports, working drawings and papers, relating to the Premises and the construction and equipping of any improvements on the Premises, including without limitation, all architectural drawings and site plans.

X.
BUILDING SUPPLIES

All building supplies and materials ordered or purchased for use in connection with the construction and equipping of the Project and other improvements on the Premises.

Y.
SERVICE AGREEMENTS

All rights and interests of Borrower in and under any and all service contracts and other agreements relating to the servicing, operation, maintenance, and repair of the Premises or the buildings and improvements thereon.

Z.
RECEIVABLES

All present and future rights to payment for goods sold or leased or for services rendered, with respect to the Project and its operations and all receivables of whatever nature whatsoever which are not evidenced by Chattel Paper, Documents or Instruments.

AA.
LICENSES

To the extent assignable, all Licenses now owned or hereafter acquired for the Project.

BB.
MANAGEMENT AGREEMENT

All right and interest in and to any property management agreement providing for the management of the Project and all renewals, replacements and substitutions thereof and all modifications and amendments thereto.

CC.
DEPOSIT ACCOUNTS

All "Deposit Accounts" (as that term is defined in the UCC) now owned or hereafter acquired ("Deposit Accounts").

DD.
SUPPORTING OBLIGATIONS

All "Supporting Obligations" (as that term is defined in the UCC) now owned or hereafter acquired.

EE.
WATER RIGHTS

All water rights, contract rights for the supply of potable and process water, water stock, and irrigation rights accruing to or necessary for the use of the Project or owned by Borrower, including but not limited to all water rights, irrigation rights, ditch and ditch rights, reservoir and reservoir rights, stock or interest in water, irrigation or ditch companies.

FF.
MINERAL RIGHTS

All minerals, mineral rights, royalties, oil and gas rights and profits arising from or accruing to the Project and all amounts payable to the surface rights owner by any owner of the mineral or other substance rights.

GG.
WASTE DISPOSAL AND SEWER FACILITIES

All waste disposal of the water, sanitary and storm sewer systems and septic systems and all components thereof now or hereafter owned by the Borrower which are now or hereafter located by, over, and/or upon the Property or any part and parcel thereof, and which water system includes all water mains, service laterals, hydrants, valves and appurtenances, and which sewer system includes all collection tanks, service laterals, hydrants, valves, sanitary sewer lines, including mains, laterals, manholes and appurtenances.

HH.
UTILITY LINES

All private rights to access or use public utility lines of any type or nature, including wires, pipes, conduits, cables, fiber optics, and ducts for utility systems used for domestic cold and hot water, sanitary sewer, storm sewer, chilled water, condenser water, heating hot water, steam, steam condensate, natural gas, control compressed air, conditioned and non-conditioned air, ventilation and exhaust air, electricity, security, fire alarm, emergency communications, systems control and automation, video monitoring, telephone, television, other telecommunications systems, and other mechanical, electrical, and related life safety systems.

II.
WATER SUPPLY FACILITIES

All of Borrower's interest in all mains, service laterals, storage tanks, piping, valves, manholes, wells and appurtenances for the furnishing, transmission, storage and disposal of potable water to the Project.

The above shall also include all proceeds, products, accessions, additions and supporting obligations thereto. It is specifically understood that the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned. All of the Premises hereinabove described, real, personal and mixed, whether affixed or annexed or not, and all rights hereby conveyed and mortgaged are intended to be as a unit and are hereby understood and agreed and declared to be appropriated to the use of the Premises, and shall for the purposes of this Security Instrument be deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD THE PREMISES and all parts, rights, members and appurtenances thereof, to the use, benefit and advantage of Governmental Lender, its successors and assigns IN FEE SIMPLE forever;

PROVIDED NEVERTHELESS, that if the Borrower, its successors or assigns, shall:

- (a) pay all sums due and owing under the Project Loan, including but not limited to the obligations of Borrower to pay the principal and interest owing pursuant to the terms and conditions of the Project Note, the Project Loan Agreement and the Construction Continuing Covenant Agreement, together with any other payment obligations of Borrower under the Financing Documents, together with interest thereon, payable to Governmental Lender pursuant to the Financing Documents, if not sooner due, shall be due and payable in any event on the Maturity Date;
- (b) perform all other obligations, liabilities, covenants and agreements of Borrower contained herein, including all fees and charges payable by Borrower;
- (c) perform all other obligations, liabilities, covenants and agreements of Borrower, now existing or hereafter arising, under the Project Loan Agreement, the Construction Continuing Covenant Agreement and each other Financing Document;
- (d) pay all sums, with interest thereon at the same rate or rates as specified in the Project Note and the other Financing Documents, advanced in protecting the lien of this Security Instrument, including taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due upon prior or superior mortgages and other prior or superior liens, encumbrances and interests, Governmental Lender's fees provided for herein or in the other Financing Documents and legal expenses and reasonable attorneys' fees and all sums advanced for any other purpose authorized herein;

then the Governmental Lender shall release this Security Instrument. The Project Note, all such sums and all such obligations, together with interest thereon, are herein collectively referred to as the "Indebtedness".

AND IT IS FURTHER COVENANTED AND AGREED AS FOLLOWS:

1.

GENERAL COVENANTS, AGREEMENTS, WARRANTIES

1.1 Payment of Indebtedness: Observance of Covenants. Borrower shall duly and punctually pay each and every installment of principal and interest on the Project Note and all other Indebtedness, as and when the same shall become due, and shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein, in the Project Note and any other instrument given as security for the payment of the Project Note.

1.2 Maintenance: Repairs, Construction. Borrower shall not abandon the Premises, shall keep and maintain the Premises in good condition, repair and operating condition, normal wear and tear excluded, free from any waste or misuse, and shall promptly repair or restore any buildings, improvements or structures now or hereafter on the Premises which may become damaged or destroyed to their condition prior to any such damage or destruction.

1.3 Compliance with Laws. Borrower shall comply with all requirements of law, municipal ordinances and regulations affecting the Premises, shall comply with all private restrictions and covenants affecting the Premises and shall not acquiesce in or seek any rezoning classification affecting the Premises.

1.4 Payment of Construction Costs: Liens. Borrower shall pay all construction and operating costs and expenses due and owing with respect to the Premises; shall keep the Premises free from levy, attachment, mechanics', construction, materialmen's and other Liens, except as permitted pursuant to Section 1.6.

1.5 Payment of Impositions. Except as provided in Section 1.6, Borrower shall pay when due and in any event before any penalty attaches all taxes, assessments, governmental charges, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Premises or any interest therein ("Impositions") and will upon demand, furnish to the Governmental Lender proof of the payment of any such Impositions no later than ten (10) days prior to the date on which the Impositions would be delinquent if not paid. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon a lender the payment of the whole or any part of the Impositions herein required to be paid by Borrower, or changing in any way the laws relating to the taxation of deeds to secure debt or a lender's interest in the premises secured by deeds to secure debt, so as to impose such Impositions on the Governmental Lender or on the interest of the Governmental Lender in the Premises, then, in any such event, Borrower shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Borrower of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Indebtedness wholly or partially usurious, Governmental Lender, at its option, may declare the whole sum secured by this Security Instrument with interest thereon to be immediately due and payable, without prepayment premium, or Governmental Lender, at its option, may pay that amount or portion of such Imposition as renders the Indebtedness unlawful or usurious, in which event Borrower shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition.

1.6 Contest of Impositions, Liens and Levies. Borrower shall not be required to pay, discharge or remove any Lien (as defined below) or Imposition so long as Borrower shall in good faith contest the same or the validity thereof by appropriate legal proceedings so long as such proceedings operate to prevent the collection or enforcement of the Lien or Imposition so contested and the sale of the Premises, or any part thereof, to satisfy the same; provided, however, Borrower shall, as a condition of any such contest, have paid that portion of the lien or Imposition as may be required by law, and shall, prior to the date such Lien or Imposition is originally due and payable without such contest, have given Governmental Lender such reasonable security as may be

demanded by Governmental Lender to insure such payments plus interest or penalties thereon, and prevent any sale or forfeiture of the Premises by reason of such nonpayment or shall have caused any such Lien or Imposition to be discharged of record by posting a bond as permitted by law. Any such contest shall be prosecuted with due diligence and Borrower shall promptly after final determination thereof pay the amount of any such Lien or Imposition so determined, together with all interest and penalties which may be payable in connection therewith. Notwithstanding these provisions, Borrower shall (and if Borrower shall fail so to do, Governmental Lender may but shall not be required to) pay any such lien or Imposition notwithstanding such contest if in the reasonable opinion of Governmental Lender, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed.

1.7 Protection of Security. Borrower shall promptly notify Governmental Lender of and appear in and defend any suit, action or proceeding that affects the Premises or the rights or interest of Governmental Lender hereunder and the Governmental Lender may elect to appear in or defend any such action or proceeding. Borrower agrees to indemnify and reimburse Governmental Lender from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorney's fees incurred by Governmental Lender and such amounts together with interest thereon at the same rate or rates as specified in the Project Note and the other Financing Documents shall become additional "Indebtedness" and shall become immediately due and payable.

1.8 Financial Statements; Inspection of Books and Records. Borrower shall comply with Sections 5.11, 5.23 and 5.30 of the Construction Continuing Covenant Agreement.

1.9 Additional Assurances. Borrower agrees upon reasonable request by the Governmental Lender to execute and deliver such further instruments, deeds and assurances including financing statements under the UCC and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Security Instrument and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended by the parties so to be. Borrower agrees to pay any recording fees, filing fees, note taxes, stamp taxes, intangible taxes or other charges arising out of or incident to the filing or recording of this Security Instrument, such further assurances and instruments and the issuance and delivery of the Project Note.

1.10 Compliance With Americans With Disabilities Act. Borrower covenants and agrees that it will comply with the requirements of the Americans with Disabilities Act, as the same may be amended from time to time, during the entire term of this Security Instrument and that it will comply with any requirements established by any federal, state or local governmental authorities having jurisdiction over such matters. All future maintenance, renovation, repair and construction conducted on the Premises shall all be completed in accordance with the Americans with Disabilities Act.

1.11 Payment of Operating Costs, Liens, and Other Indebtedness. Borrower agrees that it will pay all operating costs and expenses of the Premises; keep the Premises free from mechanics' liens, materialmen's liens, judgment liens and other liens, executions, attachments or levies

(hereinafter individually referred to as a “Lien” and collectively referred to as “Liens”). Borrower will not incur any other indebtedness, secured or unsecured, other than (i) customary unsecured trade payables incurred in the ordinary course of owning and operating the Premises, and (ii) any additional indebtedness approved in advance by Governmental Lender, the security for which is subordinate to Governmental Lender’s interest in the Premises pursuant to a subordination agreement and any other documentation required by Governmental Lender, in its sole discretion. Borrower will pay when due all such permitted indebtedness, and upon request will exhibit to Governmental Lender satisfactory evidence of such payment.

1.12 Due On Sale Or Mortgaging, Etc. In the event that without the written consent of Governmental Lender being first obtained: (1) Borrower sells, conveys, transfers, further encumbers, changes the form of ownership, or disposes of the Premises, or any part thereof, or any interest therein, or agrees so to do, other than residential leases and dispositions of personal property in the ordinary course of Borrower’s business; (2) any membership interest in the Borrower is sold, conveyed, transferred, pledged or encumbered or there is an agreement so to do other than to or in favor of the Governmental Lender; or (3) any partnership interest in the sole member of Borrower is sold, conveyed, transferred, pledged or encumbered or there is an agreement so to do other than to or in favor of Governmental Lender, except for a Permitted Transfer, as defined in the Construction Continuing Covenant Agreement; or (4) any ownership interest in any partner of Borrower’s sole member is sold, conveyed, transferred, pledged or encumbered or there an agreement to do so, except for a Permitted Transfer, as defined in the Construction Continuing Covenant Agreement; whether any such event described in (1), (2), (3), or (4) above is voluntary, involuntary or by operation of law, then at Governmental Lender’s sole option, Governmental Lender may declare the Indebtedness immediately due and payable in full and call for payment of the same at once, together with any fees due under the Financing Documents.

1.13 Construction Mortgage; Funding Loan Agreement. This Security Instrument secures an obligation incurred for the rehabilitation or construction of an improvement on land and is a “Construction Mortgage” as that term is used in the Code. This Security Instrument is the Security Instrument referred to in, and is given as security for the due and punctual performance, observance and payment by Borrower of the terms and conditions set forth in, the Financing Documents, the terms and conditions of which are incorporated herein by reference. In addition to its remedies hereunder during the continuance of an Event of Default, Governmental Lender may, but shall not be required to, avail itself of any or all of the rights and remedies available to it under the Funding Loan Agreement, and any sums expended by Governmental Lender in availing itself of such rights and remedies shall bear interest thereon at the Interest Rate and shall be so much additional Indebtedness , and shall be payable to Governmental Lender immediately upon demand; provided, however, no such payment by Governmental Lender shall be considered as waiving any such Event of Default.

2.

INSURANCE AND ESCROWS

2.1 Insurance. Borrower shall obtain, pay for and keep in full force and effect during the term of this Security Instrument at its sole cost and expense the policies of insurance required by the Financing Documents.

2.2 Escrows. If an Event of a Default occurs, and upon written request by Governmental Lender, Borrower shall (i) deposit with the Governmental Lender an amount determined by Governmental Lender to cover the amount of taxes and assessments levied against the Premises by any taxing authority (and any penalties, interest or late fees) that are due, delinquent or soon to be due and payable, and pay on the tenth day of each month thereafter an amount determined by Governmental Lender to collect sufficient funds to pay the costs of future installments of taxes and assessments levied against the Premises, and (ii) deposit with the Governmental Lender on the tenth day of each and every month thereafter a deposit to pay the insurance premiums next due on any insurance policies required hereunder (collectively, the “Charges”):

- (a) Initially a sum such that the amounts to be deposited pursuant to (b) next and such initial sum shall equal the estimated Charges for the next due payment; and
- (b) Thereafter an amount equal to one-twelfth (1/12th) of the estimated annual Charges due on the Premises.

Governmental Lender will, upon the presentation to the Governmental Lender by Borrower of the bills therefor, pay the Charges from such deposits or will upon presentation of receipted bills therefor, reimburse the Borrower for such payments made by Borrower. In the event the deposits on hand shall not be sufficient to pay all of the estimated Charges when the same shall become due from time to time, or the prior deposits shall be less than the currently estimated monthly amounts, then Borrower shall pay to the Governmental Lender within ten (10) days after demand any amount necessary to make up the deficiency. The excess of any such deposits shall be credited to subsequent payments to be made for such items. Governmental Lender may, at its option, without being required so to do, apply any deposits on hand, including but not limited to the deposits made pursuant to this Section and any other deposits made pursuant to the terms of the Financing Documents, to the Indebtedness, in such order and manner as the Governmental Lender may elect. When the Indebtedness has been fully paid any remaining deposits shall be returned to Borrower as its interest may appear. All deposits made pursuant to this Section and any other deposits made pursuant to the terms of the Financing Documents, are hereby pledged as additional security for the Indebtedness, shall be held for the purposes for which made as herein provided, may be held by Governmental Lender or its servicing agent and may be commingled with other funds of the Governmental Lender, or its servicing agent, shall be held without any allowance of interest thereon and shall not be subject to the decision or control of Borrower. Neither Governmental Lender nor its servicing agent shall be liable for any act or omission made or taken in good faith. In making any payments, Governmental Lender or its servicing agent may rely on any statement, bill or estimate procured from or issued by the payee without inquiry into the validity or accuracy of the same. If the taxes shown in the tax statement shall be levied on property more extensive than the Premises, then the amounts escrowed shall be based on the entire tax bill and Borrower shall have no right to require an apportionment and Governmental Lender or its servicing agent may pay the entire tax bill notwithstanding that such taxes pertain in part to other

property and the Governmental Lender shall be under no duty to seek a tax division or apportionment of the tax bill.

3.

UNIFORM COMMERCIAL CODE SECURITY AGREEMENT

3.1 Security Agreement. This Security Instrument shall constitute a security agreement as defined in the UCC in all assets of Borrower and the items described in the Granting Clauses of this Security Instrument, including but not limited to all of the Improvements, the Personal Property, Accounts, Chattel Paper, Deposit Accounts, Documents, Equipment, General Intangibles, Goods, Instruments, Investment Property, Intellectual Property, Intellectual Property Rights, Letter-of-Credit Rights, Supporting Obligations, all sums on deposit in any collateral account, any items in any lockbox, all monies whether or not in the possession or control of Governmental Lender, or a bailee of Governmental Lender, including any cash collateral; all accessions to, substitutions for, and all replacements, accessories, attachments, parts, equipment and repairs, products, and cash and non-cash proceeds with respect to the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any person or entity for loss, damage, or destruction of any of the foregoing; all warehouse receipts, bills of lading and other documents of title now or hereafter covering the foregoing; all collateral subject to the lien of any Financing Document; any money, or other assets of the Borrower that now or hereafter come into the possession, custody, or control of the Governmental Lender; and all books and records (including customer lists, files, correspondence, tapes, computer programs, printouts, and computer records) with respect to the foregoing (collectively, the "Collateral"). Any Collateral installed in or used in the Premises are to be used by the Borrower solely for Borrower's business purposes or as the equipment and fixtures leased or furnished by the Borrower, as landlord, to tenants of the Premises and such Collateral will be kept at the buildings on the Premises and will not be removed therefrom without the consent of the Governmental Lender and may be affixed to such buildings but will not be affixed to any other real estate. The remedies of the Governmental Lender hereunder are cumulative and separate, and the exercise of any one or more of the remedies provided for herein or under the UCC shall not be construed as a waiver of any of the other rights of the Governmental Lender including having any Collateral deemed part of the realty upon any foreclosure thereof. If notice to any party of the intended disposition of the Collateral is required by law in a particular instance, such notice shall be deemed commercially reasonable if given at least ten (10) days prior to such intended disposition and may be given by advertisement in a newspaper accepted for legal publications either separately or as part of a notice given to foreclose the Premises or may be given by private notice if such parties are known to Governmental Lender. Neither the grant of a security interest pursuant to this Security Instrument nor the filing of a financing statement pursuant to the UCC shall ever impair the stated intention of this Security Instrument that all Collateral comprising the Premises and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as part of the Premises irrespective of whether such item is physically attached to the Premises or any such item is referred to or reflected in a financing statement. Borrower will within five (5) days after demand deliver all financing statements that may from time to time be required by Governmental Lender to establish, perfect and continue the priority of Governmental Lender's security interest in the Collateral and shall pay all expenses incurred by Governmental Lender in connection with the

renewal or extensions of any financing statements executed in connection with the Premises; and shall give advance written notice of any proposed change in Borrower's name, identity or structure and will execute and deliver to Governmental Lender prior to or concurrently with such change all additional financing statements that Governmental Lender may require to establish and perfect the priority of Governmental Lender's security interest.

3.2 Authorization to File. Borrower expressly authorizes the Governmental Lender to file any and all financing statements required to perfect any security interests hereunder without the debtor's signature. Borrower agrees to provide Governmental Lender advance written notice of (i) any change of Borrower's name or (ii) any change of Borrower's jurisdiction.

3.3 Maintenance of Property. Subject to the provisions of this Section, in any instance where Borrower in its reasonable discretion determines that any Collateral subject to a security interest under this Security Instrument has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for the operation of the Premises, Borrower may, at its expense, remove and dispose of it and substitute and install other items not necessarily having the same function, provided, that such removal and substitution shall not impair the operating utility and unity of the Premises. All substituted items shall become a part of the Premises and subject to the lien of the Security Instrument. Any amounts received or allowed Borrower upon the sale or other disposition of the removed items of Collateral shall be applied first against the cost of acquisition and installation of the substituted items.

3.4 Fixture Filing. As to those items of Collateral described in this Security Instrument that are, or are to become fixtures related to the Property herein, and all products and proceeds thereof, it is intended as to those items that THIS SECURITY INSTRUMENT SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING from the date of its filing in the real estate records of the County where the Premises are situated. The name of the record owner of said real estate is set forth herein. Information concerning the security interest created by this instrument may be obtained from Governmental Lender, as secured party, at its address as set forth herein. The address of Borrower, as debtor, is as set forth herein. This document covers goods which are or are to become fixtures. Borrower is a limited liability company organized under the laws of the State of Minnesota. Borrower's organizational identification number is 1123920900020. The real property to which the Collateral relates is described in Exhibit A attached hereto.

4.

CONDEMNATION

4.1 Condemnation. Borrower will give Governmental Lender prompt notice of any action, actual or threatened, in Condemnation (as defined herein) or eminent domain and hereby assigns, transfers, and sets over to Governmental Lender the entire proceeds of any award or claim for damages for all or any part of the Premises taken or damaged under the power of eminent domain or condemnation (herein referred to as "Condemnation"), Governmental Lender being hereby authorized to intervene in any such action and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Borrower will not enter

into any agreements with the condemning authority permitting or consenting to the taking of the Premises unless prior written consent of Governmental Lender is obtained. Any expenses incurred by Governmental Lender in intervening in such action or collecting Condemnation proceeds (including the cost of any independent appraisal) shall be reimbursed to Governmental Lender first out of the Condemnation proceeds prior to other payments or disbursements. Borrower shall deliver all Condemnation proceeds to Governmental Lender within five (5) days of receipt thereof and shall at Governmental Lender's request direct the condemning authority to deliver the Condemnation proceeds to Governmental Lender. The Condemnation proceeds or any part thereof shall be applied upon or in reduction of the Indebtedness then most remotely to be paid, whether due or not, or to the restoration or repair of the Premises, the choice of application to be solely at the discretion of Governmental Lender. In the event Governmental Lender does not make Condemnation proceeds available for restoration and applies the Condemnation proceeds to payment of debt, no prepayment premium shall be due. Notwithstanding anything to the contrary in this Section 4.1, Governmental Lender shall allow Borrower to use the Condemnation proceeds to repair or restore the Premises, provided that (i) the Condemnation action involves the taking of a portion of the Premises that is worth less than ten percent (10%) of the fair market value of the Premises at the time the Condemnation action is commenced; and (ii) Borrower satisfies all of the conditions of Section 4.3.

4.2 Disbursement of Insurance and Condemnation Proceeds. Should any insurance or condemnation proceeds be applied to the restoration or repair of the Premises in accordance with this Article 5, and any other applicable Financing Document, the restoration or repair shall be done under the supervision of an architect reasonably acceptable to the Governmental Lender and pursuant to site and building plans and specifications approved by the Governmental Lender. The proceeds from insurance and Condemnation, after payment of costs and expenses of collection (hereinafter referred to as the "Net Proceeds"), shall be held by the Governmental Lender for such purposes and will from time to time be disbursed by the Governmental Lender on a periodic basis as such restoration or repairs are completed through a title company acceptable to the Governmental Lender to defray the costs of such restoration or repair under such safeguards and controls as the Governmental Lender may require and in accordance with standard construction loan procedures. All costs and expenses associated with the disbursement of such proceeds shall be paid by Borrower. Prior to making Net Proceeds available for the payment of costs of repair or restoration of the improvements upon the Premises, the Governmental Lender shall be entitled to receive the following:

- (a) Evidence that no Event of Default exists under any of the terms, covenants and conditions of this Security Instrument, the Project Note, or other collateral security documents.
- (b) Evidence that all leasing requirements for the Premises as established by the Governmental Lender have been met.
- (c) Satisfactory proof that such improvements have been fully restored, or that the expenditure of Net Proceeds will be sufficient to repair, restore or rebuild the Premises, free and clear of all liens, except the lien of this Security Instrument. In

the event Net Proceeds shall be insufficient to repair, restore or rebuild the said improvements, Borrower or its lessee shall deposit with the Governmental Lender, or a title company designated by the Governmental Lender, funds equaling such deficiency, which, together with the Net Proceeds, shall be sufficient to restore, repair and rebuild the Premises.

- (d) A statement of the Borrower's architect, certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration and rebuilding have been performed to date in conformity with the plans and specifications approved by the Governmental Lender, together with appropriate evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.
- (e) A waiver of subrogation from any insurer who claims that it has no claim as to the Borrower or the then owner or other insured under the policy of insurance in question.
- (f) Such performance and payment bonds, and such insurance, in such amounts, issued by such company or companies and in such forms and substance, as are required by the Governmental Lender.
- (g) Evidence that zoning, building and other necessary permits and approvals have been obtained.

In the event Borrower shall fail to commence and diligently pursue the restoration, repair or rebuilding of the improvements upon the Premises within a reasonable time, then such failure shall constitute an Event of Default and the Governmental Lender, at its option, and upon not less than thirty (30) days written notice to Borrower, may in addition to its remedies in Article 8 hereof (i) commence to restore, repair or rebuild the said improvements for or on behalf of Borrower, and its tenants, and for such purpose, may perform all necessary acts to accomplish such restoration, repair or rebuilding or (ii) apply all or any part of Net Proceeds on account of the last maturing installment of the Indebtedness whether then due or not. In the event Net Proceeds shall exceed the amount necessary to complete the repair, restoration or the rebuilding of the improvements upon the Premises, such excess may, at Governmental Lender's option, be applied on account of the last maturing installments of the Indebtedness, irrespective of whether such installments are then due and payable without application of a prepayment fee.

4.3 The Governmental Lender to Make Insurance Proceeds Available Under Certain Conditions. In the event of insured damage to the improvements on the Premises, the Governmental Lender agrees to make the proceeds available to the restoration or repair of the improvements on the Premises in accordance with the provisions of 4.2 hereof provided: (a) satisfactory evidence is delivered to the Governmental Lender that the total cost of restoration and repair does not exceed the then outstanding principal balance of the Project Note; (b) satisfactory evidence is delivered to the Governmental Lender that the improvements can be rebuilt substantially to the same as those originally financed and can with restoration and repair continue to be operated for the purposes utilized prior to such damage; (c) no Event of Default shall exist

under this Security Instrument, the Project Note, or other documents securing the Project Note; (d) Governmental Lender shall have received an M.A.I. Appraisal in form and content acceptable to the Governmental Lender which indicates that the appraised value of the Premises after such restoration or repair shall not have been reduced from its appraised value as of the date hereof; (e) tenants under leases of the Premises which are acceptable to the Governmental Lender certify to the Governmental Lender their intention to occupy the Premises without any abatement or adjustment of rental payments (other than temporary abatements during the period of restoration and repair); (f) no mechanics' or other liens of any nature shall exist or be created; (g) Borrower shall be responsible for and shall have deposited with Governmental Lender in advance such sums as are necessary to cover any shortfall between the actual cost to repair or restore and the amount of such insurance proceeds; (h) all fees and expenses incurred by Governmental Lender in connection with the disbursement of the insurance proceeds shall be paid by Borrower; and (i) Governmental Lender shall have no obligation to make insurance proceeds available for repair or restoration during the 365 days prior to the Maturity Date; provided, however, Governmental Lender may, in its sole discretion, make insurance proceeds available during such time if Borrower provides evidence satisfactory to Governmental Lender in its sole discretion that (i) such repairs or restoration can be completed by the Maturity Date and (ii) there are sufficient insurance proceeds available to cover the cost of any such repairs or restoration.

5.

LEASES AND RENTS

5.1 Assignment of Leases and Rents. To further secure the Indebtedness, the Borrower does hereby unconditionally and absolutely sell, assign, grant a lien upon, and transfer unto Governmental Lender all of the leases, rents, issues, income and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any agreement or license for the use or occupancy of the Premises, whether now existing or entered into at any time during the term of this Security Instrument, all guaranties of any lessee's obligations under any such lease and all security deposits, it being the intention of this Security Instrument to establish an absolute transfer and assignment of all such leases and agreements and all of the rents, income, and profits from the Premises and/or Borrower's operation or ownership thereof unto Governmental Lender and Borrower does hereby appoint irrevocably Governmental Lender as Borrower's true and lawful attorney in Borrower's name and stead, which appointment is coupled with an interest, to collect all of said rents, income, and profits; provided, Governmental Lender grants the Borrower the privilege, revocable, to collect and retain such rents, income, and profits unless and until an Event of Default exists under this Security Instrument. As additional security for the Indebtedness, Borrower assigns to Governmental Lender all guarantees of lessee's obligation under leases and all proceeds from settlements relating to terminations of leases and all claims for damages arising from rejection of any lease under the bankruptcy laws.

5.2 Remedies. The terms and conditions of Section 6.1 of that certain Assignment of Rents and Leases by Borrower in favor of Governmental Lender dated as of even date herewith (the "Assignment") are incorporated herein by reference.

5.3 Application of Rents. The terms and conditions of Section 6.2 of the Assignment are incorporated herein by reference.

5.4 Present Assignment and License. The assignment of the rents and leases contained herein is a perfected, absolute and present assignment of the rents and lease(s), provided the Governmental Lender grants to the Borrower a revocable license to collect, but not prior to accrual, the rents, and to retain, use and enjoy the same. The Governmental Lender at its sole election may revoke any such licenses granted to Borrower upon the occurrence of an Event of Default, and in case of any such revocation, Borrower shall promptly remit to Governmental Lender any rents it receives during such period.

5.5 Chapter 64 of Subtitle B, Title 5 of the Texas Property Code. Borrower and Governmental Lender acknowledge and agree that (i) to the extent that specific terms and requirements of this Section 5 conflict with specific terms and requirements of Chapter 64 of Subtitle B, Title 5 of the Texas Property Code (the "Assignment of Leases Statute"), and such terms and requirements of the Assignment of Leases Statute are permitted under the Assignment of Leases Statute to be superseded by an agreement between Borrower and Governmental Lender, the specific terms and requirements of this Section 5 hereby supersede such specific terms and requirements of the Assignment of Leases Statute, and (ii) to the extent that specific terms and requirements of this Section 5 conflict with specific terms and requirements of the Assignment of Leases Statute, and such terms and requirements of the Assignment of Leases Statute are not permitted by the Assignment of Leases Statute to be superseded by an agreement between Borrower and Governmental Lender, the specific terms and requirements of the Assignment of Leases Statute shall control, and Borrower and Governmental Lender further agree that all other terms and requirements of this Section 5 shall not otherwise be impaired or superseded thereby and shall remain in full force and effect.

6.

RIGHTS OF GOVERNMENTAL LENDER

6.1 Right to Cure Default. If Borrower shall fail to comply with any of the covenants or obligations of this Security Instrument or under any of the Financing Documents, the Governmental Lender may, but shall not be obligated to, without further notice to Borrower, and without waiving or releasing Borrower from any obligation in this Security Instrument contained, remedy such failure, and Borrower agrees to repay upon demand all sums incurred by the Governmental Lender in remedying any such failure together with interest at the then applicable interest rate. All such sums, together with interest as aforesaid shall become so much additional Indebtedness, but no such advance shall be deemed to relieve the Borrower from any failure hereunder.

6.2 No Claim Against the Governmental Lender. Nothing contained in this Security Instrument shall constitute any consent or request by the Governmental Lender, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Premises or any part thereof, nor as giving the Borrower or any party in interest with Borrower any right, power or authority to contract for or permit the performance of any labor

or services or the furnishing of any materials or other property in such fashion as would create any personal liability against the Governmental Lender in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Security Instrument.

6.3 Waivers; Releases; Resort to Other Security, Etc. Without affecting the liability of any party liable for payment of any Indebtedness or performance of any obligation contained herein, and without affecting the rights of the Governmental Lender with respect to any security not expressly released in writing, the Governmental Lender may, at any time, and without notice to or the consent of the Borrower or any party in interest with the Premises or the Project Note:

- (a) release any person liable for payment of all or any part of the Indebtedness or for performance of any obligation herein;
- (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof;
- (c) accept any additional security;
- (d) release or otherwise deal with any property, real or personal, including any or all of the Premises, including making partial releases of the Premises; or
- (e) resort to any security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said securities and the security hereunder, either concurrently or independently and in such order as it may determine.

6.4 Waiver of Appraisal, Homestead, Marshaling. The Borrower waives to the full extent lawfully allowed the benefit of any homestead, appraisal, evaluation, stay and extension laws now or hereinafter in force. Borrower waives any rights available with respect to marshaling of assets so as to require the separate sales of any portion of the Premises, or as to require the Governmental Lender to exhaust its remedies against a specific portion of the Premises before proceeding against the other and does hereby expressly consent to and authorize the sale of the Premises or any part thereof as a single unit or parcel or as separate parcels.

6.5 Business Loan Representation. Borrower represents and warrants to Governmental Lender that the Indebtedness evidenced by the Project Note is a business loan transacted solely for the purpose of carrying on the business of Borrower and not a consumer transaction and that the Premises does not constitute the homestead of Borrower.

7.

EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default. The occurrence of any of the following shall be deemed an event of default under this Security Instrument (hereinafter referred to as an “Event of Default”):

- (a) Borrower or any co-maker, guarantor or surety shall fail to pay any principal or interest on the Project Note when and as the same becomes due (whether at the stated maturity or at a date fixed for any installment payment or any accelerated payment date or otherwise), subject to any applicable cure periods provided for in any applicable Financing Document; or
- (b) Borrower shall fail to deposit the Charges with or at the direction of Governmental Lender or to pay when due any other Indebtedness, subject to any applicable cure periods provided for in the Financing Documents; or
- (c) An Event of Default shall occur under any of the Financing Documents (other than this Security Instrument); or
- (d) Borrower or any maker, guarantor or surety of the Project Note shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, dissolution, liquidation, arrangement, composition, readjustment or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceedings, or shall not within sixty (60) days after the filing of such a petition have the same dismissed or vacated, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties, or shall not within sixty (60) days after the appointment of a trustee, receiver or liquidator of any material part of its properties have such appointment vacated; or
- (e) Any certification, representation or warranty made by Borrower herein, in the Project Note, in the other Financing Documents, or made in connection with the application for the loan evidenced by the Project Note, or given as an inducement to Governmental Lender to make the loan, shall be false, breached or dishonored; or
- (f) Borrower shall fail to comply with or perform any term, condition or covenant of this Security Instrument, which failure continues for 30 days after Borrower receives written notice of such default, except where such default cannot be cured within 30 days, Borrower shall have 90 days, provided Borrower is diligently pursuing cure of such default; or
- (g) Any Guarantor shall be dissolved, liquidated or go out of existence; or
- (h) Any Guarantor shall die or dissolve and Borrower either (i) has failed to notify Governmental Lender of such death within thirty (30) days thereof or (ii) has failed to provide Governmental Lender with an acceptable substitute guarantor, in the sole judgment of Governmental Lender, who shall have executed a Guaranty and an Indemnity Agreement in the forms of those executed by the Guarantors, before the

earlier to occur of (A) ninety (90) days from the date of such person's death or (B) the date on which the first distribution of assets has been made from such person's estate to any devisee, heir or other beneficiary; or

- (i) The Guarantor contests the validity or enforceability of the Guaranty or the Guaranty shall no longer be in full force and effect.

7.2 Governmental Lender's Right to Accelerate. At any time during the existence of an Event of Default, Governmental Lender, at Governmental Lender's option, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale granted in this Security Instrument (and Borrower appoints Governmental Lender as Borrower's agent and attorney-in-fact to exercise such power of sale in the name and on behalf of Borrower) and any other remedies permitted by Texas law or provided in this Security Instrument or in any other Financing Document. Borrower acknowledges that the power of sale granted in this Security Instrument may be exercised by Governmental Lender without prior judicial hearing. Governmental Lender will be entitled to collect all costs and expenses incurred in pursuing such remedies, including reasonable attorneys' fees and costs and costs of documentary evidence, abstracts and title reports.

7.3 Right to Foreclose/Power of Sale. If an Event of Default shall occur and is continuing, Trustee, their successor or substitute, is authorized and empowered and it shall be their special duty at the request of the Governmental Lender to sell the Property or any part thereof situated in the State of Texas at the courthouse of any county in the State of Texas in which any part of the Property is situated, at public venue to the highest bidder for cash between the hours of 10 o'clock a.m. and 4 o'clock p.m. on the first Tuesday in any month after having given notice of such sale in accordance with Chapter 51 of the Texas Property Code or the statutes of the State of Texas then in force governing sales of real estate under powers conferred by deed of trust. Any sale made by Trustee hereunder may be adjourned by announcement at the time and place appointed for such sale without further notice except as may be required by law. After any such sale, Trustee shall make to the purchaser or purchasers at such sale good and sufficient conveyances in the name of Borrower, conveying the property so sold to the purchaser or purchasers in fee simple with general warranty of title, and shall receive the proceeds of the sale or sales and apply the same as herein provided. Payment of the purchase price to Trustee shall satisfy the obligation of purchaser at such sale therefor, and such purchaser shall not be responsible for the application thereof. In the event any sale hereunder is not completed or is defective in the opinion of the Governmental Lender, such sale shall not exhaust the power of sale hereunder and the Governmental Lender shall have the right to cause a subsequent sale or sales to be made hereunder. Any and all statements of fact or other recitals made in any deed or deeds given by Trustee or any successor or substitute appointed hereunder as to nonpayment of the indebtedness secured hereby, or as to the occurrence of any default, or as to the Governmental Lender having declared all of such indebtedness to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to the refusal, failure or inability to act of Trustee or any substitute or successor, or as to the appointment of any substitute or successor trustee, or as to any other act or thing having been duly done by the Governmental Lender or by such Trustee, substitute or successor, shall be taken as prima facie evidence of the truth of the facts

so stated and recited. Trustee, their successor or substitute, may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Trustee, including the posting of notices and the conduct of sale, but in the name and on behalf of Trustee, their successor or substitute.

7.4 Waiver of Appraisal, Homestead, Redemption. The Borrower hereby covenants and agrees that it will not at any time insist or plead, or in any manner whatever claim or take any advantage of, any stay, exemption or extension law or any so called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit of advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or pursuant to decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof so as to require the separate sales of any portion of the Premises, or as to require the Governmental Lender to exhaust its remedies against a specific portion of the Premises upon foreclosure sale or other enforcement hereof. The Borrower hereby expressly consents to and authorizes the sale of the Premises or any part thereof as a single unit or parcel or as separate parcels, upon foreclosure sale or other enforcement hereof. Borrower hereby specifically waives all rights of redemption from sale pursuant to any order or decree of foreclosure of this Security Instrument on its own behalf.

7.5 Receiver. Upon the occurrence and continuance of an Event of Default, Governmental Lender shall be entitled as a matter of right without notice and without regard to the solvency or insolvency of Borrower, or the existence of waste of the Premises or adequacy of the security of the Premises, and without giving bond to apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the rents, and all other income of any kind; manage the Premises so as to prevent waste; execute leases within or beyond the period of receivership, pay all expenses for normal maintenance of the Premises and perform the terms of this Security Instrument and apply the rents, issues, income and profits to the costs and expenses of the receivership, including reasonable attorneys' fees, to the repayment of the Indebtedness and to the operation, maintenance and upkeep and repair of the Premises, including payment of taxes on the Premises and payments of premiums of insurance on the Premises and any other rights permitted by law. Borrower does hereby irrevocably consent to such appointment. The receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Premises, or any part thereof, by force, summary proceedings, ejectment or otherwise, and remove Borrower or any other person or entity and any personal property therefrom, and may hold, operate and manage the same, receive all rents, earnings, incomes, issues and proceeds and do the things the receiver finds necessary to preserve and protect the Premises, whether during pendency of foreclosure, during a redemption period, if any, or otherwise. If such receiver should be appointed, or if there should be a sale of the Premises, as provided in Section 7.3, Borrower, or any person in possession of the Premises thereunder, as tenant or otherwise, shall become a tenant at will of the receiver or of the purchaser and may be removed by a writ of ejectment, summary ejectment or other lawful remedy.

7.6 Rights Under UCC. In addition to the rights available to a Governmental Lender of real property, Governmental Lender shall also have all the rights, remedies and recourse available to a secured party under the UCC including the right to proceed under the provisions of the UCC governing default as to any property which is subject to the security interest created by the Security Instrument or to proceed as to such personal property in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

7.7 Rights Cumulative. Each right, power or remedy herein conferred upon the Governmental Lender is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Governmental Lender, at law or in equity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Governmental Lender and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. No delay or omission by the Governmental Lender in the exercise of any right, power or remedy arising hereunder or arising otherwise shall impair any such right, power or remedy or the right of the Governmental Lender to resort thereto at a later date or be construed to be a waiver of any continuing Event of Default under this Security Instrument or the Project Note.

7.8 Right to Discontinue Proceedings. In the event Governmental Lender shall have proceeded to invoke any right, remedy or recourse permitted under this Security Instrument and shall thereafter elect to discontinue or abandon the same for any reason, Governmental Lender shall have the unqualified right to do so and in such event Borrower and Governmental Lender shall be restored to their former positions with respect to the Indebtedness. This Security Instrument, the interest of the Governmental Lender in the Premises and all rights, remedies and recourse of the Governmental Lender shall continue as if the same had not been invoked.

7.9 Additional Rights of Governmental Lender upon Foreclosure. If Governmental Lender should become the purchaser at any foreclosure sale, it shall be entitled to credit any of the unpaid balance of the Indebtedness against the amount of the purchase price. The purchaser at any foreclosure sale hereunder may disaffirm any easement granted or sublease made in violation of any provision of this Security Instrument, and may take immediate possession of the Premises free from, and despite the terms of, such grant of easement or sublease. Borrower hereby expressly waives any right which Borrower may have to direct the order in which any of the Premises shall be sold in the event of any sale or sales pursuant hereto.

7.10 Waivers. Borrower also waives the benefit of all laws now existing or that may hereinafter be enacted providing for (i) any appraisal before sale of any portion of the Premises, and (ii) in any way extending the time for the enforcement and collection of the Project Note or this Security Instrument or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Borrower may do so, Borrower agrees that Borrower will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter enforced providing for any appraisal, evaluation, stay, extension or redemption and Borrower, to the extent permitted by law, waives and releases all rights of redemption, valuation, appraisal, stay of

execution, notice of election to mature or declare due the whole of this Security Instrument and marshaling in the event of foreclosure of the liens hereby created.

7.11 Investor's Right to Cure. RBC Community Investments, LLC, a _____ limited liability company, and its permitted successors and assigns ("Investor"), the investor limited partner of the sole member of Borrower, shall have the right, but not the obligation, to cure any defaults on behalf of Borrower, and the Governmental Lender shall accept such cure as if tendered by the Borrower.

8.

HAZARDOUS SUBSTANCE

8.1 Covenants and Representations of Borrower. The terms, conditions, covenants, indemnifications, and representations included in that certain Environmental and ADA Indemnification Agreement by and between Borrower, Guarantor and Initial Funding Lender dated as of the date hereof are included herein by reference ("Environmental Indemnity Agreement").

8.2 Additional Indebtedness. The covenants, representations, warranties and indemnities referenced in Section 8.1 above shall survive any foreclosure of this Security Instrument and any acquisition of title of Lender for any damages suffered for events or circumstances during Borrower's period of ownership of the Property. The amount of all such indemnified loss, damage, expense or cost, shall bear interest thereon at the rate of interest in effect on the Project Note and shall become so much additional Indebtedness and shall become immediately due and payable in full on demand of the Lender, its successors and assigns. The indemnification contained herein shall be a personal monetary obligation of Borrower notwithstanding any provisions of this Security Instrument to the contrary that limit or exculp the personal liability of Borrower and/or require the Lender to look solely to the security of the Premises.

9.

MISCELLANEOUS

9.1 Release of Deed of Trust. When all Indebtedness has been paid, this Security Instrument and all assignments herein contained shall, except as otherwise provided herein, be void and this Security Instrument shall be released by the Governmental Lender at the cost and expense of Borrower.

9.2 Choice of Law. The parties to this instrument have contracted for Texas law to govern this instrument and it is agreed that this instrument is made pursuant to and shall be construed and governed by the laws of the State of Texas, without regard to the principles of conflicts of law.

9.3 Successors and Assigns. This Security Instrument and each and every covenant, agreement and other provision hereof shall be binding upon the Borrower and its successors and assigns including without limitation each and every from time to time record owner of the Premises or any other person having an interest therein, shall run with the land and shall inure to the benefit of the Governmental Lender and its successors and assigns. As used herein the words "successors and assigns" shall also be deemed to include the heirs, representatives, administrators and executors of

any natural person who is or becomes a party to this Security Instrument. In the event that the ownership of the Premises becomes vested in a person or persons other than the Borrower, the Governmental Lender shall not have any obligation to deal with such successor or successors in interest unless such transfer is permitted by this Security Instrument and then only upon being notified in writing of such change of ownership. Upon such notification, the Governmental Lender may thereafter deal with such successor in place of Borrower without any obligation to thereafter deal with Borrower and without waiving any liability of Borrower hereunder or under the Project Note. No change of ownership shall in any way operate to release or discharge the liability of the Borrower hereunder unless such release or discharge is expressly agreed to in writing by the Governmental Lender.

9.4 Unenforceability of Certain Clauses. The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

9.5 Captions and Headings. The captions and headings of the various sections of this Security Instrument are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

9.6 Counterparts. This instrument may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signatures to this instrument may be executed on separate pages and when attached to this instrument shall constitute one complete document.

9.7 Notices. Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the parties hereto shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by the Funding Loan Agreement by Electronic Notice. The following parties may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent

Each notice to the Fiscal Agent shall be addressed as follows:

U.S. Bank, National Association
Corporate Trust Services
13737 Noel Road, Suite 800
Dallas, Texas 75240
Attention: Brian Jensen
Email: _____

Each notice to Borrower shall be addressed as follows:

Houston Leased Housing Associates Owner VIII, LLC
2905 Northwest Blvd., Suite 150
Plymouth, MN 55441
Attn: Russell Condas
Email: rcondas@dominiuminc.com

With a copy to:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
Attn: John M. Stern
Email: jsstern@winthrop.com

Each notice to Investor shall be addressed as follows:

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

With a copy to:

Nixon Peabody LLP
Exchange Place
53 State Street
Boston, MA 02109
Attention: Roger W. Holmes

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to the Funding Loan Agreement.

9.8 Consent to Jurisdiction. The Borrower submits and consents to personal jurisdiction of the Courts of the State of Texas and Courts of the United States of America sitting in such State for the enforcement of this instrument and waives any and all personal rights under the laws of any state or the United States of America to object to jurisdiction in the State of Texas. Litigation may be commenced in any state court of general jurisdiction for the State of Texas or the United States District Court located in that state, at the election of the Governmental Lender. Nothing contained herein shall prevent Governmental Lender from bringing any action against any other party or exercising any rights against any security given to Governmental Lender or against the Borrower personally, or against any property of the Borrower, within any other state, including without limitation the State of Texas. Commencement of any such action or proceeding in any other state

shall not constitute a waiver of consent to jurisdiction or of the submission made by the Borrower to personal jurisdiction within the State of Texas.

9.9 Indemnity. Borrower agrees to indemnify and hold harmless, and on demand defend (provided Governmental Lender shall have the right to employ separate counsel in any action at the expense of Borrower), any of the Indemnified Parties for any loss or expense which may arise or be created by the acceptance in good faith by the Governmental Lender of instructions for making the Loan or disbursing the proceeds thereof. Borrower further agrees to defend (provided Governmental Lender shall have the right to employ separate counsel in any action at the expense of Borrower), protect, indemnify, and hold harmless any of the Indemnified Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind, and arising at any time, based on the Loan, the Financing Documents, or the use or intended use of the proceeds of the Loan, the Governmental Lender's performance or administration of the Loan, or otherwise on account of the Loan. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE GOVERNMENTAL LENDER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT. The obligations of Borrower under this Section shall survive any termination of any of the Financing Documents, including this Security Instrument.

9.10 Amendment/Modification. Any amendment to or modification of this Security Instrument shall be made in writing by and between Borrower and Governmental Lender. No oral waiver, amendment, or modification may be implied and the same must be executed by Borrower and Governmental Lender.

9.11 Waiver of Jury Trial. TO THE MAXIMUM EXTENT ALLOWABLE BY APPLICABLE LAW, THE PARTIES TO THIS INSTRUMENT WAIVE(S) TRIAL BY JURY IN ANY JUDICIAL PROCEEDING TO WHICH ANY PARTIES TO THIS INSTRUMENT ARE INVOLVED DIRECTLY OR INDIRECTLY AND ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS INSTRUMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER, AND WHETHER ARISING OR ASSERTED BEFORE OR AFTER THE DATE OF THIS INSTRUMENT.

9.12 Substitution of Trustee; Liability of Trustee. Trustee may resign by an instrument in writing addressed to the Governmental Lender, or Trustee may be removed at any time with or without cause by an instrument in writing executed by the Governmental Lender. In case of the death, resignation, removal or disqualification of Trustee or if for any reason the Governmental Lender shall deem it desirable to appoint a substitute or successor trustee to act instead of the herein named trustee or any substitute or successor trustee, then the Governmental Lender shall have the right and is hereby authorized and empowered to appoint a successor trustee, or a substitute trustee, without other formality than appointment and designation in writing executed

by the Governmental Lender and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness secured hereby has been paid in full or until the Property is sold hereunder. Upon the making of any such appointment and designation, all of the estate and title of Trustee in the Property shall vest in the named successor or substitute trustee and they shall thereupon succeed to and shall hold, possess and execute all the rights, powers, privileges, immunities and duties herein conferred upon Trustee. All references herein to Trustee shall be deemed to refer to Trustee (including any successor or substitute appointed and designated as herein provided) from time to time acting hereunder.

TRUSTEE SHALL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY TRUSTEE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING TRUSTEE'S NEGLIGENCE), EXCEPT FOR TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by them hereunder, believed by them in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by them hereunder.

9.13 Adjustable Rate Note. The Project Note secured by this Security Instrument provides for adjustments in its interest rate from time to time in accordance with its terms. Reference is made to the Project Note for the time, terms and conditions of the adjustments in the interest rate. Such times, terms and conditions are incorporated herein by reference.

9.14 TEXAS FINANCE CODE SECTION 307.052 COLLATERAL PROTECTION INSURANCE NOTICE. (A) BORROWER IS REQUIRED TO: (I) KEEP THE PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNT SPECIFIED IN THE FINANCING DOCUMENTS; (II) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (III) NAME GOVERNMENTAL LENDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS AS AND TO THE EXTENT REQUIRED IN THIS SECURITY INSTRUMENT; (B) BORROWER MUST, IF REQUIRED BY GOVERNMENTAL LENDER PURSUANT TO THIS SECURITY INSTRUMENT, DELIVER TO GOVERNMENTAL LENDER A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF PREMIUMS; AND (C) IF BORROWER FAILS TO MEET ANY REQUIREMENT LISTED IN PARAGRAPH (A) OR (B), GOVERNMENTAL LENDER MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF BORROWER AT BORROWER'S EXPENSE AS AND TO THE EXTENT EXPLICITLY PERMITTED BY THIS SECURITY INSTRUMENT.

9.15 INDEMNITY. IT IS THE EXPRESS INTENTION OF BORROWER AND BORROWER HEREBY AGREES THAT THE INDEMNITIES SET FORTH IN THIS SECURITY INSTRUMENT AND THE OTHER FINANCING DOCUMENTS WILL APPLY TO AND FULLY PROTECT EACH INDEMNIFIED PARTY EVEN THOUGH ANY CLAIMS,

DEMANDS, LIABILITIES, LOSSES, DAMAGES, CAUSES OF ACTION, JUDGMENTS, PENALTIES, COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES) THEN THE SUBJECT OF INDEMNIFICATION MAY HAVE BEEN CAUSED BY, ARISE OUT OF, OR ARE OTHERWISE ATTRIBUTABLE TO, DIRECTLY OR INDIRECTLY, THE NEGLIGENCE (EXCLUDING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) IN WHOLE OR IN PART OF SUCH INDEMNIFIED PARTY AND/OR ANY OTHER PARTY.

9.16 SECTION 26.02 NOTICE. IN ACCORDANCE WITH SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE, THIS SECURITY INSTRUMENT AND THE OTHER DOCUMENTS EVIDENCING, SECURING OR PERTAINING TO ALL OR ANY PORTION OF THE LOAN REPRESENT THE FINAL AGREEMENT BETWEEN BORROWER AND GOVERNMENTAL LENDER AS TO THE SUBJECT MATTER THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN SUCH PARTIES.

9.17 WAIVER OF CERTAIN TEXAS PROPERTY CODE PROVISIONS. IN THE EVENT AN INTEREST IN ANY OF THE PROPERTY IS FORECLOSED UPON PURSUANT TO A JUDICIAL OR NONJUDICIAL FORECLOSURE SALE, BORROWER AGREES AS FOLLOWS: NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECURITY INSTRUMENT OR IN THE PROVISIONS OF SECTIONS 51.003, 51.004, AND 51.005 OF THE TEXAS PROPERTY CODE (AS THE SAME MAY BE AMENDED FROM TIME TO TIME), AND TO THE EXTENT PERMITTED BY LAW, BORROWER AGREES THAT GOVERNMENTAL LENDER SHALL BE ENTITLED TO SEEK A DEFICIENCY JUDGMENT FROM BORROWER EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OWING ON THE PROJECT NOTE AND THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD PURSUANT TO JUDICIAL OR NONJUDICIAL FORECLOSURE SALE. BORROWER EXPRESSLY RECOGNIZES THAT THIS SECTION CONSTITUTES A WAIVER OF THE ABOVE-CITED PROVISIONS OF THE TEXAS PROPERTY CODE WHICH WOULD OTHERWISE PERMIT BORROWER, ANY GUARANTOR AND ANY OTHER PERSONS AGAINST WHOM RECOVERY OF DEFICIENCIES IS SOUGHT TO INDEPENDENTLY (EVEN ABSENT THE INITIATION OF DEFICIENCY PROCEEDINGS AGAINST THEM) PRESENT COMPETENT EVIDENCE OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE OF THE FORECLOSURE SALE AND OFFSET AGAINST ANY DEFICIENCY THE AMOUNT BY WHICH THE FORECLOSURE SALE PRICE IS DETERMINED TO BE LESS THAN SUCH FAIR MARKET VALUE. BORROWER FURTHER RECOGNIZES AND AGREES THAT THIS WAIVER CREATES AN IRREBUTTABLE PRESUMPTION THAT THE FORECLOSURE SALE PRICE IS EQUAL TO THE FAIR MARKET VALUE OF THE PROPERTY FOR PURPOSES OF CALCULATING DEFICIENCIES OWED BY BORROWER, ANY GUARANTOR, AND ANY OTHERS AGAINST WHOM RECOVERY OF A DEFICIENCY IS SOUGHT.

[Initial page to follow]

INITIAL PAGE TO DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

Initial Here: _____

[Signature page to follow]

EXHIBIT A

Legal Description

BEING ALL OF PARKSIDE POINT APARTMENTS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN FILM CODE NO. 551195, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

THIS DOCUMENT WAS PREPARED BY
AND WHEN RECORDED RETURN TO:

FOX ROTHSCHILD LLP
222 South Ninth Street, Suite 2000
Minneapolis, MN 55402
Michelle L. Witzany, Esq.
Telephone: 612.607.7008

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

ASSIGNMENT OF RENTS AND LEASES

This ASSIGNMENT OF RENTS AND LEASES (“**Assignment**”), is made as of August 1, 2020, by HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a Minnesota limited liability company (the “**Borrower**” or “**Assignor**”), in favor of TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Governmental Lender**” or “**Assignee**”).

RECITALS:

- A. Pursuant to Chapter 2306, Texas Government Code (the “**Act**”), and the Project Loan Agreement dated as of August 1, 2020 (the “**Project Loan Agreement**”), by and among the Governmental Lender, U.S. Bank National Association, a national banking association (the “**Fiscal Agent**”), and Borrower, the Governmental Lender has agreed to make a mortgage loan to the Borrower in the maximum aggregate principal amount of \$28,000,000.00 (the “**Project Loan**”) to provide financing for a 260-unit multifamily rental housing development known as Vermillion Apartments (the “**Project**”), located in Houston, Texas and legally described on Exhibit A attached hereto and made a part hereof (as further defined herein, the “**Real Estate**”).

- B. The Governmental Lender is making the Project Loan to the Borrower with the proceeds received from the separate loan in the maximum aggregate principal amount of \$28,000,000.00 (the "Funding Loan" and together with the Project Loan, the "Loans") made to the Governmental Lender pursuant to the Funding Loan Agreement dated as of August 1, 2020 (the "Funding Loan Agreement"), by and among Merchants Bank of Indiana, an Indiana state bank, in its capacity as the initial funding lender ("Initial Funding Lender"), Governmental Lender and Fiscal Agent. The Funding Loan is evidenced by the Governmental Lender's Multifamily Note with designation as Multifamily Note (Vermillion Apartments), Series 2020 (the "Governmental Note") dated August 1, 2020, and delivered by the Governmental Lender to the Initial Funding Lender.
- C. Borrower's repayment obligations in respect of the Project Loan are evidenced by that certain Multifamily Note dated August 1, 2020 (the "Project Note" and together with the Governmental Note, the "Notes") delivered by the Borrower to the Governmental Lender. Governmental Lender has endorsed the Project Note to Fiscal Agent for the benefit of Initial Funding Lender as security for the Funding Loan, and are secured by the Deed of Trust, Security Agreement and Fixture Financing Statement dated as of the date hereof (with all amendments, modifications and supplements, the "Security Instrument"), with respect to the Premises.
- D. Pursuant to the Funding Loan Agreement, the Governmental Lender has assigned to the Fiscal Agent all of the Governmental Lender's right, title and interest in the Project Loan Agreement (except for certain unassigned rights), the Project Loan, the Project Note, the Security Instrument and the Premises (as described herein), as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due thereunder and under the Funding Loan Agreement, the Project Loan Agreement, the Construction Continuing Covenant Agreement (as defined below), the Security Instrument, this Assignment and all other documents or instruments evidencing, securing or relating to the Loans (the "Financing Documents").
- E. Pursuant to the Financing Documents, Borrower has covenanted, among other things, to make loan payments sufficient to pay when due the interest and principal payments on the Project Note, plus late fees, prepayment charges and other amounts due thereon, in all instances at the times and in the amounts necessary to enable the Fiscal Agent, on behalf of the Governmental Lender, to pay all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise.
- F. The Borrower, the Initial Funding Lender and Merchants Capital Corp., an Indiana corporation, as servicer, have entered into that certain Note Purchase Agreement (Construction Continuing Covenant Agreement) dated as of the date hereof (together with any amendment thereto, the "Construction Continuing Covenant Agreement"), providing, among other things, certain conditions on which the Initial Funding Lender will originate and fund the Funding Loan to Governmental Lender and disburse the proceeds thereof to the Fiscal Agent, which proceeds of the Funding Loan will be used to fund the Project Loan and will be disbursed by the Fiscal Agent to First American Title Insurance Company ("Disbursing Agent") for the benefit of the Borrower and will subsequently be disbursed by the Disbursing Agent pursuant

to the Disbursing Agreement. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Construction Continuing Covenant Agreement.

- G. The Notes will mature not later than September 1, 2038 (the “Maturity Date”), or such earlier date as set forth in the Notes.
- H. The Governmental Lender and the Initial Funding Lender have required, as a condition to entering into the Financing Documents, that the Borrower secure its obligations under the Project Note and the other Financing Documents by this Assignment.
- I. The Assignee’s right, title and interest in and to this Assignment will be assigned to the Fiscal Agent pursuant to the Funding Loan Agreement and that certain Assignment of Security Instrument dated as of August 1, 2020.

NOW THEREFORE FOR VALUE RECEIVED AND FOR THE PURPOSE OF SECURING THE FULL AND TIMELY PAYMENT OF THE INDEBTEDNESS SECURED HEREBY, Assignor hereby grants, transfers and assigns to Assignee all of Assignor’s interest in the following:

- (a) all leases or licenses for the use or occupancy of any portion of the Project and agreements for the leasing, use or occupancy of any portion of the Project now, heretofore or hereafter entered into, and all renewals and extensions thereof (“**Leases**” whether singular or plural as the case may be);
- (b) all moneys, earnings, revenues, rights to payment of money and receivables, derived from the use or operation of the Project, including, without limitation (i) income, revenues and receipts derived in any fashion from Project, (ii) all payments for services rendered, and (iii) all accounts, chattel paper and instruments, and all proceeds therefrom, whether cash or noncash, derived from the Project (“**Rents**”);
- (c) all payments in lieu of rent and all monies owed the Assignor for payments for services performed pursuant to any Leases and monies owed to the Assignor for materials, leasehold improvements or otherwise furnished or installed pursuant to any Leases;
- (d) all payments for recovery of damages done to the Project and the abatement of any nuisance existing thereon;
- (e) all payments and awards resulting from default under any Leases;
- (f) all payments made or pursuant to a termination of any Leases or a settlement of the obligations of any tenant under any Leases;
- (g) all guarantees of the obligations of any tenant under any Leases;

- (h) all proceeds payable by reason of the exercise by a tenant of any option to purchase the Project or any first refusal rights of a tenant contained in any Leases;
- (i) any award or damages payable to the Assignor pursuant to any bankruptcy, liquidation, dissolution, insolvency, reorganization or similar proceeding affecting any tenant;
- (j) all security deposits paid by any tenant under any Leases; and
- (k) all of the following rights of the Assignor (which rights the Assignor shall be entitled to exercise whenever no Event of Default exists):
 - (i) the right to waive, excuse, condone or in any manner release or discharge the tenants of or from the obligations, covenants, conditions and agreements by any tenant to be performed under the Leases;
 - (ii) the right to terminate any Leases;
 - (iii) the right to amend or modify any Leases or alter the obligations of the parties thereunder without the consent of the Assignee;
 - (iv) the right to accept a surrender of any Leases prior to its expiration date; and
 - (v) the right to exercise the remedies of the landlord under the Leases by reason of any default by the tenant(s) thereunder.

The foregoing are hereinafter collectively referred to as the “Assigned Rights”.

This Assignment is given for the purpose of securing the following (herein collectively referred to as the “**Indebtedness Secured Hereby**”):

ONE. Payment of the indebtedness evidenced by and performance of the terms and conditions of the Project Note, the Project Loan Agreement and the Construction Continuing Covenant Agreement;

TWO. Payment of all other sums with interest thereon becoming due and payable to the Assignee herein and contained in the other Financing Documents;

THREE. Performance and discharge of each and every obligation, covenant and agreement of Assignor contained herein and contained in the other Financing Documents.

AND THE ASSIGNOR FURTHER REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

1. COVENANTS OF ASSIGNOR

1.1 Covenants. The Assignor shall:

- (a) Upon request by Assignee, provide the Assignee with copies of all Leases of the Project;
- (b) Faithfully abide by, perform and discharge each and every material obligation, covenant and agreement under any Leases to be performed by the landlord thereunder;
- (c) Enforce or secure the performance of each and every material obligation, covenant, condition and agreement of said Leases by the tenants thereunder to be performed consistent with commercially reasonable management practices; and
- (d) Not borrow against, pledge or further assign any Rents due under said Leases.

2. PROTECTION OF SECURITY

2.1 Protection of Security. The Assignor shall protect the interests of the Assignee under this Assignment and shall appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Assigned Rights or the obligations, duties or liabilities of the Assignor thereunder, and if in the reasonable judgment of the Assignee the Assignor is failing to do so, the Assignee shall have the right to take such actions to protect its interests and to appear in and defend itself and such actions and Assignor agrees to pay all costs and expenses of Assignee, including reasonable attorney's fees in a reasonable sum, in any such action or proceeding in which the Assignee in its sole discretion may appear.

3. REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties. Assignor represents and warrants:

- (a) that it is now the absolute owner of said Assigned Rights with full right and title to assign the same;
- (b) that there are no outstanding assignments or pledges of any Assigned Rights;
- (c) to the best of Assignor's knowledge following due inquiry, there are no existing material defaults, except as may have been previously disclosed to Assignee in writing, under the provisions of any Leases on the part of any party to the Leases;
- (d) to the best of Assignor's knowledge following due inquiry, all material obligations on the part of the Assignor under any Leases have been fully complied with;
- (e) that to the best of Assignor's knowledge following due inquiry, no Rents have been collected for more than one installment in advance of its due date or waived, anticipated, discounted, compromised or released, except as may have been previously disclosed to Assignee in writing;

- (f) to the best of Assignor's knowledge following due inquiry, no tenant has any defenses, setoffs, or counterclaims against Assignor; and
- (g) that Assignor has not executed any instrument that would prevent Assignee from enjoying the benefits of this Assignment.

4. PRESENT ASSIGNMENT AND LICENSE

4.1 Present Assignment and License. This Assignment is a perfected, absolute and present assignment of the Assigned Rights, provided the Assignee grants to the Assignor as long as no Event of Default has occurred and is continuing, a revocable license to collect the Rents, and to retain, use and enjoy the same.

4.2 Revocation of License. The Assignee at its sole election may immediately revoke any such license granted to Assignor upon the occurrence of an Event of Default.

5. EVENTS OF DEFAULT

5.1 Events of Default. It shall be an "Event of Default" under this Assignment upon the happening of any of the following:

- (a) An Event of Default (as defined therein) shall occur under the Security Instrument or any other Financing Document (other than this Assignment); or
- (b) Assignor fails to comply with or perform any agreement, term, condition or covenant required to be performed or observed by Assignor under the terms of this Assignment, other than a default described in Section 5.1(a) above, and such failure continues unremedied for a period of thirty (30) days after notice from Assignee to Assignor thereof; or
- (c) any representation or warranty made by Assignor herein or in any other Financing Document shall be false or misleading in any material respect and Assignor shall fail to take such actions as may be required to make such representation or warranty true and not misleading in any material respect within thirty (30) days after notice thereof.

6. REMEDIES

6.1 Remedies. Upon the occurrence of an Event of Default, the Assignee may declare all Indebtedness Secured Hereby immediately due and payable, may revoke the license granted Assignor hereunder and may, at its option, whether before or after the institution of legal proceedings to foreclose the Security Instrument or before or after sale thereunder or during any period of redemption, the Assignee, without regard to waste, adequacy of the security or solvency of the Assignor, may revoke the license granted the Assignor hereunder to collect the Rents and profits, and may, at Assignee's option, without notice, either: (a) in person or by agent, with or without taking possession of or entering the Project, with or without bringing any action or

proceeding, give, or require the Assignor to give, notice to any or all tenants under any lease authorizing and directing the tenant to pay such Rents and profits to the Assignee; collect all of the Rents and profits; enforce the payment thereof and exercise all of the rights of the landlord under the Leases and all of the rights of the Assignee hereunder; may enter upon, take possession of, manage and operate said Project, or any part thereof; may cancel, enforce or modify the Leases, and fix or modify Rents, and do any acts which the Assignee deems proper to protect the security hereof with or without taking possession of the Project; or (b) apply for the appointment of a receiver in accordance with the statutes and law of the State where the Project is located, which receivership the Assignor hereby consents to, who shall collect the Rents and profits, and all other income of any kind; manage the Project so to prevent waste; execute Leases within or beyond the period of receivership, and perform the terms of this Assignment and apply the Rents and profits as hereinafter provided. The entering upon and taking possession of said Project, the appointment of a receiver, the collection of such Rents, the exercise of the Assigned Rights, and the application thereof as aforesaid, shall not cure or waive any default or waive, modify or affect notice of default under said Security Instrument or any Financing Document or invalidate any act done pursuant to such notice nor in any way operate to prevent the Assignee from pursuing any remedy which it now or hereafter may have under the terms or conditions of said Security Instrument or the Note or any Financing Document secured thereby or any other instrument securing the same. The rights and powers of the Assignee hereunder shall remain in full force and effect both prior to and after any foreclosure of the Security Instrument and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including the Assignee, shall have the right, at any time, to advance money to any receiver appointed hereunder to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Project and the sum so advanced, with interest at the rate then in effect under the terms of the Note, shall be a part of the sum required to be paid to redeem from any foreclosure sale. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Project is in danger of being lost, materially injured or damaged or whether the Project is adequate to discharge the Indebtedness Secured Hereby.

6.2 Application of Rents. Any Rents collected pursuant to the terms of Section 6.1 hereof shall be applied as provided under the laws of the State where the Project is located, as may be amended from time to time. Any Rents remaining after application of the above items shall be applied to the Indebtedness Secured Hereby. If the Project shall be foreclosed and sold pursuant to a foreclosure sale, then:

- (a) if the Assignee is the purchaser at the foreclosure sale, the Rents shall be paid to the Assignee to be applied to the extent of any deficiency remaining after the sale, the balance to be retained by the Assignee, and if the Project be redeemed by the Assignor or any other party entitled to redeem, to be applied as a credit against the redemption price with any remaining excess Rents to be paid to the Assignor, provided, if the Project not be redeemed, any remaining excess rents to belong to the Assignee, whether or not a deficiency exists.
- (b) if the Assignee is not the purchaser at the foreclosure sale, the Rents shall be paid to the Assignee to be applied first, to the extent of any deficiency remaining after

the sale, the balance to be retained by the purchaser, and if the Project be redeemed by the Assignor or any other party entitled to redeem, to be applied as a credit against the redemption price with any remaining excess rents to be paid to the Assignor, provided, if the Project is not redeemed any remaining excess Rents shall be paid first, to the purchaser at the foreclosure sale in an amount equal to the interest accrued upon the sale price pursuant to the laws of the State where the Projects is located, then to the Assignee to the extent of any deficiency remaining unpaid and the remainder to the purchaser.

7. GENERAL COVENANTS

7.1 No Liability Imposed on Assignee. The Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge any obligation, duty or liability under the Leases nor shall this Assignment operate to place responsibility for the control, care, management or repair of the Project upon the Assignee nor for the carrying out of any of the terms and conditions of said Leases; nor shall it operate to make the Assignee responsible or liable for any waste committed on the Project, or for any dangerous or defective condition of the Project, or for any negligence in the management, upkeep, repair or control of said Project resulting in loss or injury or death to any tenant, licensee, employee or stranger nor liable for laches or failure to collect any Rents, exercise any Assigned Rights or protect the Leases.

7.2 Indemnification. The Assignor shall and does hereby indemnify and hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the Assigned Rights including the terms, covenants or agreements contained in said Leases (collectively "**Indemnified Losses**"), except to the extent such Indemnified Losses arise solely from (i) Assignee's negligence, gross negligence or willful misconduct or (ii) a failure to perform any of the landlord's obligations under the Assigned Rights by anyone other than Assignor or its respective agents or employees, which obligations first arise and relate solely to the time-period following the foreclosure of the Security Instrument (or the delivery and acceptance of a deed in lieu of such foreclosure). Should the Assignee incur any such liability, or in the defense of any such claims or demands or a judgment be entered against Assignee, the amount thereof, including costs, expenses, and reasonable attorney's fees, shall bear interest thereon at the rate then in effect on the Note, shall be added to the Indebtedness Secured Hereby and Assignor shall reimburse the Assignee for the same within ten (10) days after demand.

7.3 Tenant to Recognize Assignee. Each tenant under any Lease is hereby irrevocably authorized and directed to recognize the claims of Assignee or any receiver appointed without investigating the reason for any action taken or the validity or the amount of indebtedness owing to the Assignee, or the existence of any default or event of default in any Financing Document, or Event of Default hereunder, or the application to be made by the Assignee or such receiver. Assignor hereby irrevocably directs and authorizes the tenants to pay to Assignee or such receiver all sums due under the Leases and consents and directs that said sums shall be paid to any such receiver in accordance with terms of its receivership or to Assignee without the necessity for a

judicial determination that a default or event of default has occurred hereunder or under any Financing Documents or that Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to Assignee or such receiver, the Assignor agrees that the tenant shall have no further liability to Assignor for the same. The sole signature of the Assignee or such receiver shall be sufficient for the exercise of any rights under this Assignment and the sole receipt of the Assignee or such receiver for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Project. Checks for all or any part of the Rents collected under this Assignment shall upon notice from the Assignee be drawn to the exclusive order of the Assignee or such receiver.

7.4 Security Deposits. Upon the occurrence of an Event of Default, Assignor shall on demand transfer to the Assignee any security deposits held by Assignor under the terms of any Leases to be held by Assignee and applied in accordance with the provisions of the Leases. Until Assignee makes such demand and the deposits are paid over to Assignee the Assignee assumes no responsibility for any such security deposit and the Assignor shall remain liable to each tenant for the retention of such security deposit and any required interest thereon. If required by applicable law to maintain such security deposits in a separate account, the Assignor shall not commingle such security deposits with its other funds and accounts and shall deposit the same in an account, separated from its general funds, and if such deposits are required by law or pursuant to the Leases to be refunded to the respective tenants with interest thereon, such account shall be an interest bearing account. The Assignor shall provide to Assignee from time to time on request an accounting of all such deposits.

7.5 Attorney In Fact. Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney in fact, irrevocable, which appointment is coupled with an interest, to exercise any rights or remedies hereunder and to execute and deliver during the term of this Assignment such instruments in its own name or the name of the Assignor as Assignee may deem necessary to make this Assignment and any further assignment effective.

7.6 Assignment of Future Leases. Until the Indebtedness Secured Hereby shall have been paid in full, Assignor will within ten (10) business days after demand of the Assignee deliver to the Assignee executed copies of any and all Leases now or hereafter entered into for all or any part of the Project and agrees to make, execute and deliver unto Assignee within ten (10) business days after demand and at any time or times, any and all assignments and other instruments sufficient to assign all Assigned Rights hereunder to Assignee or that the Assignee may deem to be advisable for carrying out the true purposes and intent of this Assignment. From time to time, on request of the Assignee, the Assignor agrees to furnish Assignee with a rent roll of the Project disclosing current tenancies, terms of tenancies, rents payable, and such other matters as Assignee may reasonably request.

7.7 No Mortgage In Possession. Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting the Assignee a "Mortgagee in Possession."

7.8 Assignee Creditor of Tenant. Assignor agrees that Assignee, and not Assignor, shall be and be deemed to be the creditor of any tenant in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such tenant, (without obligation on the part of Assignee, however, to file or make timely filings of

claims in such proceedings or otherwise to pursue creditor's rights therein) with an option to Assignee to apply any money received by Assignee as such creditor in reduction of the Indebtedness Secured Hereby; provided unless an Event of Default has occurred and is continuing the Assignor may exercise the right of a creditor of any tenant provided it acts with due regard for the interest of the Assignee in the Leases and as a fiduciary would under similar circumstances.

7.9 Continuing Rights. The rights and powers of Assignee or any receiver hereunder shall continue and remain in full force and effect until all Indebtedness Secured Hereby, including any deficiency remaining from a sale of the Project pursuant to a foreclosure, trustees sale or sale pursuant to any power of sale under the Security Instrument is paid in full, and shall continue after commencement of an action to enforce or foreclose the Security Instrument or to exercise any such power of sale thereunder and after such sale and until expiration of any period of redemption.

8. MISCELLANEOUS

8.1 Successors and Assigns. This Assignment and each and every covenant, agreement and provision hereof shall be binding upon the Assignor and its successors and assigns including without limitation each and every from time to time record owner of the Project or any other person having an interest therein and shall inure to the benefit of the Assignee and its successors and assigns. As used herein the words "successors and assigns" shall also be deemed to mean the heirs, executors, representatives and administrators of any natural person who is a party to this Assignment.

8.2 Governing Law. The parties to this Assignment have contracted for Texas law to govern this Assignment and it is agreed that this Assignment is made pursuant to and shall be construed and governed by the laws of the State of Texas, without regard to the principles of conflicts of law.

8.3 Severability. It is the intent of this Assignment to confer to Assignee the rights and benefits hereunder to the full extent allowable by law. The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid. Any provisions found to be unenforceable shall be severable from this Assignment.

1.1 Notices. Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the parties hereto shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by the Funding Loan Agreement by Electronic Notice. The following parties may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent

Each notice to the Fiscal Agent shall be addressed as follows:

U.S. Bank, National Association
Corporate Trust Services
13737 Noel Road, Suite 800
Dallas, Texas 75240
Attention: Brian Jensen
Email: _____

Each notice to Assignor shall be addressed as follows:

Houston Leased Housing Associates Owner VIII, LLC
2905 Northwest Blvd., Suite 150
Plymouth, MN 55441
Attn: Russell Condas
Email: rcondas@dominiuminc.com

With a copy to:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
Attn: John M. Stern
Email: jsstern@winthrop.com

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to the Funding Loan Agreement.

8.4 Captions and Headings. The captions and headings of the various sections of this Assignment are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

8.5 Waiver of Jury Trial. THE ASSIGNOR WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING TO WHICH ASSIGNOR IS INVOLVED DIRECTLY OR INDIRECTLY AND ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS ASSIGNMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER, AND WHETHER ARISING OR ASSERTED BEFORE OR AFTER THE DATE OF THIS ASSIGNMENT.

8.6 Chapter 64 of Subtitle B, Title 5 of the Texas Property Code. Notwithstanding anything to the contrary contained herein, Assignee is entitled to all the rights and remedies of an assignee set forth in Chapter 64 of the Texas Property Code, the Texas Assignment of Rents Act (“**TARA**”). This Assignment shall constitute and serve as a security instrument under TARA. Assignee shall have the ability to exercise its rights related to the Leases and Rents, in Assignee’s sole discretion and without prejudice to any other remedy available, as provided in this Assignment or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Assignment or the other Financing Documents, to the extent this Assignment or any of the other Financing Documents contain any notice or cure period, the date of enforcement of Assignee’s rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods. To the extent that any terms and requirements of this Assignment conflict with the terms and requirements of TARA, the terms and requirements of this Assignment shall govern unless specifically prohibited by TARA.

[Remainder of Page Intentionally Blank]

IN FURTHERANCE WHEREOF, this Assignment is executed to be effective as of the date first above written.

ASSIGNOR:

HOUSTON LEASED HOUSING ASSOCIATES
OWNER VIII, LLC,
a Minnesota limited liability company

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 2020, by Russell C. Condas, the Authorized Signatory of HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public
Printed Name: _____
My Commission Expires: _____

EXHIBIT A

Legal Description of Real Property

BEING ALL OF PARKSIDE POINT APARTMENTS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN FILM CODE NO. 551195, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

Freddie Mac Loan Number: 503656747
Property Name: Vermillion Apartments

AMENDED AND RESTATED PROJECT NOTE

(Revised 6-15-2020)

US \$[PRINCIPAL AMOUNT]

[CONVERSION DATE]

FOR VALUE RECEIVED, the undersigned, **HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC**, a Texas limited liability company (together with such party's or parties' successors and assigns, the "**Borrower**"), jointly and severally (if more than one), promises to pay to the order of **U.S. BANK, NATIONAL ASSOCIATION** (the "**Fiscal Agent**"), and its assigns, the principal sum of [PRINCIPAL AMOUNT] Dollars (US \$[PRINCIPAL AMOUNT]), plus premium, if any, and interest thereon and to pay the other amounts owing from time to time hereunder, all as set forth below.

This Amended and Restated Project Note (this "**Project Note**") amends and restates in its entirety that certain Project Note dated [CLOSING DATE] (the "**Original Project Note**") executed by the Borrower in favor of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "**Governmental Lender**") in the original principal amount of \$28,000,000, which Original Project Note was endorsed to the Fiscal Agent to secure the obligations of the Governmental Lender with respect to the Funding Loan (as defined herein). This Project Note evidences the continuing indebtedness previously evidenced by such Original Project Note and is being delivered pursuant to that certain Project Loan Agreement dated as of August 1, 2020, among the Governmental Lender, the Fiscal Agent and Borrower (together with any and all amendments, modifications, supplements and restatements, the "**Project Loan Agreement**") pursuant to which the Governmental Lender made a mortgage loan in the original principal amount \$28,000,000 (of which \$[_____] is outstanding as of the date of this Project Note) to Borrower (the "**Project Loan**"), and this Project Note is entitled to the benefits of the Project Loan Agreement and is subject to the terms, conditions and provisions thereof. The Project Loan was funded from the separate loan (the "**Funding Loan**") incurred by the Governmental Lender pursuant to the Funding Loan Agreement dated as of August 1, 2020 (the "**Funding Loan Agreement**") by and among Merchants Bank of Indiana, as the Initial Funding Lender, the Governmental Lender and the Fiscal Agent, which Funding Loan has been assigned to Merchants Capital Corporation (the "**Funding Lender**") as of the date hereof. This Project Note shall be deemed to be fully advanced as of the Closing Date.

1. Defined Terms.

(a) As used in this Project Note:

"**Base Recourse**" means a portion of the Indebtedness equal to zero percent (0%) of the original principal balance of this Project Note.

"**Business Day**" means any day other than (a) a Saturday or a Sunday, or (b) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Fiscal Agent is located are authorized or

obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“**Closing Date**” means the date hereof, which is the Conversion Date (as such term is defined in the Funding Loan Agreement).

“**Default Rate**” means an annual interest rate equal to 4 percentage points above the Interest Rate. However, at no time will the Default Rate exceed the Maximum Interest Rate.

“**First Project Loan Payment Date**” means the first day of the first calendar month following the Closing Date.

“**Holder**” means the holder from time to time of this Project Note.

“**Indebtedness**” means the principal of, premium, if any, and interest on or any other amounts due at any time under this Project Note or the Project Loan Agreement.

“**Interest Rate**” means the annual interest rate of [INTEREST RATE]%.

“**Lockout Period**” means the period from and including the date of this Project Note until but not including [TEN YEARS FROM FIRST OF THE MONTH FOLLOWING CLOSING DATE].

“**Maximum Interest Rate**” means the rate of interest which results in the maximum amount of interest allowed by applicable law.

“**Prepayment Premium Period**” means the period from and including the date of this Project Note until but not including the first day of the Window Period.

“**Project Loan Payment Date**” is defined in Section 2 of this Project Note.

“**Property Jurisdiction**” means the State of Texas.

“**Scheduled Maturity Date**” means September 1, 2038.

“**Security Instrument**” means the amended and restated multifamily mortgage, deed to secure debt or deed of trust effective as of the effective date of this Project Note from Borrower to or for the benefit of Fiscal Agent and its assigns and securing this Project Note, as amended, modified or supplemented from time to time.

“**Window Period**” means the 3 consecutive calendar month period immediately prior to the Scheduled Maturity Date. If the first day of the Window Period falls on a day which is not a Business Day, then with respect to payments made under Section 10, the “Window Period” will begin on the Business Day immediately preceding the scheduled first day of the Window Period.

“Yield Maintenance Period” [means the period from and including the date of this Project Note until but not including [_____ 1, _____].

(b) Other capitalized terms used but not defined in this Project Note shall have the meanings given to such terms in the Project Loan Agreement, the Funding Loan Agreement or the Continuing Covenant Agreement.

2. Payments of Principal and Interest. Borrower shall pay on the first calendar day of each month commencing on the First Project Loan Payment Date, interest at the Interest Rate on the outstanding principal balance of this Project Note, and shall also pay interest on this Project Note at the Interest Rate in the event of an optional or mandatory prepayment or acceleration of all or a part of the Project Loan pursuant to this Project Note or the Project Loan Agreement, in an amount equal to the accrued and unpaid interest to the date of prepayment on the portion of this Project Note subject to prepayment (each such date for payment a **“Project Loan Payment Date”**). Interest under this Project Note will be computed, payable and allocated on the basis of a 360-day year and the actual number of days elapsed.

Borrower shall pay the outstanding principal of this Project Note in full on the Scheduled Maturity Date and in monthly installments on each date set forth on the Project Loan Amortization Schedule attached as Schedule 1 to this Project Note in an amount equal to the corresponding amounts set forth thereon, or at such earlier times and in such amounts as may be required in the event of an optional or mandatory prepayment or acceleration of the Project Loan pursuant to this Project Note or the Project Loan Agreement.

In addition to the foregoing, Borrower shall make payments hereunder in respect of the Project Loan at such times and in such amounts as are sufficient to pay, when due (whether at stated maturity, upon prepayment before maturity, upon acceleration of stated maturity or otherwise), the principal of and premium, if any, and interest on the Funding Loan at any time outstanding. To ensure timely payment, Servicer shall collect from Borrower, and Borrower shall provide to Servicer, the foregoing payments two (2) Business Days prior to the respective Project Loan Payment Date; provided, unless the Closing Date is the first day of a calendar month, the Servicer shall collect from Borrower and Borrower shall provide to Servicer on the Closing Date, interest for the period beginning on the Closing Date and ending on and including the last day of such calendar month. Except as provided in this paragraph and in Section 10, accrued interest will be payable in arrears.

Any regularly scheduled monthly installment of principal and interest payable pursuant to this Section 2 that is received by Holder before the date on which it is due will be deemed to have been received on the due date for the purpose of calculating interest due.

3. Payment of Fees and Expenses; Other Required Payments. Borrower shall also pay fees and expenses under Section 4.02 of the Project Loan Agreement, rebate amounts under Sections 2.04 and 4.03 of the Project Loan Agreement and indemnification amounts under Section 6.01 of the Project Loan Agreement and Section 10.02 of the Continuing Covenant Agreement, as well as any other amounts owed by the Borrower under the Financing Documents, when due and in accordance with the terms and provisions set forth therein.

4. Manner of Payment; Deficiencies. All payments under this Project Note shall be made in lawful currency of the United States and in immediately available funds as provided for herein and in the Project Loan Agreement. In the event of any deficiency in the funds available under the Funding Loan Agreement for payment of the principal of, premium, if any, or interest on the Funding Loan when due, Borrower shall immediately pay the amount of the deficiency to the Fiscal Agent upon notice of the deficiency from the Governmental Lender, Servicer or the Fiscal Agent. Borrower shall be obligated to pay the deficiency regardless of the reason for the deficiency, including any deficiency resulting from any shortfall in payments made or to be made by Borrower under this Project Note, any loss due to a default under any investment held by the Fiscal Agent, a change in value of any such investment or otherwise.

5. Application of Partial Payments. If at any time Holder receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Holder may apply the amount received to amounts then due and payable in any manner and in any order determined by Holder, in Holder's discretion. Borrower agrees that neither Holder's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Holder's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

6. Security. The Indebtedness is secured by, among other things, the Security Instrument. Reference is made to the Security Instrument and the Project Loan Agreement for other rights of Holder with respect to collateral for the Indebtedness.

7. Acceleration. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, any prepayment premium payable under Section 10 of this Project Note, and all other amounts payable under this Project Note and any other Financing Document, shall at once become due and payable, at the option of Holder, without any prior Notice to Borrower (except if notice is required by applicable law, then after such notice). Holder may exercise this option to accelerate regardless of any prior forbearance. For purposes of exercising such option, Holder will calculate the prepayment premium as if prepayment occurred on the date of acceleration. If prepayment occurs thereafter, Holder will recalculate the prepayment premium as of the actual prepayment date.

8. Default Rate. So long as (a) any monthly installment under this Project Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Project Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at the lesser of the Default Rate or the Maximum Interest Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Scheduled Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Scheduled Maturity Date at the lesser of the Default Rate or the Maximum Interest Rate. Borrower also acknowledges that its failure to make timely payments will cause Holder to incur additional expenses in servicing and processing the Project Loan, that, during the time that any monthly installment under this Project Note is delinquent, Holder will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Holder's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower

also acknowledges that, during the time that any monthly installment under this Project Note is delinquent or any other Event of Default has occurred and is continuing, Holder's risk of nonpayment of this Project Note will be materially increased and Holder is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Project Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Project Note, of the additional costs and expenses Holder will incur by reason of Borrower's delinquent payment and the additional compensation Holder is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

9. Limits on Personal Liability.

(a) Except as otherwise provided in this Section 9, none of Borrower, SPE Equity Owner, or any member or limited partner of Borrower will have any personal liability under this Project Note, the Project Loan Agreement or any other Financing Document for the repayment of the Indebtedness or for the performance of or compliance with any other obligations of Borrower under the Financing Documents, and Holder's only recourse for the satisfaction of the Indebtedness and the performance of such obligations will be Holder's exercise of its rights and remedies with respect to the Project and to any other collateral held by Holder as security for the Indebtedness. This limitation on Borrower's liability will not limit or impair Holder's enforcement of its rights against any Guarantor of the Indebtedness or any Guarantor of any other obligations of Borrower.

(b) Borrower will be personally liable to Holder for the amount of the Base Recourse, plus any other amounts for which Borrower has personal liability under this Section 9.

(c) In addition to the Base Recourse, Borrower will be personally liable to Holder for the repayment of a further portion of the Indebtedness equal to any loss or damage suffered by Holder as a result of the occurrence of any of the following events:

(i) Borrower fails to pay to Holder upon demand after an Event of Default all Rents to which Holder is entitled under Section 3 of the Security Instrument and the amount of all security deposits collected by Borrower from tenants then in residence. However, Borrower will not be personally liable for any failure described in this Section 9(c)(i) if Borrower is unable to pay to Holder all Rents and security deposits as required by the Security Instrument because of a valid order issued in, or an automatic stay applicable because of, a bankruptcy, receivership, or similar judicial proceeding.

(ii) Borrower fails to apply all Insurance proceeds and Condemnation proceeds as required by the Continuing Covenant Agreement. However, Borrower will not be personally liable for any failure described in this Section 9(c)(ii) if Borrower is unable to apply Insurance or Condemnation proceeds as required by the Continuing Covenant Agreement because of a valid order issued in, or an automatic stay applicable because of, a bankruptcy, receivership, or similar judicial proceeding.

(iii) Either of the following occurs:

(A) Borrower fails to deliver the statements, schedules and reports required by Section 6.07 of the Continuing Covenant Agreement and Holder exercises its right to audit those statements, schedules and reports.

(B) An Event of Default has occurred and is continuing, and Borrower fails to deliver all books and records relating to the Mortgaged Property or its operation in accordance with the provisions of Section 6.07 of the Continuing Covenant Agreement.

(iv) Borrower fails to pay when due in accordance with the terms of the Continuing Covenant Agreement the amount of any item below marked “Deferred”; provided however, that if no item is marked “Deferred”, this Section 9(c)(iv) will be of no force or effect.

[Collect] Property Insurance premiums or other Insurance premiums,

[Collect] Taxes or payments in lieu of taxes (PILOT)

[Deferred] Water and sewer charges (that could become a lien on the Mortgaged Property)

[N/A] Ground Rents

[Deferred] Assessments or other charges (that could become a lien on the Mortgaged Property)

(v) Borrower engages in any willful act of material waste of the Mortgaged Property.

(vi) Borrower fails to comply with any provision of Section 6.13(a)(iii) through (xxvi) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with any provision of Section 6.13(b)(iii) through (v) of the Continuing Covenant Agreement (subject to possible full recourse liability as set forth in Section 9(f)(ii)).

(vii) Any of the following Transfers occurs:

(A) Any Person that is not an Affiliate creates a mechanic’s lien or other involuntary lien or encumbrance against the Mortgaged Property and Borrower has not complied with the provisions of the Continuing Covenant Agreement.

(B) A Transfer of property by devise, descent or operation of law occurs upon the death of a natural person and such Transfer does not meet the requirements set forth in the Continuing Covenant Agreement.

(C) Borrower grants an easement that does not meet the requirements set forth in the Continuing Covenant Agreement.

(D) Borrower executes a Lease that does not meet the requirements set forth in the Continuing Covenant Agreement.

(viii) Reserved.

(ix) through (xx) are Reserved.

(xxi) Borrower or any officer, director, partner, member or employee of Borrower makes an unintentional written material misrepresentation in connection with (1) the application for or creation of the Indebtedness, or (2) any action or consent of Holder; provided that the assumption will be that any written material misrepresentation was intentional and the burden of proof will be on Borrower to prove that there was no intent.

(xxii) through (xxxiv) are Reserved.

(d) In addition to the Base Recourse, Borrower will be personally liable to Holder for all of the following:

(i) Borrower will be personally liable for the performance of all of Borrower's obligations under Sections 6.12, 10.02(b) and 10.02(e) of the Continuing Covenant Agreement.

(ii) Borrower will be personally liable for the costs of any audit under Section 6.07 of the Continuing Covenant Agreement.

(iii) Borrower will be personally liable for any costs and expenses incurred by Holder in connection with the collection of any amount for which Borrower is personally liable under this Section 9, including Attorneys' Fees and Costs and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(iv) through (viii) are reserved.

(ix) Borrower will be personally liable for any fees, costs, or expenses incurred by Holder in connection with Borrower's termination of any agreement for the provision of services to or in connection with the Mortgaged Property, including cable, internet, garbage collection, landscaping, security, and cleaning.

(x) Reserved.

(xi) through (xv) are Reserved.

(e) All payments made by Borrower with respect to the Indebtedness and all amounts received by Holder from the enforcement of its rights under the Project Loan Agreement and the

other Financing Documents will be applied first to the portion of the Indebtedness for which Borrower has no personal liability.

(f) Notwithstanding the Base Recourse, Borrower will become personally liable to Holder for the repayment of all of the Indebtedness upon the occurrence of any of the following Events of Default:

(i) Borrower fails to comply with Section 6.13(a)(i) or (ii) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with Section 6.13(b)(i) or (ii) of the Continuing Covenant Agreement.

(ii) Borrower fails to comply with any provision of Section 6.13(a)(iii) through (xxvi) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with any provision of Section 6.13(b)(iii) through (v) of the Continuing Covenant Agreement and a court of competent jurisdiction holds or determines that such failure or combination of failures is the basis, in whole or in part, for the substantive consolidation of the assets and liabilities of Borrower or any SPE Equity Owner with the assets and liabilities of a debtor pursuant to Title 11 of the Bankruptcy Code.

(iii) A Transfer that is an Event of Default under Section 7.01 of the Continuing Covenant Agreement occurs, other than a Transfer set forth in Section 9(c)(vii) above (for which Borrower will have personal liability for Holder's loss or damage); provided, however, that Borrower will not have any personal liability for a Transfer consisting solely of the involuntary removal or involuntary withdrawal of a general partner in a limited partnership or a manager in a limited liability company.

(iv) There was fraud or intentional written material misrepresentation by Borrower or any officer, director, partner, member or employee of Borrower in connection with (1) the application for or creation of the Indebtedness, (2) on-going financial or other reporting requirements or information required by the Financing Documents, or (3) any action or consent of Holder.

(v) Borrower or any SPE Equity Owner voluntarily files for bankruptcy protection under the Bankruptcy Code.

(vi) Borrower or any SPE Equity Owner voluntarily becomes subject to any reorganization, receivership, insolvency proceeding, or other similar proceeding pursuant to any other federal or state law affecting debtor and creditor rights.

(vii) The Mortgaged Property or any part of the Mortgaged Property becomes an asset in a voluntary bankruptcy or becomes subject to any voluntary reorganization, receivership, insolvency proceeding, or other similar voluntary proceeding pursuant to any other federal or state law affecting debtor and creditor rights.

(viii) An order of relief is entered against Borrower or any SPE Equity Owner pursuant to the Bankruptcy Code or other federal or state law affecting debtor and creditor rights in any involuntary bankruptcy proceeding initiated or joined in by a Related Party.

(ix) An involuntary bankruptcy or other involuntary insolvency proceeding is commenced against Borrower or any SPE Equity Owner (by a party other than Holder) but only if Borrower or such SPE Equity Owner has failed to use commercially reasonable efforts to dismiss such proceeding or has consented to such proceeding. “Commercially reasonable efforts” will not require any direct or indirect interest holders in Borrower or any SPE Equity Owner to contribute or cause the contribution of additional capital to Borrower or any SPE Equity Owner.

(x) through (xiii) are Reserved.

(xiv) In the event that any of the interest payable on the Funding Loan is deemed included in any Funding Lender’s (other than a Funding Lender who is a “substantial user” of the Project or a “related person” with respect thereto, each as defined in Section 147(a) of the Internal Revenue Code of 1986) gross income for federal income tax purposes as a result of any action or failure to act by Borrower or any person or entity acting on behalf of Borrower (including, but not limited to, the manager of the Mortgaged Property).

(g) For purposes of Sections 9(f) and (h), the term “**Related Party**” will include all of the following:

(i) Borrower, any Guarantor or any SPE Equity Owner.

(ii) Any Person that holds, directly or indirectly, any ownership interest (including any shareholder, member or partner) in Borrower, any Guarantor or any SPE Equity Owner or any Person that has a right to manage Borrower, any Guarantor or any SPE Equity Owner.

(iii) Any Person in which Borrower, any Guarantor or any SPE Equity Owner has any ownership interest (direct or indirect) or right to manage.

(iv) Any Person in which any partner, shareholder or member of Borrower, any Guarantor or any SPE Equity Owner has an ownership interest or right to manage.

(v) Any Person in which any Person holding an interest in Borrower, any Guarantor or any SPE Equity Owner also has any ownership interest.

(vi) Any creditor (as defined in the Bankruptcy Code) of Borrower that is related by blood, marriage or adoption to Borrower, any Guarantor or any SPE Equity Owner.

(vii) Any creditor (as defined in the Bankruptcy Code) of Borrower that is related to any partner, shareholder or member of, or any other Person holding an interest in, Borrower, any Guarantor or any SPE Equity Owner.

(h) If Borrower, any Guarantor, any SPE Equity Owner or any Related Party has solicited creditors to initiate or participate in any proceeding referred to in Section 9(f),

regardless of whether any of the creditors solicited actually initiates or participates in the proceeding, then such proceeding will be considered as having been initiated by a Related Party.

(i) In addition to the Base Recourse, Borrower will be personally liable for the following obligations under the Project Loan Agreement:

(i) Borrower's obligations to the Governmental Lender and the Fiscal Agent under subsections (b)(ii), (b)(iv), (b)(v), and (b)(vi) of Section 4.02 of the Project Loan Agreement;

(ii) Borrower's tax and indemnification obligations under Sections 2.05 and 6.01 of the Project Loan Agreement;

(iii) Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 2.04 and 4.03 of the Project Loan Agreement and the Tax Certificate; and

(iv) Borrower's obligation to pay legal fees and such expenses under Section 7.04 of the Project Loan Agreement.

(j) To the extent that Borrower has personal liability under this Section 9, Holder may, to the fullest extent permitted by applicable law, exercise its rights against Borrower personally without regard to whether Holder has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any Guarantor, or pursued any other rights available to Holder under this Project Note, the Project Loan Agreement, any other Financing Document, or applicable law. To the fullest extent permitted by applicable law, in any action to enforce Borrower's personal liability under this Section 9, Borrower waives any right to set off the value of the Mortgaged Property against such personal liability.

10. Voluntary and Involuntary Prepayments During the Prepayment Premium Period; Prepayment Premium.

(a) Any receipt by Holder of principal due under this Project Note prior to the Scheduled Maturity Date, other than principal required to be paid in monthly installments pursuant to the Project Loan Amortization Schedule, constitutes a prepayment of principal under this Project Note. Without limiting the foregoing, any application by Holder, prior to the Scheduled Maturity Date, of any proceeds of collateral or other security to the repayment of any portion of the unpaid principal balance of this Project Note constitutes a prepayment under this Project Note.

(b) This Project Note, together with accrued interest hereon, and together with prepayment premium (to the extent provided in Section 10(c) below), is subject to mandatory prepayment on any Business Day, in whole or in part as indicated below, at the earliest practicable date upon the occurrence of any of the following:

(i) the application of any Insurance proceeds or Condemnation award to the prepayment of the Project Loan as required under the Continuing Covenant Agreement; or

(ii) in whole, upon the occurrence of a Determination of Taxability; or

(iii) in part, on the Interest Payment Date next following the completion of the rehabilitation of the Project, to the extent amounts remaining in the Project Account of the Project Loan Fund are transferred to the Loan Prepayment Fund pursuant to the Funding Loan Agreement to pay down the Funding Loan; or

(iv) Intentionally Omitted.

(c) Borrower may not voluntarily prepay any portion of the principal balance of this Project Note during the Lockout Period. Except as provided in Section 10(d), a prepayment premium will be due and payable by Borrower in connection with any prepayment of principal under this Project Note during the Prepayment Premium Period. The prepayment premium will be computed as follows:

(i) For any prepayment made during the Yield Maintenance Period, the prepayment premium will be whichever is the greater of Sections 10(c)(i)(A) and (B) below:

(A) 1.0% of the amount of principal being prepaid; or

(B) the product obtained by multiplying:

(1) the amount of principal being prepaid or accelerated,

by

(2) the excess (if any) of the Monthly Project Note Rate over the Assumed Reinvestment Rate,

by

(3) the Present Value Factor.

For purposes of Section 10(c)(i)(B), the following definitions will apply:

Monthly Project Note Rate: 1/12 of the Interest Rate, expressed as a decimal calculated to 5 digits.

Prepayment Date: in the case of a voluntary prepayment, the date on which the prepayment is made; in the case of the application by Holder of collateral or security to a portion of the principal balance, the date of such application.

Assumed Reinvestment Rate: 1/12 of the yield rate expressed as a decimal to 2 digits, as of the close of the trading session which is 5 Business Days before the Prepayment Date, found among the Daily Treasury Yield Curve Rates, commonly known as Constant Maturity Treasury (“CMT”) rates, with a maturity equal to the remaining Yield Maintenance Period, as reported on the U.S. Department of the Treasury website. If no published CMT maturity matches the remaining Yield Maintenance Period, Holder will interpolate as a decimal to 2 digits the yield rate between (a) the CMT with a maturity closest to, but shorter than, the remaining Yield Maintenance Period, and (b) the CMT with a maturity closest to, but longer than, the remaining Yield Maintenance Period, as follows:

$$\left[\left(\frac{B-A}{D-C} \right) \times (E-C) \right] + A$$

A = yield rate for the CMT with a maturity shorter than the remaining Yield Maintenance Period

B = yield rate for the CMT with a maturity longer than the remaining Yield Maintenance Period

C = number of months to maturity for the CMT maturity shorter than the remaining Yield Maintenance Period

D = number of months to maturity for the CMT maturity longer than the remaining Yield Maintenance Period

E = number of months remaining in the Yield Maintenance Period

In the event the U.S. Department of the Treasury ceases publication of the CMT rates, the Assumed Reinvestment Rate will equal the yield rate on the first U.S. Treasury security which is not callable or indexed to inflation and which matures after the expiration of the Yield Maintenance Period.

The Assumed Reinvestment Rate may be a positive number, a negative number or zero.

If the Assumed Reinvestment Rate is a positive number or a negative number, Holder will calculate the prepayment premium using such positive number or negative number, as appropriate, as the Assumed Reinvestment Rate in 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.

If the Assumed Reinvestment Rate is zero, Holder will calculate the prepayment premium twice as set forth in (I) and (II) below and will average the results to determine the actual prepayment premium.

- (I) Holder will calculate the prepayment premium using an Assumed Reinvestment Rate of one basis point (+0.01%) in Section 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.
- (II) Holder will calculate the prepayment premium using an Assumed Reinvestment Rate of negative one basis point (-0.01%) in Section 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.

Present Value Factor: the factor that discounts to present value the costs resulting to Holder from the difference in interest rates during the months remaining in the Yield Maintenance Period, using the Assumed Reinvestment Rate as the discount rate, with monthly compounding, expressed numerically as follows:

$$\frac{1 - \left(\frac{1}{1 + ARR} \right)^n}{ARR}$$

n = the number of months remaining in Yield Maintenance Period; provided, however, if a prepayment occurs on a Scheduled Project Loan Payment Date, then the number of months remaining in the Yield Maintenance Period will be calculated beginning with the month in which such prepayment occurs and if such prepayment occurs on a Business Day other than a Scheduled Project Loan Payment Date (as defined below), then the number of months remaining in the Yield Maintenance Period will be calculated beginning with the month immediately following the date of such prepayment.

ARR = Assumed Reinvestment Rate

(ii) For any prepayment made after the expiration of the Yield Maintenance Period but during the remainder of the Prepayment Premium Period, the prepayment premium will be 1.0% of the amount of principal being prepaid.

(d) Notwithstanding any other provision of this Section 10, no prepayment premium will be payable with respect to any of the following:

(i) any scheduled principal payment in accordance with the Project Loan Amortization Schedule;

- (ii) any prepayment made during the Window Period;
- (iii) any mandatory prepayment occurring as a result of the application of any Insurance proceeds under the Continuing Covenant Agreement;
- (iv) any prepayment occurring as a result of the application of any Condemnation award, or otherwise required under the terms of the Continuing Covenant Agreement in connection with a Condemnation, unless (1) such Condemnation is intended to result in the continued use of the Mortgaged Property subject to such Condemnation for residential purposes, or (2) applicable law expressly requires or permits that the condemning authority or acquiring entity reimburse prepayment premiums incurred in connection with a prepayment occurring as a result of a Condemnation; in either of the situations described in (1) or (2) above, a prepayment premium will be due to the extent permitted by applicable law; or
- (v) any prepayment under Section 10(b)(iii) hereof following the completion of the rehabilitation of the Project, to the extent amounts remaining in the Project Account of the Project Loan Fund are transferred to the Loan Prepayment Fund pursuant to Section 4.02(e) of the Funding Loan Agreement.

(e) After the expiration of the Lockout Period, Borrower may voluntarily prepay all of the unpaid principal balance of this Project Note on the first day of a calendar month (a “Scheduled Project Loan Payment Date”) so long as Borrower designates the date for such prepayment in a written notice from Borrower to Holder given at least 30 days prior to the date of such prepayment. If a Scheduled Project Loan Payment Date falls on a day which is not a Business Day, then with respect to payments made under this Section 10 only, (A) the term “Scheduled Project Loan Payment Date” will mean the Business Day immediately preceding the Scheduled Project Loan Payment Date and (B) the calculation of any required prepayment premium will be made as if the prepayment had actually been made on the Scheduled Project Loan Payment Date.

(f) Notwithstanding Section 10(e) above, after the expiration of the Lockout Period, Borrower may voluntarily prepay all of the unpaid principal balance of this Project Note on a Business Day other than a Scheduled Project Loan Payment Date if Borrower provides Holder with the written notice set forth in Section 10(d) and meets the other requirements set forth in this Section 10(f). Borrower acknowledges that Holder has agreed that Borrower may prepay principal on a Business Day other than a Scheduled Project Loan Payment Date only because Holder will deem any prepayment received by Holder on any day other than a Project Loan Payment Date to have been received on the Scheduled Project Loan Payment Date immediately following such prepayment and Borrower will be responsible for all interest and any required prepayment premium that would have been due if the prepayment had actually been made on the Scheduled Project Loan Payment Date immediately following such prepayment.

(g) Unless otherwise expressly provided in the Financing Documents, Borrower may not voluntarily prepay less than all of the unpaid principal balance of this Project Note. In order to voluntarily prepay all of the principal of this Project Note, Borrower must also pay to Holder, together with the amount of principal being prepaid, (i) all accrued and unpaid interest due under

this Project Note, (ii) all other fees and amounts due under the Financing Documents at the time of such prepayment, plus (iii) any prepayment premium calculated pursuant to Section 10(c).

(h) Unless Holder agrees otherwise in writing, a permitted or required prepayment of less than the unpaid principal balance of this Project Note will not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments.

(i) Borrower recognizes that any prepayment of any of the unpaid principal balance of this Project Note, whether voluntary or involuntary or resulting from an Event of Default by Borrower, will result in Holder's incurring loss, including reinvestment loss, additional expense and frustration or impairment of Holder's ability to meet its commitments to third parties. Borrower agrees to pay to Holder upon demand damages for the detriment caused by any prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower therefore acknowledges and agrees that the formula for calculating prepayment premiums set forth in Section 10(c) of this Project Note represents a reasonable estimate of the damages Holder will incur because of a prepayment. Borrower further acknowledges that the lockout and prepayment premium provisions of this Project Note are a material part of the consideration for the Loan, and that the terms of this Project Note are in other respects more favorable to Borrower as a result of Borrower's voluntary agreement to the prepayment premium provisions.

(j) Reserved.

(k) Reserved.

(l) Reserved.

11. Costs and Expenses. To the fullest extent allowed by applicable law, Borrower must pay all expenses and costs, including Attorneys' Fees and Costs incurred by Holder as a result of any default under this Project Note or in connection with efforts to collect any amount due under this Project Note, or to enforce the provisions of any of the other Financing Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. Borrower acknowledges and agrees that, in connection with each request by Borrower under this Project Note or any Financing Document, Borrower must pay all reasonable Attorneys' Fees and Costs and expenses incurred by Holder, regardless of whether the matter is approved, denied or withdrawn.

12. Forbearance. Any forbearance by Holder in exercising any right or remedy under this Project Note, the Project Loan Agreement, or any other Financing Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Holder of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Holder's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Holder of any security for Borrower's obligations under this Project Note shall not constitute an election by

Holder of remedies so as to preclude the exercise of any other right or remedy available to Holder.

13. Waivers. Borrower and all endorsers and Guarantors of this Project Note and all other third-party obligors waive presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness.

14. Loan Charges. Neither this Project Note nor any of the other Financing Documents will be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate greater than the Maximum Interest Rate. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Financing Document, whether considered separately or together with other charges provided for in any other Financing Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Holder in excess of the permitted amounts will be applied by Holder to reduce the unpaid principal balance of this Project Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Project Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Project Note.

15. Commercial Purpose. Borrower represents that Borrower is incurring the Indebtedness solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household, or agricultural purposes.

16. Counting of Days. Any reference in this Project Note to a period of “days” means calendar days, not Business Days, except where otherwise specifically provided.

17. Governing Law. This Project Note shall be governed by the law of the Property Jurisdiction.

18. Captions. The captions of the Sections of this Project Note are for convenience only and shall be disregarded in construing this Project Note.

19. Address for Payment; Notices; Written Modifications.

(a) All payments due under this Project Note shall be payable at the principal office designated by the Servicer, or such other place as may be designated by written notice to Borrower from or on behalf of Holder.

(b) All Notices, demands, and other communications required or permitted to be given pursuant to this Project Note will be given in accordance with Section 8.01 of the Project Loan Agreement.

(c) Any modification or amendment to this Project Note will be ineffective unless in writing and signed by the party sought to be charged with such modification or amendment; provided, however, in the event of a Transfer under the terms of the Continuing Covenant Agreement that requires Funding Lender’s consent, any or some or all of the Modifications to Multifamily Project Note set forth in Exhibit A to this Project Note may be modified or rendered void by Funding Lender at Funding Lender’s option, by Notice to Borrower and the transferee, as a condition of Funding Lender’s consent.

20. Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Project Note shall be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have jurisdiction over all controversies which shall arise under or in relation to this Project Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Project Note is intended to limit any right that Holder may have to bring any suit, action, or proceeding relating to matters arising under this Project Note in any court of any other jurisdiction.

21. WAIVER OF TRIAL BY JURY. BORROWER AND HOLDER EACH (a) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS HOLDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (b) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

22. Reserved.

23. Assignment. Borrower acknowledges that this Project Note is being assigned by the Governmental Lender to the Fiscal Agent as security for the Funding Loan.

24. State-Specific Provisions. State-specific provisions, if any, are included on Schedule 2 to this Project Note.

25. Attached Riders. The following Riders are attached to this Project Note:

Name of Rider	Date Revised
TAX CREDIT PROPERTIES	(Revised 9-30-2019)
REGULATORY AGREEMENT DEFAULT RECOURSE	(Revised 9-30-2019)
RECYCLED BORROWER AND/OR RECYCLED SPE EQUITY OWNER	(Revised 9-30-2019)

26. Attached Schedules and Exhibits. The following Schedules and Exhibits, if marked with an “X” in the space provided, are attached to this Project Note:

- Schedule 1 Project Loan Amortization Schedule
- Schedule 2 State Specific Provisions for Project Note
- Exhibit A Modifications to Project Note.
- 27. Reserved.**
- 28. Reserved.**
- 29. Reserved.**
- 30. Reserved.**
- 31. Reserved.**

[Signature page follows]

IN WITNESS WHEREOF, and in consideration of Governmental Lender's agreement to lend Borrower the principal amount set forth above, Borrower has signed and delivered this Project Note under seal or has caused this Project Note to be signed and delivered under seal by its duly authorized representative. Borrower intends that this Project Note will be deemed to be signed and delivered as a sealed instrument.

**HOUSTON LEASED HOUSING
ASSOCIATES OWNER VIII, LLC**, a Texas
limited liability company

By: _____

Name: Russel Condas

Its: Vice President

[EIN] _____

Borrower's Employer ID No.

[Borrower Signature Page to *Vermillion Apartments* Project Note]

The holder of the Original Project Note agrees to the modified terms set forth in this Amended and Restated Project Note.

U.S. BANK, NATIONAL ASSOCIATION, as
Fiscal Agent

By: _____
Name: _____
Title: _____

[Fiscal Agent Signature Page to *Vermillion Apartments* Project Note]

SCHEDULE 1

PROJECT LOAN AMORTIZATION SCHEDULE

Vermillion Apartments
LOAN AMOUNT:
LOCKED INTEREST RATE:
SERVICING FEE:
Interest Rate Plus Servicing Fee:
CLOSING DATE*:
FIRST FULL PERIOD PAYMENT DATE:
MATURITY DATE:
AMORT COMMENCEMENT DATE:
LOAN TERM (MONTHS)
INTEREST ONLY PERIOD (MONTHS)
AMORTIZATION:
INTEREST CALC ("Act/360"):
MONTHLY PAYMENT:
INTEREST ONLY PAYMENT PER DIEM:
FORWARD (Y/N):
CONVERSION DATE:

*If Closing Date is not the first calendar day of a month, interest for the days in the stub period from the Closing Date through the end of such calendar month will be collected by the Servicer on the Closing Date.

Note - The columns "Servicing Fee" and "Total Payment" are for informational purposes only when this schedule is attached to the Governmental Note as the Servicing Fee is payable under the Project Note and not the Governmental Note. "Total Payment" only references the sum of the indicated columns and does not include all payment obligations that may be specified in the Governmental Note or Project Note.

SCHEDULE 2

Property Jurisdiction	State-Specific Provision(s)
Texas	<p>Section 14 is deleted and replaced with the following:</p> <p>14. Loan Charges (Texas Only). Borrower and Governmental Lender intend at all times to comply with the law of the State of Texas governing the Maximum Interest Rate or the maximum amount of interest payable on or in connection with this Project Note and the Indebtedness (or applicable United States federal law to the extent that it permits Governmental Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under this Project Note or under any other Financing Document, or contracted for, charged, taken, reserved, or received with respect to the Indebtedness, or as a result of acceleration of the maturity of this Project Note, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Governmental Lender expressly intend that all excess amounts collected by Governmental Lender will be applied to reduce the unpaid principal balance of this Project Note (or, if this Project Note has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of this Project Note, the Project Loan Agreement and any other Financing Documents immediately will be deemed reformed and the amounts thereafter collectible under this Project Note or any other Financing Document reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under this Project Note or any other Financing Document. The right to accelerate the Maturity Date of this Project Note does not include the right to accelerate any interest, which has not otherwise accrued on the date of such acceleration, and Governmental Lender does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Governmental Lender for the use, forbearance, or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness</p>

Property Jurisdiction	State-Specific Provision(s)
	<p>until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in this Project Note, the Project Loan Agreement or any other Financing Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of this Project Note, the total amount of interest that Borrower is obligated to pay and Governmental Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Project Loan Agreement or other Financing Documents (such as for the payment of Taxes, Insurance premiums and similar expenses or costs).</p>

RIDER TO PROJECT NOTE
(Direct Purchase of Tax-Exempt Loans Program)

TAX CREDIT PROPERTIES

(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(xiv) is restated as follows:

(xiv) A default, event of default, or breach (however such terms may be defined in the Tax Credit Regulatory Agreement) occurs after the expiration of any applicable notice and/or cure periods under the Tax Credit Regulatory Agreement.

RIDER TO PROJECT NOTE
(Direct Purchase of Tax-Exempt Loans Program)
REGULATORY AGREEMENT DEFAULT RECOURSE
(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(xiii) is restated as follows:

- (xiii) A default, event of default, or breach (however such terms may be defined in the Regulatory Agreement) occurs after the expiration of any applicable notice and/or cure periods under the Regulatory Agreement.

RIDER TO PROJECT NOTE
(Direct Purchase of Tax-Exempt Loans Program)

RECYCLED BORROWER

(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(ix) is restated as follows:

- (ix) Any of the Underwriting Representations or Separateness Representations set forth in Sections 5.40(a) and (b) of the Continuing Covenant Agreement are false or misleading in any material respect.

EXHIBIT A

MODIFICATIONS TO PROJECT NOTE

1. Section 9(c)(xxi) is deleted and replaced with the following:

(xxi) Reserved.

2. Section 9(a) is deleted and replaced with the following:

(a) Except as otherwise provided in this Section 9, none of Borrower, SPE Equity Owner, **general partner** or any member or limited partner of Borrower will have any personal liability under this Project Note, the Project Loan Agreement or any other Financing Document for the repayment of the Indebtedness or for the performance of or compliance with any other obligations of Borrower under the Financing Documents, and Holder's only recourse for the satisfaction of the Indebtedness and the performance of such obligations will be Holder's exercise of its rights and remedies with respect to the Project and to any other collateral held by Holder as security for the Indebtedness. This limitation on Borrower's liability will not limit or impair Holder's enforcement of its rights against any Guarantor of the Indebtedness or any Guarantor of any other obligations of Borrower.

3. The following paragraph is added to the Note as an unnumbered paragraph immediately preceding paragraph 1:

Borrower is released from any personal liability under the Original Project Note, but this Project Note is not intended as a novation, nor is it given or accepted in satisfaction of any indebtedness.

4. The definition of "Maximum Interest Rate" included in Section 1 is hereby deleted and replaced with the following:

"**Maximum Interest Rate**" has the meaning given to such term in the Funding Loan Agreement.

5. Section 23 is hereby deleted and replaced with the following:

23. Assignment. Borrower acknowledges that this **the Original Project Note** is ~~being~~ **was** assigned by the Governmental Lender to the Fiscal Agent **and this Project Note is payable to the Fiscal Agent** as security for the Funding Loan.

**AFTER RECORDING
RETURN TO:**

Elizabeth Bowes
Bracewell LLP
111 Congress Avenue
Austin, Texas 78701

ASSIGNMENT OF SECURITY INSTRUMENT

This Assignment of Security Instrument (“Assignment”) is dated as of August 1, 2020 from the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “Assignor”), to U.S. BANK, NATIONAL ASSOCIATION, as Fiscal Agent (the “Assignee”) under the Funding Loan Agreement (the “Funding Loan Agreement”) dated as of August 1, 2020, by and among the Assignor as Governmental Lender, the Assignee as Fiscal Agent and Merchants Bank of Indiana, an Indiana state bank, in its capacity as the Initial Funding Lender.

RECITALS

HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC, a Minnesota limited liability company (the “Owner”), as Borrower, has:

(i) entered into with the Assignor and Assignee a Project Loan Agreement dated as of August 1, 2020 (said Project Loan Agreement with all further supplements and amendments thereto is herein referred to as the “Project Loan Agreement”), evidencing indebtedness in the aggregate principal amount of \$28,000,000 (the “Project Loan”);

(ii) executed and delivered to the Assignor the Multifamily Note dated as of August 1, 2020 (said Note together with all further supplements and amendments thereto is herein referred to as the “Project Note”) in the principal amount of \$28,000,000 and made to the order of the Assignor as Payee, further evidencing the Project Loan;

(iii) executed and delivered to the Assignor the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of August 1, 2020 made to a mortgage trustee for the benefit of the Assignor, securing the Project Note, and to be recorded in the Deed Records of Harris County, Texas, and relating to the real estate described in **Exhibit A** hereto; and

(iv) executed and delivered to the Assignor the Assignment of Rents and Leases dated as of August 1, 2020 securing the Project Note, and to be recorded in the Deed Records of Harris County, Texas, and relating to the real estate described in **Exhibit A** hereto.

The documents identified in (i), (ii), (iii) and (iv) above, together with all financing and continuation statements to perfect the liens and security interests granted thereby, are collectively referred to herein as the “Assigned Documents.”

The Assignor desires to assign and transfer to the Assignee all its right, title and interest in and to the Assigned Documents, excluding the Unassigned Rights, and the Assignee desires to acquire Assignor’s right, title and interest as aforesaid under the Assigned Documents in accordance with the terms hereof. The Assignee is joining in the execution of this Assignment in order to evidence its acceptance hereof.

The Owner is joining in the execution of this Assignment in order to evidence its consent hereto and in order to agree that the Assigned Documents shall be effective to secure the obligations of the Owner to the Assignee as more fully set forth therein and herein.

AGREEMENT

For and in consideration of the premises, the sum of \$10.00, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Definitions. All words and phrases defined in the Funding Loan Agreement have the same meanings in this Assignment, which definitions are incorporated herein by reference, unless a different definition is set forth in this Assignment.

Section 2. Assignment. The Assignor assigns, sets over and transfers to the Assignee all the right, title and interest of the Assignor in, to and under the Assigned Documents, excluding any Unassigned Rights, and Assignee accepts assignment and assumes Assignor’s obligations under the Assigned Documents. This Assignment is made and shall be without recourse, warranty or representation of the Assignor.

Section 3. Miscellaneous. In case any one or more of the provisions contained in this Assignment are invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein will not be affected or impaired thereby.

This Assignment may be executed in any number of counterparts, each executed counterpart constituting an original, but all counterparts together constituting only one instrument.

It is the intention of the parties hereto that this Assignment and the rights and obligations of the parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of Texas, without reference to the conflicts of laws principles of the State of Texas.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the undersigned have executed this Assignment of Security Instrument as of the date first above written.

ASSIGNOR:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS, as Governmental Lender

By: _____

Name: James B. "Beau" Eccles

Title: Secretary to the Board

Address: P.O. Box 13941
Austin, Texas 78711-3941

Attention: Director of Multifamily Bonds

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by James B. "Beau" Eccles, Secretary to the Board of Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

Notary Public's Signature

(PERSONALIZED SEAL)

The undersigned, being the Owner referred to in the foregoing Assignment of Security Instrument, hereby acknowledges receipt and acceptance thereof and consents and agrees to the assignment made therein and to the terms and provisions thereof.

**HOUSTON LEASED HOUSING ASSOCIATES
OWNER VIII, LLC,**
a Minnesota limited liability company,
as Borrower

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

ACKNOWLEDGMENT

STATE OF _____ §
 §
COUNTY OF _____ §

On this the _____ day of _____, 2020, personally appeared Russell C. Condas, Authorized Signatory of Houston Leased Housing Associates Owner VIII, LLC, a Minnesota limited liability company, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public, State of _____
Notary's Name (Printed): _____

Notary Seal:

EXHIBIT "A"

BEING ALL OF PARKSIDE POINT APARTMENTS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN FILM CODE NO. 551195, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

TAX EXEMPTION CERTIFICATE AND AGREEMENT

Dated as of

August 1, 2020

among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender

and

U.S. BANK, NATIONAL ASSOCIATION,
as Fiscal Agent

and

HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC,
as Borrower

regarding

\$28,000,000

**Texas Department of Housing and Community Affairs
Multifamily Note (Vermillion Apartments) Series 2020**

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TAX EXEMPTION CERTIFICATE AND AGREEMENT

THIS TAX EXEMPTION CERTIFICATE AND AGREEMENT (this “Agreement”) dated as of August 1, 2020, but effective as of the Delivery Date (as defined in the Funding Loan Agreement described below) is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Governmental Lender”), a public and official agency of the State (as defined herein), **U.S. BANK, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Fiscal Agent under the hereinafter defined Funding Loan Agreement (together with any successor Fiscal Agent under the Funding Loan Agreement described below and their respective successors and assigns, the “Fiscal Agent”), and **HOUSTON LEASED HOUSING ASSOCIATES OWNER VIII, LLC**, a Minnesota limited liability company (together with its permitted successors and assigns, the “Borrower”) and is entered into in connection with the issuance of the \$28,000,000 Texas Department of Housing and Community Affairs Multifamily Note (Vermillion Apartments) Series 2020 (the “Governmental Note”). The representations of facts and circumstances and the covenants of the Governmental Lender made herein are made in part for purposes of fulfilling the requirements set forth in section 1.148-2(b)(2) of the Regulations (as defined herein).

RECITALS

WHEREAS, the Governing Board of the Governmental Lender has determined to authorize the issuance of the Governmental Note pursuant to and in accordance with the terms of an Funding Loan Agreement (as defined herein) by and among the Governmental Lender, the Initial Lender and the Fiscal Agent for the purpose of obtaining funds to finance the Project (as defined herein), all under and in accordance with the Constitution and laws of the State (as defined herein); and

WHEREAS, the Governmental Lender desires to use the Proceeds (as defined herein) of the Governmental Note to fund a mortgage loan (i.e., the Project Loan, as defined herein) to the Borrower (as defined herein) upon the terms and conditions set forth in the Project Loan Agreement (as defined herein) in order to finance Project Costs (as defined herein); and

WHEREAS, the Governmental Lender and the Borrower desire that interest on the Governmental Note be excludable from gross income for federal income tax purposes under the Code (as defined herein); and

WHEREAS, the purpose of executing this Agreement is to set forth various facts, certifications, covenants, representations, and warranties regarding the Governmental Note and the Project and to establish the expectations of the Governmental Lender, the Borrower, and the Fiscal Agent as to future events regarding the Governmental Note, the Project, and the use and investment of Proceeds of the Governmental Note.

NOW THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby certify, covenant,

represent, and agree on behalf of the Governmental Lender, the Borrower, and the Fiscal Agent (but not in their individual capacities), respectively, as follows:

1. **Definitions.** Each capitalized term used in this Agreement has the meaning ascribed to such term below or has the meaning or is the amount, as the case may be, specified for such term in this Agreement or in Exhibits to this Agreement and for all purposes hereof has the meaning or is in the amount therein specified. All capitalized terms used but not defined herein, to the extent that such terms are defined in the Funding Loan Agreement, the Project Loan Agreement, or the Regulatory Agreement for all purposes hereof have the meanings therein specified. All such terms defined in the Code or Regulations that are not defined herein will for all purposes hereof have the same meanings as given to those terms in the Code and Regulations unless the context clearly requires otherwise.

“Administration Fund” means the “Administration Fund” established pursuant to the Funding Loan Agreement.

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

“Bond Year” means each one-year period that ends on the day selected by the Borrower in a certificate provided to the Governmental Lender and the Fiscal Agent. The first and last bond years may be short periods. If no day is selected by the Borrower before the earlier of the final Maturity Date of the Governmental Note or the date that is five years after the Issue Date of the Governmental Note, a bond year will end on each anniversary of the Issue Date of the Governmental Note and on the final Maturity Date of the Governmental Note.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference is deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Computation Date” means each Installment Computation Date and the Final Computation Date.

“Costs of Issuance” means costs to the extent incurred in connection with, and allocable to, the issuance of an issuance of obligations within the meaning of section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“Cost of Issuance Fund” means the “Cost of Issuance Fund” established pursuant to the Funding Loan Agreement.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Governmental Note under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Note or other customary exceptions acceptable to the recipient thereof).

“Final Computation Date” means the date on which the final payment in full of the Governmental Note is made.

“Financial Advisor” means Stifel, Nicolaus & Company, Incorporated.

“Form 8038” means IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

“Funding Loan Agreement” means the Funding Loan Agreement among the Initial Funding Lender, the Governmental Lender and the Fiscal Agent, dated as of August 1, 2020.

“Gross Proceeds” means any Proceeds and any Replacement Proceeds.

“Initial Funding Lender” means Merchants Bank of Indiana, an Indiana state bank.

“Installment Computation Date” means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

“Investment Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from investing Proceeds.

“IRS” means the Internal Revenue Service.

“Issue Date” means, with respect to an issue of obligations, the first date on which an issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any obligation.

“Issue Price” has the meaning ascribed to it in section 1.148-1(f) of the Regulations.

“Loan Payment Fund” means the “Loan Payment Fund” established pursuant to the Funding Loan Agreement.

“Loan Prepayment Fund” means the “Loan Prepayment Fund” established pursuant to the Funding Loan Agreement.

“Maturity Date” means September 1, 2038.

“Median Gross Income for the Area” means, with respect to the Project, the median income for the households in the area which includes the standard metropolitan statistical area in which the Project is located, as determined from time to time by the Secretary of HUD, under

Section 8 of the Housing Act (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size.

“Minor Portion” means that portion of the Gross Proceeds of the Governmental Note that does not exceed in the aggregate \$100,000.

“Net Proceeds” means Sale Proceeds, less the portion of any Sale Proceeds invested in a reasonably required reserve or replacement fund.

“Nonpurpose Investment” means any “investment property,” within the meaning of section 148(b) of the Code, that is not a purpose investment acquired to carry out the governmental purpose of the Governmental Note.

“Official Intent Date” means February 27, 2020.

“Original Issue Discount” means, with respect to an issue of obligations, the excess of the Stated Redemption Price at Maturity over the Issue Price.

“Original Issue Premium” means, with respect to an issue of obligations, the excess of the Issue Price over the Stated Redemption Price at Maturity.

“Placed in Service” has the meaning set forth in section 1.150-2(c) of the Regulations and means, with respect to a facility, the date on which, based on all the facts and circumstances, (a) the facility reaches a degree of completion that will permit its operation at substantially its design level, and (b) the facility is, in fact, in operation at such level.

“Pre-Issuance Accrued Interest” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means amounts representing interest that accrued on an obligation for a period not greater than one year before its Issue Date but only if those amounts are paid within one year after the Issue Date.

“Preliminary Expenditures” are described in section 1.150-2(f)(2) of the Regulations and include architectural, engineering, surveying, soil testing, reimbursement bond issuance and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, but do not include land acquisition, site preparation and similar costs incident to the commencement of construction or rehabilitation.

“Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means any Sale Proceeds and Investment Proceeds.

“Project” means an approximately 260-unit multifamily housing development located at 3360 Alice Street, Houston, Harris County, Texas 77021.

“Project Costs” means, to the extent authorized by the Act and the Code, any and all costs incurred by the Borrower with respect to the acquisition, rehabilitation, and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the Issue Date of the Governmental Note, including, without limitation, costs for site preparation, the planning of housing and

improvements, the removal or demolition of existing structures, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and Borrower's overhead and supervisor's fees and costs directly allocable to the Project, and administrative and other expenses necessary or incident to the Project and the financing thereof.

"Project Loan" means the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Project Loan Agreement in the aggregate principal amount of \$28,000,000 and evidenced by a multifamily note.

"Project Loan Agreement" means the Project Loan Agreement among the Governmental Lender, the Fiscal Agent, and the Borrower, dated as of August 1, 2020.

"Project Loan Fund" means the "Project Loan Fund" established pursuant to the Funding Loan Agreement, with a "Project Account" and a "Borrower Equity Account" therein.

"Qualified Administrative Costs" are those costs of issuing, carrying or repaying the Governmental Note, and any underwriter's discount. Qualified Administrative Costs do not include the costs of issuing, carrying or repaying the Project Loan.

"Qualified Investments" has the meaning set forth in the Funding Loan Agreement.

"Qualified Project Costs" means Project Costs that meet the following requirements:

(a) The costs are chargeable to a capital account with respect to the Project for federal income tax purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Governmental Note during, and fees for a "qualified guarantee" (within the meaning of section 1.148-4 of the Regulations) attributable to the period of, the rehabilitation of the Project will constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs.

(b) If any portion of the Project is being constructed or rehabilitated by the Borrower or a Related Person to the Borrower (whether as a general contractor or a subcontractor), such costs include only (i) the actual out-of-pocket costs incurred by the Borrower or such Related Person in constructing or rehabilitating the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Borrower or such Related Person (but excluding any profit component) and (iii) any overhead expenses incurred by the Borrower or such Related Person that are directly attributable to the work performed on the Project and do not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of section 1504 of the Code) participating in the rehabilitation of the Project or payments received by such Related Person due to early completion of the Project (or any portion thereof).

(c) The costs are not Costs of Issuance.

(d) (i) The costs were paid no earlier than 60 days prior to the Official Intent Date and (ii) the reimbursement allocation is made no later than 18 months after the later of (A) the date the expenditure was paid and (B) the date the Project is Placed in Service or abandoned, but in no event more than three years after the original expenditure is paid; provided that such limitations do not apply to any amount not in excess of \$100,000 or to Preliminary Expenditures that do not exceed 20 percent of the Sale Proceeds of the Governmental Note.

“Qualified Project Period” means, with respect to the Project, the period beginning on the first day on which 10 percent of the Units are occupied (which date may be the Delivery Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied (which date may be the Delivery Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is outstanding for federal income tax purposes or, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Qualifying Tenant” means a tenant whose Annual Income is 60 percent or less of Median Gross Income for the Area, as determined under sections 142(d)(2)(B) and (E) of the Code. If all the occupants of a Unit are students (as defined under section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants are not Qualifying Tenants, unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

“Rebate Amount” has the meaning set forth in section 1.148-3(b) of the Regulations and, generally, means the excess, as of any date, of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments all as determined in accordance with section 1.148-3 of the Regulations.

“Rebate Analyst” means a Person that is (a) qualified and experienced in the calculation of rebate payments under section 148 of the Code, (b) chosen by the Borrower, and (c) engaged for the purpose of determining the amount of required deposits, if any, to the Rebate Fund.

“Rebate Fund” means the “Rebate Fund” established pursuant to the Funding Loan Agreement.

“Revenue Fund” means the “Revenue Fund” established pursuant to the Funding Loan Agreement.

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

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement, among the Governmental Lender, the Fiscal Agent, and the Borrower, dated as of August 1, 2020.

“Related Party” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to a person that is not a governmental unit or a 501(c)(3) organization, a Related Person.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Proceeds” has the meaning set forth in section 1.148-1(c) of the Regulations and, generally, consist of amounts that have a sufficiently direct nexus to an issue of obligations or the governmental purpose of an issue of obligations to conclude that the amounts would have been used for that governmental purpose if the Proceeds were not used or to be used for that governmental purpose.

“Revenue Fund” means the “Revenue Fund” established pursuant to the Funding Loan Agreement.

“Sale Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from the sale (or other disposition) of any obligation, including amounts used to pay underwriters’ discount or compensation and accrued interest other than Pre-Issuance Accrued Interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any obligation and that is described in section 1.148-4(b)(4) of the Regulations.

“Sole Member” means Houston Leased Housing Associates VIII, LLLP, a Minnesota limited liability limited partnership and the sole member of the Borrower.

“State” means the State of Texas.

“Stated Redemption Price at Maturity” means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate and payable unconditionally at fixed periodic intervals of one year or less during the entire term of the debt instrument).

“Substantial User” has the meaning given to such term in section 1.103-11(b) of the Regulations, and generally includes any person (i) specifically for whom a facility, or part thereof, is constructed, reconstructed, or acquired or (ii) that (A) receives more than five percent of the total revenue derived by all users of such facility as gross revenue or (B) occupies more than five percent of the entire usable area of the facility.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation; provided that, a residential accommodation will not fail to be treated as a “Unit” merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“Weighted Average Maturity” means the sum of the products of the Issue Price and the number of years to maturity (taking into account mandatory redemptions) of an obligation, divided by the aggregate Sale Proceeds of such obligation.

“**Yield**” on (a) an issue of obligations has the meaning set forth in section 1.148-4 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments of principal, interest and fees for qualified guarantees to be paid on the obligation produces an amount equal to the Issue Price of such issue and (b) any investment has the meaning set forth in section 1.148-5 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments to be received on the investment produces an amount equal to all payments for the investment.

“**Yield Reduction Payments**” means amounts paid in accordance with section 1.148-5(c) of the Regulations that are treated as payments that reduce the Yield on an investment.

“**40-60 Test**” means the requirement set forth in section 142(d)(1)(B) of the Code providing that 40 percent or more of the Units in the Project be occupied by individuals whose income is 60 percent or less of the Median Gross Income for the Area.

2. Authorized Representatives.

(a) Governmental Lender. The undersigned representative of the Governmental Lender represents that such representative (i) is charged, along with others, with the responsibility for the Governmental Note and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Governmental Lender to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Governmental Lender personnel and consultants to the Governmental Lender, the undersigned representative of the Governmental Lender has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(b) Borrower. The undersigned representative of the Borrower represents that such representative (i) is a duly chosen, qualified and acting officer or other representative of the Borrower, which will be the owner of the Project and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Borrower to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Borrower personnel and consultants to the Borrower, the undersigned representative of the Borrower has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(c) Fiscal Agent. The undersigned representative of the Fiscal Agent represents that such representative is a duly chosen, qualified and acting officer or other representative of the Fiscal Agent and is authorized on behalf of the Fiscal Agent to execute and deliver this Agreement.

3. Reasonable Expectations. The Governmental Lender and the Borrower hereby affirm that the facts and estimates that are set forth in this Agreement are accurate and the expectations that are set forth in this Agreement are reasonable in light of such facts and estimates. There are no other facts or estimates that would materially change such expectations. The Governmental Lender has also relied, to the extent appropriate, on the (a) Certificate of the Initial Funding Lender attached hereto as Exhibit A, and (b) the Certificate of Financial Advisor attached hereto as Exhibit B. The undersigned representatives of the Governmental Lender and the Borrower are aware of no fact, estimate or circumstance that would create any doubt regarding the accuracy or reasonableness of all or any portion of the representations set forth in such certificates.

4. Reliance on Borrower's Representations and Covenants.

(a) Except as otherwise indicated in this Agreement, the representations, expectations, certifications, covenants and warranties of the Governmental Lender concerning the use and investment of the Proceeds of the Governmental Note and certain other matters described in this Agreement are based solely upon representations, expectations, certifications, covenants and warranties of the Borrower, as set forth in this Agreement or in the Exhibits attached hereto. In relying upon such representations, expectations, certifications, covenants and warranties of the Borrower, the Governmental Lender has not made any independent investigations of the matters pertaining thereto. The Governmental Lender is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation, expectations, certifications, covenants and warranties of the Borrower made in this Agreement or in the Exhibits attached hereto.

(b) The Borrower represents that it is an entity disregarded as separate from the Sole Member for federal income tax purposes. Therefore, the parties to this Agreement acknowledge and agree that compliance by the Sole Member with the representations, terms, provisions, covenants and conditions of this Agreement that apply to the Borrower shall constitute compliance by the Borrower with such representations, terms, provisions, covenants and conditions of this Agreement as if such action had been undertaken by the Borrower.

5. Completeness of Borrower Information. The Borrower has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the excludability from gross income for federal income tax purposes of the interest on the Governmental Note, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information for which Bond Counsel has not asked. After due investigation, there is no information not obtained, or any investigation or inspection not heretofore pursued, that would be relevant or material to the certifications set forth below.

6. General Requirements Relating to Issuance of the Governmental Note.

(a) Governmental Purpose. The Borrower has applied to the Governmental Lender and been approved for the Project Loan to be made from the Proceeds of the Governmental Note. The proceeds of the Project Loan (and, thus, the Proceeds of the Governmental Note) will be used to finance a portion of the Project Costs.

(b) Public Hearing and Approval. As required under section 147(f) of the Code and in accordance with Revenue Procedure 2020-21, the Issuer hosted a telephonic hearing that provided a reasonable opportunity for interested individuals to express their views on the Bonds and the location and nature of the Project on June 24, 2020. The Issuer provided notice reasonably designed to inform residents of the approving governmental unit of the proposed issue no fewer than seven days before the date of such public hearing by publication in the newspaper of general circulation available to residents of the governmental unit. The notice stated the time and place for the public hearing, a general functional description of the type and use of the Project, the maximum stated principal amount of the Bonds, the name of the expected initial legal owner of the Project, and the location of the Project. The Attorney General of the State approved the issuance of the Bonds.

(c) Volume Cap. The Governmental Lender has received from the Texas Bond Review Board a reservation of State private activity bond volume cap in an amount no less than the aggregate principal amount of the Governmental Note (or if greater, the Issue Price of the Governmental Note) for the purpose of issuing the Governmental Note to finance the Project.

(d) Issue. There are no other obligations that (i) are sold at substantially the same time as the Governmental Note (i.e., less than 15 days apart), (ii) are sold pursuant to the same plan of financing with the Governmental Note, and (iii) will be paid out of substantially the same source of funds as the Governmental Note.

(e) Form 8038. The Borrower has examined the completed Form 8038 with respect to the Governmental Note, including accompanying schedules and statements, and, to the best of the Borrower's knowledge and belief, the information in Parts IV and V, which was furnished by the Borrower, is true, correct, and complete. The Governmental Lender will cause Form 8038 with respect to the Governmental Note to be filed timely with the IRS.

(f) Substantial User. No person that was a Substantial User of the Project at any time during the five-year period before the Issue Date of the Bonds or any Related Person to such Substantial User will (i) receive (directly or indirectly) more than five percent of the Proceeds of the Bonds for such user's interest in the Project and (ii) will be a Substantial User of the Project at any time during the five-year period after the Issue Date of the Bonds.

(g) Program Covenant. Neither the Borrower nor any Related Party of the Borrower is, or will be, a party to any agreement, formal or informal, pursuant to which it

will purchase any of the Bonds in an amount related to the amount of the Project Loan made to the Borrower unless the Borrower or such Related Party provides a Favorable Opinion of Bond Counsel to the Governmental Lender.

(h) No Federal Guarantee. Neither the Governmental Lender nor the Borrower will take any action that would result in all or any portion of the Governmental Note being treated as federally guaranteed within the meaning of section 149(b)(2) of the Code.

7. Sale Proceeds of the Governmental Note. The amount of Sale Proceeds received by the Governmental Lender from the sale of the Governmental Note is \$28,000,000, which represents the Stated Redemption Price at Maturity of the Governmental Note. The Sale Proceeds of the Governmental Note will be loaned to the Borrower and deposited in the Project Account of the Project Loan Fund and used to pay Project Costs. The aggregate amount of the Project Costs is anticipated to exceed such amount. Any Project Costs not financed out of Proceeds of the Governmental Note will be financed out of the Borrower's available funds

8. Pre-Issuance Accrued Interest. There is no Pre-Issuance Accrued Interest on the Governmental Note.

9. Use of Proceeds of the Governmental Note.

(a) Qualified Project Costs. At least 95 percent of the Net Proceeds of the Governmental Note actually expended will be used to pay or reimburse Qualified Project Costs. Not more than five percent of the Net Proceeds of the Governmental Note will be expended for or allocated to Project Costs that are not Qualified Project Costs.

For purposes of this subparagraph (a) the Project includes only: (i) those portions of buildings included in the Project that are (A) separate and complete facilities for living, sleeping, eating, cooking and sanitation that will be used on other than a transient basis by one or more persons and that will be available on a regular basis for use by members of the general public and will be rented, or available for rental, on a continuous basis during the Qualified Project Period, and (B) facilities in building areas that are functionally related and subordinate thereto, such as centrally located machinery and equipment and common areas in a typical apartment building (but not including any health club facilities, except a facility that will be available only to tenants and their guests with no separate fee to be paid for the use of such facility); and (ii) land and other facilities that are properly allocable to such living facilities, such as parking areas and recreational areas for occupants of the living facilities.

Further, all of the allocable functionally related and subordinate land areas, facilities, and building areas taken into account in determining Qualified Project Costs under this subparagraph (a) are of a character and size commensurate with the number and size of the living facilities and are not functionally related and subordinate to, or properly allocable to, any other facilities.

(b) Additional Limitations.

(i) Costs of Issuance. No Costs of Issuance are expected to be paid out of the Net Proceeds of the Governmental Note. Thus, Costs of Issuance financed out of Net Proceeds of the Governmental Note are not expected to exceed in the aggregate two percent of the Sale Proceeds of the Governmental Note (i.e., \$560,000). In no event will Costs of Issuance paid from Proceeds of the Governmental Note exceed two percent of the Sale Proceeds of the Governmental Note, and any Costs of Issuance in excess of two percent of Sale Proceeds of the Governmental Note will be paid by the Borrower from sources other than Net Proceeds of the Governmental Note.

(ii) Acquisition of Existing Property. No portion of the Net Proceeds of the Governmental Note will be used to pay or reimburse the cost of acquiring any property or an interest therein unless, (i) the first use of such property is pursuant to such acquisition, except for land, or (ii) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the portion of the cost of acquiring such building and equipment financed with the Net Proceeds of the Governmental Note (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in section 147(d)(3) of the Code. If the Project has two or more buildings, the provisions regarding rehabilitation expenditures are to be applied on a project-wide basis. Net Proceeds of the Bonds in the amount of \$22,150,000 will be used to acquire the Project, and the rehabilitation expenditures with respect to the Project will equal or exceed 15 percent of such amount (i.e., \$3,322,500).

(iii) Limitation on Land Acquisition. Less than 25 percent of the Net Proceeds of the Governmental Note will be used (directly or indirectly) to acquire land (or an interest therein) and no portion of the Net Proceeds of the Governmental Note will be used (directly or indirectly) for farming purposes. For this purpose, an amount is considered used for the acquisition of land (or an interest therein) to the extent of that portion of the acquisition cost of the Project that is properly allocable for all federal income tax purposes to the land component (including interests in land) of the Project. Net Proceeds of the Governmental Note in the amount of \$900,000 are expected to be used (directly or indirectly) to acquire land (or an interest therein), and such amount is less than 25 percent of the Net Proceeds of the Bonds.

(iv) Prohibited Facilities. None of the Proceeds of the Governmental Note will be used to acquire, construct, or equip, and no portion of the Project will be, an airplane, a skybox or any other type of luxury box, a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; provided that, any fitness room functionally related to and subordinate to the Project for use by tenants

of the Project or their guest is not considered a health club facility for purposes of this subparagraph.

(v) Payments to Related Persons. Any amount of Proceeds of the Governmental Note paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower will not exceed an arm's-length charge that is the amount that would be charged to a person other than the Borrower. Further, any amount of Proceeds of the Governmental Note paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower would be paid under the same circumstances by a person other than the Borrower to such affiliated person or entity. Notwithstanding the foregoing, in no event will amounts of Proceeds of the Governmental Note that are paid to a Related Person to the Borrower be treated as spent until such amounts are spent on capital expenditures by such Related Person.

(vi) No Working Capital. Except for an amount that does not exceed five percent of the Sale Proceeds of the Governmental Note (and that is directly related to the Project), the Proceeds of the Governmental Note will only be expended for (A) costs that would be chargeable to the capital account of the Project if the Governmental Lender's income were subject to federal income taxation; (B) interest on the Governmental Note in an amount that does not cause the aggregate amount of interest paid on the Governmental Note to exceed that amount of interest on the Governmental Note that is attributable to the period that commences on the Issue Date of the Governmental Note and ends on the later of (1) the date that is three years from the Issue Date of the Governmental Note or (2) the date that is one year after the date on which the Project is Placed in Service; and/or (C) fees for a qualified guarantee of the Governmental Note or payment for a qualified hedge on the Governmental Note.

(vii) No Pooling. The Proceeds of the Bonds are not being used to directly or indirectly make or finance loans to two or more ultimate unrelated borrowers.

(viii) Weighted Average Economic Life. The Weighted Average Maturity of the Governmental Note, as calculated by the Financial Advisor as set forth in Exhibit B hereto, is [WAM] years. The weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Governmental Note is at least [WAM/1.2] years. Thus, the Weighted Average Maturity of the Governmental Note is not more than 120 percent of the weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Governmental Note. Such weighted average estimated economic life is determined in accordance with the following assumptions: (A) the weighted average is determined by taking into account the respective costs of each asset, excluding land; (B) the reasonably expected economic life of an asset is determined as of the later of (1) the Issue Date of the Governmental Note or (2) the date on which such asset is originally Placed in Service (or expected to be Placed in Service); and (C) the economic lives for the itemized assets are the useful lives

that would have been used for depreciation purposes under section 167 of the Code prior to the enactment of the ACRS system under section 168 of the Code (i.e., the mid-point lives under the Class Life Asset Depreciation Range System of section 167(m) of the Code where applicable and the guideline lives under Revenue Procedure 62-21, 1962-2 C.B. 418, in the case of structures). The Borrower hereby covenants to not make any changes to the Project that would, at the time made, cause the remaining Weighted Average Maturity of the Governmental Note to be more than 120 percent of the remaining weighted average estimated economic life of the portion of the Project financed with Proceeds of the Governmental Note.

(c) Reimbursement. The Borrower expects that it will use Proceeds of the Governmental Note in the amount of approximately \$22,150,000 to reimburse itself for expenditures paid prior to the Issue Date of the Governmental Note. Other than (i) an amount not greater than \$100,000 and/or (ii) Preliminary Expenditures up to an amount not in excess of 20 percent of the Issue Price of the Governmental Note, no portion of the Proceeds of the Governmental Note will be disbursed to reimburse the Governmental Lender, the Borrower or any Related Person to the Borrower for any expenditures paid or incurred prior to the date that is 60 days before the Official Intent Date, which is the date on which the Governmental Lender adopted a resolution describing the Project, stating the maximum principal amount of obligations expected to be issued for the Project and stating the Governmental Lender's reasonable expectation that expenditures for costs of the Project would be reimbursed with Proceeds of an obligation. Such resolution was not an official intent declared as a matter of course or in an amount substantially in excess of the amount expected to be necessary for the Project. Neither the Governmental Lender nor the Borrower has engaged in a pattern of failure to reimburse actual original expenditures covered by official intents. Such reimbursed portion will be treated as spent for purposes of the "Funds—Project Loan Fund" subparagraph herein and the "Compliance with Yield Reduction and Rebate Requirements; Rebate Fund" paragraph herein.

(d) Allocations and Accounting. The Borrower will prepare a final allocation of the Proceeds of the Governmental Note to expenditures not later than 18 months after the later of the date the original expenditure is made or the date the Project is Placed in Service, but in no event later than the date that is 60 days after the fifth anniversary of the Issue Date of the Governmental Note or the retirement of the Governmental Note, if earlier; provided that, if such allocation is made pursuant to a reimbursement expenditure described above, such reimbursement allocation will in no event be made later than the date that is three years after the date each such original expenditure is paid. The Borrower may redetermine the allocation of the Proceeds of the Governmental Note within the time frame set forth in the immediately preceding sentence, provided that the Borrower will notify the Governmental Lender and Bond Counsel of any such reallocation and provide such parties with documentation of such reallocation. The Borrower hereby elects to consistently allocate the expenditure of Proceeds of the Governmental Note to Qualified Project Costs of the Project. No Proceeds of the Governmental Note will be allocated to any expenditures to which Proceeds of any other tax-exempt obligations have heretofore been allocated.

10. Issue Price. In accordance with section 1.148-1(f)(2)(iv) of the Regulations, the Governmental Lender hereby identifies in its books and records maintained for the Governmental

Note the rule the Governmental Lender will use to determine the Issue Price for each maturity of the Governmental Note as the rule set forth in the second sentence of section 1.148-1(f)(2)(i) of the Regulations, i.e. the Issue Price is the price paid by the single buyer. Based on the representations set forth in Exhibit A hereto, the aggregate Issue Price of the Governmental Note is \$28,000,000. The Issue Price of the Governmental Note represents the Stated Redemption Price at Maturity.

11. Yield on the Governmental Note. The Governmental Lender and the Borrower hereby represent, covenant and agree as follows:

(a) The Yield on the Governmental Note will be computed separately for each computation period. For the purposes of this Agreement, the Yield on the Governmental Note for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all payments of principal and interest on the Governmental Note that are attributable to the computation period, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price (or deemed Issue Price, as determined by section 1.148-4(c)(2)(iv) of the Regulations) of the Governmental Note as of the first day of the computation period. For each group of substantially identical Governmental Note, the Issue Price is the first price at which the Governmental Note were sold to the Initial Funding Lender. The Initial Funding Lender intends to hold the Governmental Note for its own account. The Governmental Note are not being offered to the public and are not being issued in exchange for property.

(b) Neither the Governmental Lender nor the Borrower has entered into any hedging transaction with respect to the Governmental Note, and each covenants not to enter into a hedging transaction with respect to the Governmental Note unless there is first received a Favorable Opinion of Bond Counsel.

12. Yield on the Project Loan. The Governmental Lender and the Borrower hereby represent, covenant and agree as follows:

(a) The Project Loan is allocated to the Governmental Note. The Yield on the Project Loan is computed using the same compounding interval and financial conventions used to compute the Yield on the Governmental Note. For the purposes of this Agreement, the Yield on the Project Loan is the discount rate that, when used in computing the present value as of the Issue Date of the Governmental Note of all receipts with respect to the Project Loan, produces an amount equal to the present value, using the same discount rate, of the aggregate payments with respect to the Project Loan as of the Issue Date of the Governmental Note. The aggregate payments made to the Borrower with respect to the Project Loan include no payments other than the “purchase price” of the Project Loan. The purchase price of the Project Loan is the amount loaned to the Borrower by the Governmental Lender on the Issue Date of the Governmental Note, i.e. \$28,000,000.

(b) The Project Loan is a purpose investment that the Governmental Lender intends to treat as a “program investment” within the meaning of section 1.148-1 of the Regulations, because it is part of a governmental program (i) that involves the origination

or acquisition of purpose investments; (ii) in which at least 95 percent of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, organizations exempt from tax under section 501(c)(3) of the Code, persons who provide housing and related facilities, or any combination of the foregoing; (iii) in which at least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption; and (iv) in which the program documents prohibit any obligor on a purpose investment financed by the program or any “related party,” within the meaning of section 1.150-1(b) of the Regulations, to that obligor from purchasing bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor. The Governmental Lender has not waived the right to treat the Project Loan as a program investment.

(c) The receipts from the Borrower with respect to the Project Loan include interest and principal payments with respect to the Project Loan and the Qualified Administrative Costs paid by the Borrower, and the Qualified Administrative Costs paid by the Borrower have been taken into account, as provided by section 1.148-5(e) of the Regulations, for purposes of computing the yield on the Project Loan. Because the Governmental Lender intends to treat the Project Loan as a “program investment” within the meaning of section 1.148-1 of the Regulations, the Qualified Administrative Costs do not include the costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Project Loan, which amounts are set forth in Exhibit C hereto.

(d) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Loan, calculated in the manner set forth above, is not expected to exceed the Yield on the Governmental Note by more than 1.5 percentage points.

13. Investment of Proceeds Pending Expenditure; No Arbitrage.

(a) Investment Proceeds. Amounts on deposit in the Loan Payment Fund and the Project Loan Fund may be comprised of Proceeds of the Governmental Note and amounts that are not Proceeds of the Governmental Note or any tax-exempt obligation. If Proceeds of the Governmental Note and amounts that are not Proceeds of the Governmental Note are commingled, the Borrower will take into account for purposes of its covenant to comply with the arbitrage and rebate requirements that Proceeds of the Governmental Note and amounts that are not Proceeds of the Governmental Note have been commingled as an investment. Investment Proceeds resulting from the investment of any Proceeds of the Governmental Note pending expenditure of such Proceeds for Project Costs will be used to pay Qualified Project Costs or, if not used to pay Qualified Project Costs, such amounts will be treated as “bad costs.”

(b) Minor Portion and Yield Reduction Payments. All Gross Proceeds of the Governmental Note will be invested in accordance with the “Funds” paragraph herein. To the extent such amounts remain on hand following the periods set forth in the “Funds” paragraph herein or exceed the limits set forth in the “Funds” paragraph herein, such amounts will be invested at a restricted Yield as set forth in such paragraph; provided, however, that an amount not to exceed the Minor Portion may be invested at a Yield that is higher than the Yield on the Governmental Note and, provided further, that, if permitted by section 1.148-5(c) of the Regulations, the Yield restriction requirements may be satisfied by making Yield Reduction Payments to the federal government.

(c) Governmental Note Are Not Hedge Bonds. Not more than 50 percent of the Proceeds of the Governmental Note will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more. Further, at least 85 percent of the spendable Proceeds of the Governmental Note are reasonably expected to be used to carry out the governmental purposes of the Governmental Note within the three-year period beginning on the Issue Date of the Governmental Note.

(d) No Arbitrage. On the basis of the facts, estimates and circumstances set forth in this Agreement, it is expected by the Governmental Lender and the Borrower that the Gross Proceeds of the Governmental Note will not be used in a manner that would cause the Governmental Note to be “arbitrage bonds” within the meaning of section 148 of the Code. To the best of the knowledge and belief of the undersigned representatives of the Governmental Lender and the Borrower, there are no other facts, estimates or circumstances that would materially change such expectations. Except as provided in the Funding Loan Agreement and the Project Loan Agreement, the Borrower will not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under the Project Loan Agreement or the note relating to the Project Loan, will not establish any segregated reserve or similar fund for such purpose and will not prepay any such amounts in advance of the redemption date of an equal principal amount of the Governmental Note, unless in each case there will have been delivered a Favorable Opinion of Bond Counsel. The Borrower will not, at any time prior to the final maturity of the Governmental Note, direct or permit the Fiscal Agent to invest Gross Proceeds of the Governmental Note in any investment (or to use Gross Proceeds of the Governmental Note to replace money so invested), if as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Governmental Note to stated maturity, except as permitted by section 148 of the Code. The Governmental Lender and the Borrower further covenant and agree that each will comply with and will take all action reasonably required to ensure that the Fiscal Agent complies with all applicable requirements of section 148 of the Code relating to the Governmental Note and the interest thereon.

14. Covenants of Fiscal Agent Relating to Investment of Proceeds. The Fiscal Agent will invest funds held under the Funding Loan Agreement in accordance with the respective terms of the Funding Loan Agreement and this Agreement, which covenant will extend throughout the term of the Governmental Note, to all funds and accounts created under the Funding Loan Agreement and this Agreement and all moneys on deposit to the credit of any fund or account.

Should the Governmental Lender or the Borrower deliver notice (in the manner required under the Funding Loan Agreement or the Project Loan Agreement, as applicable) to the Fiscal Agent (it being understood that neither the Governmental Lender nor the Borrower has an obligation to so deliver) or should the Fiscal Agent receive an opinion of Bond Counsel to the effect that any proposed investment or other use of Proceeds of the Governmental Note would cause the Governmental Note to become “arbitrage bonds” within the meaning of section 148 of the Code, then the Fiscal Agent will comply with any written direction of the Borrower regarding such investment or use so as to prevent the Governmental Note from becoming an “arbitrage bond.”

The Governmental Lender and the Borrower agree that, in complying with the provisions set forth under this subparagraph, the Fiscal Agent will be deemed to have complied with such provisions and will have no liability to the extent the Fiscal Agent materially follows the written directions of the Borrower or the Governmental Lender.

15. Compliance with Yield Reduction and Rebate Requirements; Rebate Fund.

(a) Covenant to Comply with Rebate Requirements. The Governmental Lender and the Borrower covenant to comply with the requirement that (i) if Gross Proceeds of the Governmental Note have been invested at a Yield that is “materially higher” than the Yield on the Bonds and Yield Reduction Payments are permitted under section 1.148-5(c)(3) of the Regulations, Yield Reduction Payments be made to the federal government and (ii) “rebateable arbitrage earnings” on the investment of the Gross Proceeds of the Governmental Note, within the meaning of section 148(f) of the Code, be rebated to the federal government.

(b) Rebate Fund. The Funding Loan Agreement established the Rebate Fund, which will be maintained and held in trust by the Fiscal Agent and which will be disbursed and applied only as herein authorized in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph. Notwithstanding anything herein to the contrary, all provisions of the Funding Loan Agreement relating to the general administration of the funds created thereunder will apply to the Rebate Fund, and the Fiscal Agent is afforded all the rights, protections and immunities otherwise accorded to it thereunder as if the provisions set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph were set forth in the Funding Loan Agreement.

(c) Delivery of Documents and Money by Borrower on Computation Dates. The Borrower will deliver to the Fiscal Agent and the Governmental Lender, within 55 days after each Computation Date:

(i) a statement, signed by an officer or other authorized representative of the Borrower, stating the Rebate Amount as of such Computation Date and the amount of any Yield Reduction Payments due; and

(ii) (A) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90 percent of the Rebate Amount and Yield

Reduction Payments due as of such Installment Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations), made to the United States of America or (B) if such Computation Date is the Final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount and Yield Reduction Payments due as of such Final Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations) made to the United States of America; and

(iii) an IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (“Form 8038-T”) properly signed and completed as of such Computation Date.

(d) Administration of Rebate Fund and Payment of Rebate.

(i) The Fiscal Agent will deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. Within five days after each receipt or transfer of funds to the Rebate Fund, the Fiscal Agent will withdraw such funds from the Rebate Fund and pay such funds to the United States of America. The Fiscal Agent may conclusively rely on the instructions of the Borrower with regard to any actions to be taken by it pursuant to this paragraph and will have no liability for any consequences of any failure of the Borrower to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided herein, the Fiscal Agent will have no duty or responsibility with respect to the Rebate Fund or the Borrower’s duties and responsibilities with respect thereto except to follow the Borrower’s specific written instructions related thereto.

(ii) Moneys and securities held by the Fiscal Agent in the Rebate Fund will not be deemed funds of the Governmental Note and are not pledged or otherwise subject to any security interest in favor of the owners of the Governmental Note to secure the Governmental Note or any other obligations.

(iii) Moneys in the Rebate Fund will be separately invested and reinvested by the Fiscal Agent, at the written direction of the Borrower, in Qualified Investments, subject to the Code. The Fiscal Agent will sell and reduce to cash a sufficient amount of such Qualified Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(iv) The Borrower will provide to the Fiscal Agent and the Fiscal Agent will keep such records of the results of the computations made pursuant to this paragraph for a period of three years after the last Governmental Note and any tax-exempt obligations issued to refinance the Governmental Note is retired. The Fiscal Agent will keep and make available to the Governmental Lender and the Borrower such records concerning the investments of Gross Proceeds of the Governmental Note and the investments of earnings from those investments as may be requested

by the Governmental Lender or the Borrower in order to enable the Borrower to make the computations required under section 148(f) of the Code.

(e) Correction of Underpayments. If the Borrower discovers or is notified as of any date that any amount required to be paid to the United States of America pursuant to this Agreement has not been paid as required or that any payment paid to the United States of America pursuant to this Agreement has failed to satisfy any requirement of section 148(f) of the Code or section 1.148-3 of the Regulations (whether or not such failure is due to any default by the Borrower, the Governmental Lender, or the Fiscal Agent), the Borrower will (i) deliver to the Fiscal Agent (for deposit to the Rebate Fund) and cause the Fiscal Agent to pay to the United States of America from the Rebate Fund (A) the Rebate Amount or Yield Reduction Payments due that the Borrower failed to pay, plus any interest specified in section 1.148-3(h)(2) of the Regulations, if such correction payment is delivered to and received by the Fiscal Agent within 175 days after such discovery or notice, or (B) if such correction payment is not delivered to and received by the Fiscal Agent within 175 days after such discovery or notice, the amount determined in accordance with clause (A) of this subparagraph plus the 50 percent penalty required by section 1.148-3(h)(1) of the Regulations, and (ii) deliver to the Fiscal Agent and the Governmental Lender a Form 8038-T completed as of such date. If such Rebate Amount or Yield Reduction Payments, together with any penalty and/or interest due, is not paid to the United States of America in the amount and manner and by the time specified in the Regulations, the Borrower will take such steps as are necessary to prevent the Governmental Note from becoming “arbitrage bonds” within the meaning of section 148 of the Code.

(f) Fees and Expenses. The Borrower agrees to pay all of the fees and expenses of Bond Counsel, the Rebate Analyst, and any other necessary consultant employed by the Borrower, the Fiscal Agent, or the Governmental Lender in connection with computing the Rebate Amount and the Yield Reduction Payments.

(g) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Governmental Note that is not purchased at fair market value (as defined in section 1.148-5(d)(6)(iii) of the Regulations) or includes terms that the Borrower would not have included if the Governmental Note were not subject to section 148(f) of the Code.

(h) Amounts Not Required in Certain Circumstances.

(i) Notwithstanding the foregoing, the Borrower will not be required to perform the obligations set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph, except for the obligation to retain accounting records and the payment of expenses as described herein, if (A) the Gross Proceeds of the Governmental Note have not been invested at a Yield that is “materially higher” than the Yield on the Governmental Note and therefore is not required to pay Yield Reduction Payments and/or (B) the Borrower has not earned any rebatable arbitrage and, therefore, is not subject to the rebate obligation set

forth in section 148(f) of the Code. To the extent that the Borrower will not be required to perform such obligations, the Borrower will send written notice to the Fiscal Agent and the Governmental Lender within 55 days after the applicable Computation Date.

(ii) Notwithstanding anything to the contrary in this Agreement requiring a payment to be made based on the Rebate Analyst's calculations showing a rebate being due, no payment will be made by the Fiscal Agent to the United States of America if the Borrower furnishes to the Governmental Lender and the Fiscal Agent a Favorable Opinion of Bond Counsel. In such event, the Borrower will be entitled to withdraw funds from the Rebate Fund to the extent provided in such Favorable Opinion of Bond Counsel.

(i) Fiscal Agent Reliance on Written Directions. The Governmental Lender and the Borrower agree that, in complying with the provisions set forth under this paragraph, the Fiscal Agent will be deemed to have complied with such provisions and will have no liability to the extent it materially follows the written directions of the Borrower, the Governmental Lender, or the Rebate Analyst.

16. Funds.

(a) Project Loan Fund. All of the Proceeds of the Governmental Note in the Project Account of the Project Loan Fund are expected to be invested and disbursed as described in the Funding Loan Agreement to pay Project Costs. The Borrower (i) reasonably expects to allocate at least 85 percent of the Net Proceeds of the Governmental Note to expenditures on capital projects of the Project prior to the date that is three years after the Issue Date of the Governmental Note, (ii) has incurred, or reasonably expects to incur within six months after the Issue Date of the Governmental Note, a binding obligation to a third party that is not subject to any contingencies within the control of the Borrower pursuant to which the Borrower is obligated to expend at least five percent of the Net Proceeds of the Governmental Note on capital projects of the Project, and (iii) reasonably expects that the acquisition, construction, and equipping of the Project will proceed with due diligence to completion and the Net Proceeds of the Governmental Note are reasonably expected to be expended on the Project with reasonable dispatch; therefore, all of such amounts may be invested without regard to Yield restriction. Any amounts not so expended prior to the applicable dates set forth in the preceding sentence will thereafter be invested at a Yield that is not "materially higher" than the Yield on the Governmental Note, except as set forth in the "Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments" subparagraph herein.

(b) Revenue Fund. Amounts on deposit in the Revenue Fund will be used for the purposes and in the order set forth in Section 4.03 of the Funding Loan Agreement. There is no assurance that amounts on deposit in the Revenue Fund will be available to pay debt service on the Governmental Note.

(c) Loan Payment Fund. Amounts on deposit in the Loan Payment Fund will be used for the purposes set forth in Section 4.04 of the Funding Loan Agreement. The

Loan Payment Fund will be used primarily to achieve a proper matching of payments made pursuant to the Project Loan Agreement and debt service on the Governmental Note within each Bond Year. Any amounts in the Loan Payment Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Governmental Note, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(d) Loan Prepayment Fund. Amounts on deposit in the Loan Prepayment Fund will be used for the purposes set forth in Section 4.05 of the Funding Loan Agreement. The Loan Prepayment Fund will be used to prepay all or a portion of the Governmental Note in accordance with Section 3.01 of the Funding Loan Agreement. Any amounts in the Loan Prepayment Fund will be used within 13 months of receipt of amounts in such account.

(e) Administration Fund. Amounts on deposit in the Administration Fund will be used for the purposes and in the order set forth in Section 4.06 of the Funding Loan Agreement. There is no assurance that amounts on deposit in the Administration Fund will be available to pay debt service on the Governmental Note.

(f) Cost of Issuance Fund. Amounts on deposit in the Cost of Issuance Fund used for the purpose of paying Costs of Issuance, as set forth in Section 4.13 of the Funding Loan Agreement. Amounts remaining in the Cost of Issuance Fund after the payment of all Costs of Issuance, and in any event not later than six months following the Delivery Date of the Governmental Note, will be, to the extent such amounts represent amounts that are not Proceeds of the Governmental Note, transferred to the Borrower. There is no assurance that amounts on deposit in the Cost of Issuance Fund will be available to pay debt service on the Governmental Note.

(g) Rebate Fund. The Rebate Fund will be used in the event the Borrower is required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the Funding Loan Agreement; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Governmental Note.

17. Replacement Proceeds. The Governmental Lender and the Borrower hereby represent as follows:

(a) No Sinking Funds. Other than the Loan Payment Fund and the Loan Prepayment Fund, there is no debt service fund, redemption fund, reserve fund, replacement fund, or similar fund reasonably expected to be used directly or indirectly to pay principal or interest on the Governmental Note.

(b) No Pledged Funds. Other than amounts in the Loan Payment Fund and the Loan Prepayment Fund, there is no amount that is directly or indirectly pledged to pay principal or interest on the Governmental Note, or to a guarantor of the Governmental Note,

such that such pledge provides reasonable assurance that such amount will be available to pay principal or interest on the Governmental Note if the Governmental Lender encounters financial difficulty. For purposes of this certification, an amount is treated as so pledged if it is held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the holders or the guarantor of the Governmental Note.

(c) No Other Replacement Proceeds. There are no other Replacement Proceeds allocable to the Governmental Note because the Governmental Lender reasonably expects that the term of the Governmental Note will not be longer than is reasonably necessary for the governmental purpose of the Governmental Note. Furthermore, even if the Governmental Note were outstanding longer than necessary for the purpose of the Governmental Note, no Replacement Proceeds will arise because the Governmental Lender reasonably expects that no amounts will become available during the period that the Governmental Note remain outstanding longer than necessary based on the reasonable expectations of the Governmental Lender as to the amounts and timing of future revenues. The Governmental Note would be issued to achieve the governmental purpose of the Governmental Note independent of any arbitrage benefit as evidenced by the expectation that the Governmental Note reasonably would have been issued if the interest on the Governmental Note were not excludable from gross income (assuming that the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate and that tax credits issued under section 42 of the Code would be available in connection therewith).

18. Not an Abusive Transaction. The Governmental Lender and the Borrower hereby represent as follows:

(a) General. A device has not been and will not be employed in connection with the issuance of the Governmental Note to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Furthermore, no action taken in connection with the Governmental Note is or will be an abusive arbitrage device by having the effect of (i) enabling the Governmental Lender or the Borrower to exploit, other than during an allowable temporary period, the difference between tax-exempt and taxable interest rates to obtain a material financial advantage (including as a result of an investment of any portion of the Gross Proceeds of the Governmental Note over any period of time, notwithstanding that, in the aggregate, the Gross Proceeds of the Governmental Note are not invested in higher yielding investments over the term of the Governmental Note) and (ii) overburdening the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Governmental Note, based on all the facts and circumstances. Specifically, (A) the primary purpose of each transaction undertaken in connection with the issuance of the Governmental Note is a bona fide governmental purpose; (B) each action taken in connection with the issuance of the Governmental Note would reasonably be taken to accomplish the governmental purposes of the Governmental Note if the interest on the Governmental Note were not excludable from gross income for federal income tax purposes (assuming the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate on the Governmental Note); and (C) the Proceeds of the Governmental Note will not exceed by more than a

Minor Portion the amount reasonably anticipated to be necessary to accomplish the governmental purposes of the Governmental Note and will in fact not be substantially in excess of the amount of Proceeds allocated to expenditures for the governmental purposes of the Governmental Note.

(b) No Sinking Fund. No portion of the Governmental Note has a term that has been lengthened primarily for the purpose of creating a sinking fund or similar fund with respect to the Governmental Note.

(c) No Window. No portion of the Governmental Note has been structured with maturity dates the primary purpose of which is to make available released revenues that will enable the Governmental Lender to avoid transferred proceeds or to make available revenues that may be invested to be ultimately used to pay debt service on another issue of obligations.

(d) No Disposition. No portion of the Project is reasonably expected to be disposed of while the Governmental Note are outstanding.

19. The Project. The Borrower hereby represents and covenants as follows:

(a) The Project will be comprised of (i) Units, all of which will be rented to individuals or families for residential occupancy and none of which will be owner-occupied (other than any functionally related and subordinate Units used by management for the purpose of housing any reasonably required resident managers, security personnel or maintenance personnel for the Project) and (ii) facilities, all of which are functionally related and subordinate to the aforementioned Units (i.e., facilities that are of a size and character commensurate with the size and character of such Units).

(b) There has been and will be no substantial deviation from the description and location of the Project and the Borrower, operator or manager set forth in the notice of hearing published with respect to the Governmental Note for purposes of satisfying the requirements of section 147(f) of the Code.

(c) The Project will be designed and equipped and will be owned, maintained and operated on a continuous basis in accordance with the Project Loan Agreement and the Regulatory Agreement. For purposes of this subparagraph, each of the enumerated types of facilities includes the interior furnishings of such facility (including the facility's plumbing, electrical and decorating costs) and the structural components required for the facility (including the facility's walls, ceilings and special enclosures). Each such enumerated type of facility includes only those normal components of the structure in which it is located, such as the structure's structural supports, to the extent that those components are required because of the facility. The recreational facilities, if any, included as part of the Project will be available only to residential tenants and their guests and no separate fee will be required for the use of such facilities.

(d) Except to the extent that any Unit is a single room occupancy unit under section 42 of the Code, each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Specifically, each Unit will contain a living area,

a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, full-size refrigerator and sink, all of which are separate and distinct from the facilities included in other Units.

(e) Parking spaces included in the Project are functionally related and subordinate to the Units included in the Project in that they are no greater in number than is normally appropriate for a residential rental facility that is of the size of the Project. Only tenants, prospective tenants, guests of tenants, employees of the Borrower, and employees of the manager are expected to use these parking spaces.

(f) If the Project contains a clubhouse, exercise or similar recreational facility, such facility exists as a tenant amenity and may be used by any tenant free of any separate charge and will be constructed for the exclusive use of tenants of the Project and their guests. Such facility, if any, is of a character and size commensurate with the character and size of the Project and will not be open to the general public on a membership basis.

(g) The Project will not include any nonresidential or commercial space, including particularly, without limitation, any other space or facility not described in this paragraph.

(h) No continual or frequent skilled or unskilled nursing services will be available at the Project, although the tenants will be permitted to engage such services from providers that are not affiliated with the Borrower or the manager. Thus, neither the Borrower nor the manager, nor any Related Person to either the Borrower or the manager, will provide any assistance to any tenant in connection with his or her activities of daily living, other than concierge and valet services. The Project will not be licensed as a convalescent or nursing home, continuing care facility, personal care facility, special care facility or other assisted living facility under State law.

(i) As of the Delivery Date, at least 50 percent of the Units in the Project are occupied.

20. Tenant Income Certifications. The Borrower hereby represents and covenants as follows:

(a) The Borrower will obtain and maintain tenant income certifications in a form that satisfies the requirements of section 1.103-8(b)(8) of the Regulations demonstrating that the 40-60 Test is met with respect to the occupied Units continuously throughout the Qualified Project Period. The Borrower expects that more than 10 percent of the Units in the Project will remain occupied throughout the rehabilitation of the Project and, as such, compliance with the 40-60 Test will not be required during the twelve-month “transition period” beginning on the Issue Date of the Governmental Note, as set forth in Revenue Procedure 2004-39, 2004 C.B. 49.

(b) The Borrower will ensure that each person who is intended to be a Qualifying Tenant will sign and deliver to the Borrower or a manager of the Project a tenant income certification in the form required by the Regulatory Agreement. In addition, the

Borrower will ensure that such person will provide whatever other information, documents or certifications are deemed necessary to substantiate the tenant income certification.

(c) The Borrower will timely file, or take such actions as are necessary to cause any other person who is properly treated as the “operator” for purposes of section 142(d)(7) of the Code to file timely, the annual certifications described in section 142(d)(7) of the Code (currently, IRS Form 8703, Annual Certificate of Residential Rental Project).

(d) For a period of at least three years after the date the Governmental Note are retired, a tenant income certification in the form required by the Regulatory Agreement will at all times be maintained on file at the applicable location for the Project with respect to each Qualifying Tenant who resides or has resided in a Unit.

21. Form of Lease. The Borrower will ensure that the term of a lease of any Unit will be for a term of not less than six months, subject to the provision that any lease may be terminated if the tenant’s physical condition no longer permits full-time residence in the Project; provided, however, that the form of lease to be utilized by the Borrower in renting any Units to a person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the tenant income certification.

22. Change in Use. The Borrower acknowledges that any failure to satisfy the applicable requirements of sections 103 and 142 through 150, inclusive, of the Code, including the 40-60 Test, with respect to the Project will be treated as a change in use for purposes of section 150(b)(2) of the Code with the result that no deduction will be allowed for federal income tax purposes for interest paid by the Borrower with respect to the portion of the Project Loan that is allocable to Proceeds of the Governmental Note that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date that the Project meets such requirements.

On the earlier of (a) the date on which the Borrower reasonably determines that the Project will not be completed or (b) the date on which the Project is Placed in Service, the Borrower will identify the amount of unspent Net Proceeds of the Governmental Note, if any, and will use such amount to redeem or, if not permitted by the terms of the Governmental Note, defease the Governmental Note, all in accordance with the requirements of section 1.142-2 of the Regulations, the Funding Loan Agreement and the Project Loan Agreement, as applicable, including the requirement that, if a defeasance is necessary, timely written notice be provided to the IRS.

23. Cashflow Sufficiency. The Borrower reasonably expects that the cash flow from the Project on an annual basis (excluding cash generated from the investment of nonoperating funds or other investment funds maintained by the Borrower) will be sufficient to pay annual debt service on the Project Loan during each year. Accordingly, the Borrower expects that debt service on the Project Loan will not be paid, directly or indirectly, from non-operating or other investment funds maintained by the Borrower or any Related Person to the Borrower. Except for the funds described in the “Funds” paragraph above, the Borrower does not expect to create or establish, or otherwise set aside or dedicate, any fund or account that is expected to be used to pay principal of,

or interest on, the Governmental Note or to be pledged, directly or indirectly, to the payment of principal of, or interest on, the Governmental Note. Investment Proceeds of the Bonds and amounts earned from the investment of such Investment Proceeds will not be commingled with other receipts or revenues of the Borrower.

24. Post-Issuance Compliance Procedures. The Governmental Lender has implemented written post-issuance tax compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code. A copy of the Governmental Lender's then-current post-issuance tax compliance procedures is and will be available on the Governmental Lender's website during the term of this Agreement. If the Governmental Lender's website is not available, a copy of the then-current post-issuance tax compliance procedures will be made available to the Borrower, upon request. The Borrower agrees to take such actions as required therein to be taken by the Borrower to maintain compliance with requirements in the Code. In the event that the terms of the Governmental Lender's post-issuance tax compliance procedures conflict with the terms of this Agreement, the terms of this Agreement will control.

25. Record Retention. The Borrower and the Fiscal Agent will retain or cause to be retained all pertinent and material records relating to any formal elections made for purposes of federal income tax law; the use of the Project; the investment, use and expenditure of the Proceeds of the Governmental Note; and the calculation of rebate in connection with the Governmental Note until three years after the Governmental Note, including any tax-exempt obligations issued to refinance the Governmental Note, are redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Governmental Lender to retrieve and reproduce such books and records in the event of an examination of the Governmental Note by the IRS.

26. Examination by IRS. The Borrower acknowledges that, in the event of an examination by the IRS of the exclusion of interest on the Governmental Note from the gross income of the owners thereof for federal tax purposes, the Governmental Lender will likely be treated as the "taxpayer", and the Borrower agrees to respond in a commercially reasonable manner on behalf of, and at the direction of, the Governmental Lender (and in consultation with the Fiscal Agent, who will have the right to participate in all related proceedings (including tax court challenges and appeals)) to such examination and to pay the costs of the counsel selected by the Governmental Lender to provide a defense regarding the exclusion of the interest on the Governmental Note from the gross income of the owners thereof for federal income tax purposes. THE BORROWER WILL INDEMNIFY AND HOLD HARMLESS THE GOVERNMENTAL LENDER AND THE FISCAL AGENT AGAINST ANY AND ALL COSTS, LOSSES, CLAIMS, DAMAGES, OR LIABILITY OF, OR RESULTING FROM, SUCH AN EXAMINATION AND THE SETTLEMENT THEREOF BY THE GOVERNMENTAL LENDER AND THE FISCAL AGENT (INCLUDING THE COST OF THE GOVERNMENTAL LENDER'S AND THE FISCAL AGENT'S LEGAL COUNSEL), EXCEPT AS A RESULT OF THE WILLFUL

MISCONDUCT, BAD FAITH, OR FRAUD OF THE GOVERNMENTAL LENDER (WITH RESPECT TO INDEMNIFICATION OF THE GOVERNMENTAL LENDER) OR THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE FISCAL AGENT (WITH RESPECT TO INDEMNIFICATION OF THE FISCAL AGENT).

27. Term. The obligations of the Governmental Lender, the Borrower and the Fiscal Agent, under this Agreement will survive the defeasance and discharge of the Governmental Note for as long as such matters are relevant to the exclusion from gross income of interest on the Governmental Note for federal income tax purposes.

28. Amendments.

(a) To the extent any amendments to the Code or the Regulations, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, this Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as will be necessary to document such automatic amendment hereof.

(b) To the extent that the Code or the Regulations, or any amendments thereto, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Governmental Lender, the Fiscal Agent and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, the Fiscal Agent and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All reasonable costs, including fees and out-of-pocket expenses actually incurred by the Governmental Lender and the Fiscal Agent, in connection with an amendment to this Agreement will be paid by the Borrower and its successors in interest.

29. Remedies. The Governmental Lender, the Fiscal Agent, and the Borrower each hereby agree that the remedies available under VI of the Funding Loan Agreement and VII of the Project Loan Agreement apply upon the occurrence of an Event of Default (as defined under the Indenture or the Loan Agreement, as applicable) resulting from an action or omission of an action by any party hereunder with respect to any provision of this Agreement.

30. Miscellaneous.

(a) Severability. If any provision of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such provision will not affect any of the remaining provisions hereof.

(b) Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(c) Notices. All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto will be deemed given on the date on which the same will have been mailed by registered or certified mail, postage prepaid, addressed to such parties at the addresses set forth in the Funding Loan Agreement and the Project Loan Agreement, as applicable.

(d) Successors and Assigns. The terms, provisions, covenants and conditions of this Agreement bind and inure to the benefit of the respective successors and assigns of the Governmental Lender, the Borrower, and the Fiscal Agent.

(e) Headings. The headings of this Agreement are inserted for convenience only and will not be deemed to constitute a part of this Agreement.

(f) Governing Law. This Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Agreement will lie within the district courts of the State, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Governmental Lender, the Borrower and the Fiscal Agent (but, as for the Fiscal Agent, it is only agreeing to sections 2(c), 14, 15, and 26 through 30) have caused this Agreement to be executed and delivered by duly authorized officers thereof as of the Delivery Date.

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

By: _____
Name: Monica Galuski
Title: Director of Bond Finance/Chief Investment
Officer

Signature Page to Tax Exemption Agreement

**HOUSTON LEASED HOUSING
ASSOCIATES OWNER VIII, LLC,**
a Minnesota limited liability company

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

**U.S. BANK, NATIONAL ASSOCIATION, as
Fiscal Agent**

By: _____
Name:
Title:

ACKNOWLEDGEMENT AND AGREEMENT OF SOLE MEMBER

The undersigned, Houston Leased Housing Associates VIII, LLLP, a Minnesota limited liability limited partnership and the sole member of the Borrower, acknowledges and agrees that, as the sole member of the Borrower, where appropriate in the context of provisions of this Agreement for federal income tax purposes, the undersigned is bound by, and shall comply with, the representations, terms, provisions, covenants and conditions of this Agreement that apply to the Borrower.

IN WITNESS WHEREOF, the undersigned has caused this Acknowledgement and Agreement to be executed and delivered by its duly authorized officer as of the Delivery Date.

**HOUSTON LEASED HOUSING ASSOCIATES
VIII, LLLP,**
a Minnesota limited liability limited partnership

By: Houston Leased Housing Associates, LLC,
a Minnesota limited liability company,
its General Partner

By: _____
Name: Russell C. Condas
Its: Authorized Signatory

Signature Page to Acknowledgement and Agreement to Tax Exemption Agreement

EXHIBIT A

CERTIFICATE OF INITIAL FUNDING LENDER

I, the undersigned authorized signatory of Merchants Bank of Indiana, an Indiana state bank (the “Initial Funding Lender”), make this certificate in connection with the Texas Department of Housing and Community Affairs Governmental Lender Note (Vermillion Apartments) Series 2020 (the “Governmental Lender Note”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Agreement to which this Exhibit A is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Governmental Lender Note:

1. I am the duly chosen, qualified and acting authorized signatory for the Initial Funding Lender; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Initial Funding Lender.

2. The Initial Funding Lender is not acting as an Underwriter with respect to the Governmental Lender Note. The Initial Funding Lender has no present intention to sell, reoffer, or otherwise dispose of the Governmental Lender Note (or any portion of the Governmental Lender Note or any interest in the Governmental Lender Note); provided, however, that Initial Funding Lender has the right to transfer the Governmental Lender Note as provided in the Funding Loan Agreement. The Initial Funding Lender has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Governmental Lender Note, and the Initial Funding Lender has not agreed with the Governmental Lender pursuant to a written agreement to sell the Governmental Lender Note to persons other than the Initial Funding Lender or a Related Party to the Initial Funding Lender.

3. The Initial Funding Lender has purchased the Governmental Lender Note from the Governmental Lender for an aggregate purchase price of \$28,000,000 (the “Issue Price”), which price includes no amounts representing interest accrued on the Governmental Lender Note prior to the Issue Date of the Governmental Lender Note.

4. For purposes of this Certificate of Initial Funding Lender, the following definitions apply:

(a) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(b) “Related Party” means any two or more persons who are subject, directly or indirectly, to (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity

is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(c) “Underwriter” means (i) any person that agrees pursuant to a written contract with the Governmental Lender (or with the lead underwriter to form an underwriting syndicate) to participate in any initial sale of the Governmental Lender Note to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in any initial sale of the Governmental Lender Note to the Public (including a member of a selling group or a party to a retail distribution agreement participating in any initial sale of the Governmental Lender Note to the Public).

The Governmental Lender may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the conditions imposed by the Code on the exclusion of interest on the Governmental Lender Note from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Governmental Lender Note as excludable from gross income for federal income tax purposes and the preparation of the Form 8038; provided, however, that nothing herein represents our interpretation of any laws and, in particular, Regulations under section 148 of the Code.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Initial Funding Lender has been duly executed as of the Delivery Date.

**MERCHANTS BANK OF INDIANA,
an Indiana State Bank,
as Initial Funding Lender**

By: _____
Name: _____
Title: _____

EXHIBIT B

CERTIFICATE OF FINANCIAL ADVISOR

I, the undersigned officer of Stifel, Nicolaus & Company, Incorporated (the “Financial Advisor”), make this certificate in connection with the \$28,000,000 Texas Department of Housing and Community Affairs Multifamily Note (Vermillion Apartments) Series 2020 (the “Governmental Note”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Agreement to which this Exhibit B is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Governmental Note:

1. I am the duly chosen, qualified and acting officer of the Financial Advisor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Financial Advisor.

2. The Issue Price plus any Pre-Issuance Interest on the Governmental Note, based on the certifications of the Initial Funding Lender attached as Exhibit A to the Tax Exemption Agreement, is not more than \$28,000,000.

3. Solely for the purposes of demonstrating the fact that the Yield on the Loan is not more than 1.5 percentage points higher than the Yield on the Governmental, the Financial Advisor computed the Yield on the Governmental Note, based on the Issue Price and assuming semiannual compounding, an assumed Construction Phase rate of interest of [_____] percent per annum, a Conversion Date of [_____] , and a fixed rate of interest of [_____] percent per annum thereafter to the Maturity Date, to be [_____] percent and the Yield on the Loan to be [_____] percent. Accordingly, the Yield on the Mortgage Loan does not exceed the Yield on the Notes by more than 1.5 percentage points.

4. For purposes of determining the Yields in paragraph 3 above, the Financial Advisor has performed certain calculations relating to the Governmental Note and the Project Loan. Such calculations are attached hereto as Schedule I. The Financial Advisor hereby represents that such calculations are based on assumptions and methodologies provided by Bond Counsel and are in all material respects consistent with the assumptions and methodologies set forth in the “Yield on the Governmental Note” and “Yield on the Project Loan” paragraphs of the Tax Exemption Agreement. These calculations include calculations based upon assumptions, information, and estimates obtained from the Borrower and the Governmental Lender, which the Financial Advisor, based on its experience with similar transactions, has no reason to believe are not reasonable in light of the relevant facts and circumstances. To the best of the Financial Advisor’s knowledge, as of the Issue Date of the Governmental Note, no fact or circumstance has come to the Financial Advisor’s attention that conflicts with the assumptions, information and estimates described in the preceding sentence.

5. As shown in Schedule I attached hereto, the Financial Advisor computed the Weighted Average Maturity of the Governmental Note, calculated in accordance with the provisions of the Tax Exemption Agreement, to be [WAM] years.

6. The Financial Advisor represents that to the best of its knowledge as of the Issue Date of the Governmental Note, the statements set forth in paragraphs (a) through (c) of the “Not An Abusive Transaction” paragraph of the Tax Exemption Agreement are true.

The Governmental Lender may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the conditions imposed by the Code on the exclusion of interest on the Governmental Note from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Governmental Note as excludable from gross income for federal income tax purposes and the preparation of the Form 8038.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Financial Advisor has been duly executed as of the Delivery Date.

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____

Name: _____

Title: _____

Signature Page to Certificate of Financial Advisor

SCHEDULE I
TO CERTIFICATE OF FINANCIAL ADVISOR

Schedule I to Certificate of Financial Advisor

EXHIBIT D

SCHEDULE OF PROJECT LOAN COSTS

Paid Prior to Closing

Application Fee \$5,200

Paid at Closing

Governmental Lender Administration Fee
(first two years) \$[]

Governmental Lender Compliance Fee
(first year) \$6,500

Annual Fees

Governmental Lender Administrative Fee
(beginning August 1, 2022) 0.10% per annum of the aggregate
principal amount of the Governmental
Note outstanding

Governmental Lender Compliance Fee
(beginning August 1, 2023) \$6,500