
BORROWER LOAN AGREEMENT

by and between

LDG THE LEGACY ON Kiest, LP

and

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Dated as of [July 1], 2025

Relating to:

**Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Note
(The Legacy on Kiest)
Series 2025**

The interests of Texas Department of Housing and Community Affairs (the “Governmental Lender”) in this Borrower Loan Agreement (except for its Reserved Rights) have been pledged and assigned to BOKF, NA, as fiscal agent (the “Fiscal Agent”), as security for the Funding Loan made pursuant to that certain Funding Loan Agreement dated as of [July 1], 2025 by and among the Governmental Lender, the Funding Lender named therein and the Fiscal Agent under which the Funding Lender is originating a loan to the Governmental Lender, the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

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BORROWER LOAN AGREEMENT

This BORROWER LOAN AGREEMENT (as amended, modified or supplemented from time to time, this “Agreement”) made as of [July 1], 2025, by and between TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its successors and assigns, the “Governmental Lender”) and LDG THE LEGACY ON Kiest, LP, a limited partnership duly organized and validly existing under the laws of the State of Texas (together with its permitted successors and assigns, the “Borrower”),

WITNESSETH:

WHEREAS, the Governmental Lender is authorized under Chapter 2306, Texas Government Code, as amended (the “Act”) to make mortgage loans to housing sponsors to provide financing with respect to one or more projects authorized under the Act for such payments and upon such terms and conditions as the Governmental Lender may deem advisable in accordance with the provisions of the Act; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the “Borrower Loan”), to finance the acquisition, construction and equipping of a multifamily rental housing development consisting of total of approximately 180 units and related personal property and equipment, located in Dallas, Texas, and known as “The Legacy on Kiest” (the “Project Facilities” or “Project”); and

WHEREAS, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the “Funding Loan Agreement”), among the Governmental Lender, BOKF, NA (the “Fiscal Agent”) and Community Housing Investment Partners II, LP (the “Funding Lender”), under which the Funding Lender will make a loan (the “Funding Loan”) to the Governmental Lender, the proceeds of which will be loaned under this Borrower Loan Agreement to the Borrower to finance the acquisition, construction and equipping of the Project; and;

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

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

ARTICLE 1

DEFINITIONS

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

Section 1.2 Rules of Construction; Time of Day. In this Agreement, unless otherwise indicated, (i) defined terms may be used in the singular or the plural and the use of any gender includes all genders, (ii) the words “hereof”, “herein”, “hereto”, “hereby” and “hereunder” refer to this entire Agreement, and (iii) all references to particular Articles or Sections are references to the Articles or Sections of this Agreement, (iv) the terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants”, (v) the term “including” shall mean “including, but not limited to,” and

(vi) the terms “best knowledge” or “knowledge” shall mean the actual knowledge of any Authorized Person of the Borrower after due inquiry. References to any time of the day in this Agreement shall refer to Eastern standard time or Eastern daylight saving time, as in effect in New York, New York on such day.

ARTICLE 2

LOAN AND PROVISIONS FOR REPAYMENT

Section 2.1 Basic Loan and Repayment Terms.

(a) The Governmental Lender agrees, upon the terms and conditions contained in this Agreement and the Funding Loan Agreement, to lend to the Borrower the proceeds of the Funding Loan received by the Governmental Lender from the Funding Lender. Such proceeds shall be disbursed to or on behalf of the Borrower as provided for in this Agreement and the Funding Loan Agreement. The Borrower’s obligation to repay the Borrower Loan shall be evidenced by the Borrower Note, the form of which is attached hereto as Exhibit A.

(b) The Borrower hereby agrees to pay the Borrower Note and repay the Borrower Loan on each Loan Payment Date as provided in the Borrower Note, and 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 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, the Fiscal Agent shall collect from the Borrower, and the Borrower shall provide to the Fiscal Agent the foregoing payments by 2:00 p.m., New York City time, on the second (2nd) Business Day prior to each Loan Payment Date.

(c) Each such payment shall be made in immediately available funds to the Fiscal Agent. Whenever any payment on the Borrower Loan shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(d) It is understood and agreed that the Borrower Note and all payments payable by the Borrower under this Section 2.1 are assigned by the Governmental Lender to Fiscal Agent for the benefit of the Funding Lender. The Borrower assents to such assignment.

(e) The Borrower shall have, and is hereby granted, the option to prepay the unpaid principal amount of the Borrower Loan, together with interest thereon to the date of prepayment, but only to the extent set forth in the Borrower Note.

(f) The Controlling Person shall deliver to the Fiscal Agent, the Governmental Lender and the Borrower the Debt Service Schedule on or before the first day of the month preceding the First Principal Payment Date, providing for level principal and interest debt service commencing on the First Principal Payment Date, with respect to the Borrower Note then Outstanding calculated on the basis of the Fixed Rate (as defined in the Borrower Note) and the Amortization Term (with all remaining principal payable on the Maturity Date, if applicable).

Section 2.2 Fees.

(a) On the date of execution and delivery of this Agreement, the Borrower shall pay, or cause to be paid, to R4 Capital Funding LLC the Origination Fee and to R4 Servicer LLC a Construction Monitoring Fee, together with the fees and expenses of its counsel.

(b) The Borrower shall pay (as directed by the Controlling Person) two Business Days before each Loan Payment Date, commencing on the First Loan Payment Date and continuing through final completion of the Work in respect of the Project Facilities, an amount equal to the costs of the Engineering Consultant incurred by the Controlling Person in the prior month in an amount not to exceed \$1,500 per month (plus travel and reasonable and necessary expenses). If the Borrower fails to requisition such costs, the Controlling Person may request the Fiscal Agent to disburse such amounts as part of any Advance.

(c) On the Closing Date, from money on deposit in the Costs 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 (\$[150,000]), together with the initial Governmental Lender Administration Fee, initial Governmental Lender Compliance Fee, and all third party and out-of-pocket expenses of the Governmental Lender (including but not limited to the fees and expenses of Governmental Lender Counsel, disclosure counsel and financial advisor to the Governmental Lender) in connection with the Funding Loan and the Borrower Loan and the issuance of the Governmental Note.

(d) On the Closing Date, from money on deposit in the Costs of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Fiscal Agent, the initial payment of the Ordinary Fiscal Agent's Fees and Expenses, 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 Funding Loan and the Borrower Loan and the issuance of the Governmental Note.

(e) The Borrower shall pay the Governmental Lender Fees and all expenses of the Governmental Lender, when due and any extraordinary expenses not covered by the Governmental Lender Fees the Governmental Lender may incur in connection with the Funding Loan Documents or the Project from time to time.

(f) The Borrower shall pay the Ordinary Fiscal Agent's Fees and Expenses and all expenses of the Fiscal Agent, when due from time to time.

(g) The Borrower shall pay 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.

(h) The Borrower shall pay any and all special servicing fees or costs in accordance with Section 6.34 hereof.

Section 2.3 Termination and Prepayment.

(a) Notwithstanding anything to the contrary contained in this Agreement or the other Funding Loan Documents, the Controlling Person's and the Funding Lender's and each Noteowner's rights, interests and remedies hereunder and under the other Funding Loan Documents shall not terminate or expire or be deemed to have been discharged or released until the payment in full of the Borrower Note and the Governmental Note. No such termination, expiration or release shall affect the survival of the

indemnification provisions of this Agreement, which provisions shall survive any such termination, expiration or release and the resignation or removal of the Fiscal Agent.

(b) The Borrower Loan may be optionally prepaid by the Borrower, and the Governmental Note shall be correspondingly paid pursuant to Section 3.2 of the Funding Loan Agreement, on any Loan Payment Date on or after the First Optional Call Date, upon the payment of the principal amount of the Borrower Note plus interest accrued thereon and optional prepayment premium set forth on the Schedule of Financial Terms, if any, to, but not including, the date of prepayment, as provided in the Borrower Note.

(c) Acceleration of the obligations of the Borrower hereunder upon an Event of Default prior to the First Par Call Date, shall constitute an evasion of the prepayment provisions of this Agreement and any tender of payment of an amount necessary to satisfy the entire indebtedness evidenced by this Agreement shall include an acceleration premium, equal to the amount of interest which would have accrued on the amount of Borrower Note scheduled to be outstanding from the date of acceleration to, but not including, the First Par Call Date.

(d) In the event of a partial prepayment of the Borrower Loan (other than pursuant to Section 7(c) of the Borrower Note), the mandatory prepayment schedule set forth on the Debt Service Schedule shall be adjusted to provide for level debt service in respect of the Borrower Loan remaining outstanding after such partial prepayment, on the basis of the number of months remaining in the Amortization Term. The Controlling Person shall provide the Funding Lender, Governmental Lender, Fiscal Agent and the Borrower with the Debt Service Schedule reflecting such adjustment promptly following any such partial prepayment. The Controlling Person, with the prior written consent of the Borrower, may deliver a modified Debt Service Schedule from time to time hereafter for any other purpose agreed to by Controlling Person and Borrower. In connection with any such modified Debt Service Schedule, the Controlling Person may, at its election and at Borrower's expense, require a Favorable Opinion of Governmental Lender Counsel.

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

Section 2.5 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 (EACH A “GOVERNMENTAL INDEMNIFIED PARTY” AND COLLECTIVELY “GOVERNMENTAL INDEMNIFIED PARTIES”) HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS BORROWER LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE 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 BORROWER LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS BORROWER LOAN AGREEMENT, OR (III) THE 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 A GOVERNMENTAL INDEMNIFIED PARTY, THE BORROWER SHALL DEFEND THE GOVERNMENTAL INDEMNIFIED PARTIES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE; PROVIDED, HOWEVER, THAT A GOVERNMENTAL INDEMNIFIED PARTY 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 INDEMNIFIED PARTIES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS BORROWER LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE GOVERNMENTAL INDEMNIFIED PARTIES IN CONNECTION WITH THE ISSUANCE OF THE GOVERNMENTAL NOTE, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS BORROWER LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF A GOVERNMENTAL INDEMNIFIED PARTY BY THIS BORROWER LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF A GOVERNMENTAL INDEMNIFIED PARTY BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS BORROWER LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS BORROWER LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF A GOVERNMENTAL INDEMNIFIED PARTY 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 INDEMNIFIED PARTY 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 A GOVERNMENTAL INDEMNIFIED PARTY THE BORROWER SHALL DEFEND THE GOVERNMENTAL INDEMNIFIED PARTIES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE GOVERNMENTAL INDEMNIFIED PARTIES AND THE BORROWER SHALL PAY THE GOVERNMENTAL INDEMNIFIED PARTY'S EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE GOVERNMENTAL INDEMNIFIED PARTIES; PROVIDED HOWEVER, THAT A GOVERNMENTAL INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(iii) NOTWITHSTANDING ANY PROVISION OF THIS BORROWER LOAN AGREEMENT TO THE CONTRARY, A GOVERNMENTAL INDEMNIFIED PARTY 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 ANY SUCH PARTY'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

In case any action or proceeding is brought against a Governmental Indemnified Party, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the Governmental Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The Governmental Indemnified Party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding anything else in this Borrower Loan Agreement to the contrary, except as otherwise provided in Section 2.5(a)(iii) hereof, the Borrower shall be responsible for the fees, costs and expenses of counsel to a Governmental Indemnified Party and the Fiscal Agent at all times; provided that the Governmental Indemnified Parties maintain control of the selection of its counsel at all times.

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

(b) THE BORROWER COVENANTS TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE FISCAL AGENT, THE FUNDING LENDER, THE CONTROLLING PERSON, AND EACH OF THEIR RESPECTIVE AFFILIATES AND EACH OF THEIR AND THEIR AFFILIATES' RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), EXCEPT AS LIMITED BELOW, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS OR EXPENSES (INCLUDING ATTORNEYS' FEES FOR COUNSEL OF EACH OF THE INDEMNIFIED PARTIES' CHOICE) WHATSOEVER WHICH THE INDEMNIFIED PARTIES MAY INCUR (OR WHICH MAY

BE CLAIMED AGAINST ANY OF THE INDEMNIFIED PARTIES BY ANY PERSON WHATSOEVER) BY REASON OF OR IN CONNECTION WITH:

(1) THE GOVERNMENTAL NOTE, FUNDING LOAN AGREEMENT, BORROWER LOAN AGREEMENT, REGULATORY AGREEMENT OR TAX EXEMPTION AGREEMENT, OR THE EXECUTION OR AMENDMENT HEREOF OR THEREOF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING THE ISSUANCE, SALE OR RESALE, DEFEASANCE OR PREPAYMENT OF THE GOVERNMENTAL NOTE;

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

(3) THE INVOLVEMENT OF ANY OF THE INDEMNIFIED PARTIES IN ANY LEGAL SUIT, INVESTIGATION, PROCEEDING, INQUIRY OR ACTION AS A CONSEQUENCE, DIRECT OR INDIRECT, OF THE CONTROLLING PERSON OR THE FUNDING LENDER'S ACTIONS TAKEN PURSUANT TO THIS AGREEMENT OR ANY OF THE OTHER FUNDING LOAN DOCUMENTS OR ANY OTHER EVENT OR TRANSACTION CONTEMPLATED BY ANY OF THE FOREGOING;

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

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

(6) ANY ACT OR OMISSION OF THE BORROWER OR ANY OF ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES OR LICENSEES IN CONNECTION WITH THE ADVANCES OR THE PROJECT FACILITIES, THE OPERATION OF THE PROJECT FACILITIES, OR THE CONDITION, ENVIRONMENTAL OR OTHERWISE, OCCUPANCY, USE, POSSESSION, CONDUCT OR MANAGEMENT OF WORK DONE IN OR ABOUT, OR FROM THE PLANNING, DESIGN, ACQUISITION OR CONSTRUCTION OF, THE IMPROVEMENTS OR ANY PART THEREOF;

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

(8) ANY VIOLATION OR ALLEGED VIOLATION OF ANY APPLICABLE LAW OR REGULATION INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAW OR ANY INSPECTION, REVIEW OR TESTING WITH RESPECT TO CONTAMINATION OR ENVIRONMENTALLY SENSITIVE AREAS;

(9) THE ENFORCEMENT OF, OR ANY ACTION TAKEN BY THE GOVERNMENTAL LENDER, THE FISCAL AGENT, THE FUNDING LENDER OR ANY INDEMNIFIED PARTY, RELATED TO REMEDIES UNDER, THIS AGREEMENT, THE FUNDING LOAN AGREEMENT AND THE OTHER FUNDING LOAN DOCUMENTS;

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

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

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

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

The indemnification shall include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by the Indemnified Parties, provided the Borrower shall not be required to indemnify any of the Indemnified Parties for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of any Indemnified Party. **The indemnification of the Indemnified Parties as provided in this Agreement shall remain in full force and effect if losses directly or indirectly result from, arise out of, or relate to, or are asserted to have resulted from, arisen out of, or related to, the sole or contributory negligence of the Indemnified Parties.** The obligations of the Borrower under this Section shall survive the termination of this Agreement and the

Funding Loan Agreement and the resignation or removal of the Fiscal Agent. Notwithstanding any other provision of this Agreement or the Funding Loan Agreement to the contrary, the Borrower agrees (i) not to assert any claim or institute any action or suit against the Fiscal Agent, the Funding Lender or their employees arising from or in connection with any investment of funds made by the Fiscal Agent in good faith as directed by the Borrower, the Controlling Person or the Funding Lender, and (ii) to indemnify and hold the Fiscal Agent, the Funding Lender and their employees harmless against any liability, losses, damages, costs, expenses, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any such investment. Nothing in this Section is intended to limit the Borrower's obligations contained in Section 2.1 and 2.2 hereof. Amounts payable to the Governmental Lender hereunder shall be due and payable five (5) days after demand and will accrue interest at the Default Rate, commencing with the expiration of the five (5) day period. When the Governmental Lender incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally. The obligations of Borrower to the Indemnified Parties under this Section shall not be subject to the recourse limitations of Section 10.13 hereof.

Section 2.6 Amounts Remaining on Deposit Upon Payment of the Governmental Note.

After payment in full of the principal of, premium, if any, and interest on the Governmental Note (or defeasance of the Governmental Note) and upon payment of amounts payable to the United States pursuant to any rebate requirement and the payment of any other amounts owed hereunder or under the Funding Loan Agreement, all amounts on deposit with the Fiscal Agent or the Funding Lender pursuant to the Funding Loan Agreement, this Agreement or any other Funding Loan Document shall be paid by the Fiscal Agent or Funding Lender, as applicable, to the Borrower.

Section 2.7 Payments to Rebate Fund. The Borrower shall direct payment when due to the Fiscal Agent at the principal corporate 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.

ARTICLE 3

SECURITY

Section 3.1 Mortgage and Other Funding Loan Documents.

To further secure the Borrower's obligations under this Agreement, the Borrower shall, at its sole expense, execute and deliver, or cause to be executed and delivered (and where required, duly record), the Mortgage and each of the other Funding Loan Documents.

Section 3.2 Financing Statements.

The Borrower hereby authorizes the Funding Lender and the Controlling Person, without the signature of the Borrower, to file such financing statements and continuation statements, and perform such other acts, under the Uniform Commercial Code of the State or other applicable Legal Requirements as are necessary or advisable to perfect and maintain perfection of the Governmental Lender's, the Fiscal Agent's and/or the Funding Lender's security interests under this Agreement, the Funding Loan Agreement, the Mortgage and the other Funding Loan Documents. The Fiscal Agent shall have no responsibility to file financing statements or continuation statements other than to file continuation statements for any such financing statements that identify Fiscal Agent as "secured party" or additional secured party, copies of which filed financing statements have been delivered to the Fiscal Agent. The Borrower will pay upon

demand the costs of filing the foregoing financing or continuation statements and the Financing Statements required under the Funding Loan Agreement in such public offices as the Controlling Person may designate.

ARTICLE 4

REPRESENTATIONS OF GOVERNMENTAL LENDER

Section 4.1 Representations by the Governmental Lender.

The Governmental Lender represents and warrants to the Borrower, the Funding Lender and the Noteowners from time to time of the Governmental Note as follows:

(a) The Governmental Lender is a public and official agency of the State of Texas and is authorized by the Act to execute and to enter into this Agreement and to undertake the transactions contemplated herein and to carry out its obligations hereunder.

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

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

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

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

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

(g) There is no action, suit, proceeding, inquiry, or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Governmental Lender, threatened against or affecting the Governmental Lender wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Governmental Note, the Funding Loan Agreement or this Agreement or (ii) the exclusion from gross income of interest on the Governmental Note for purposes of federal income taxation.

(h) In connection with the authorization, issuance and sale of the Governmental Note, the Governmental Lender has complied in all material respects with all provisions of the laws of the State, including the Act.

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

(j) To the best knowledge of the Governmental Lender, it is not in default under any of the provisions of the laws of the State, which default would affect the issuance, validity or enforceability of the Governmental Note or the transactions contemplated by this Agreement or the Funding Loan Agreement.

(k) No member of the Governmental Lender, nor any other official or employee of the Governmental Lender, has any interest (financial, employment or other) in the Borrower, in the Project Facilities or in the transactions contemplated hereby, by the other Funding Loan Documents or by the Funding Loan Agreement.

(l) The Governmental Lender used no broker in connection with the execution hereof and the transactions contemplated hereby.

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

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF THE BORROWER

The Borrower represents and warrants to and for the benefit of the Governmental Lender, the Funding Lender, the Controlling Person and the Noteowners from time to time of the Governmental Note as follows:

Section 5.1 Existence. The Borrower is a limited partnership, duly organized, validly existing and in good standing under the Legal Requirements of the state of its organization and is duly qualified to do business in the State. The Borrower has furnished to the Governmental Lender, the Funding Lender and the Controlling Person true and complete copies of its Partnership Agreement and certificate of limited partnership. The Borrower owns and will own no other assets other than the Project Facilities. The Borrower, the General Partner and the Special Limited Partner have been, are and will be engaged solely in the business of acquiring, constructing, equipping, financing, owning, managing and operating the Project Facilities and activities incident thereto. The General Partner of the Borrower is DHFC The Legacy on Kiest GP, LLC, a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly qualified to do business in the State. The General Partner has furnished to the Governmental Lender, the Funding Lender and the Controlling Person true and complete copies of its certificate of formation and operating agreement. The General Partner has and will have no other assets other than its partnership interests in the Borrower. The Special Limited Partner of the Borrower is LDG The Legacy on Kiest SLP, LLC, a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly qualified to do business in the State. The Special Limited Partner has furnished to the Governmental Lender, the Funding Lender and the Controlling Person true and complete copies of its certificate of formation and operating agreement. The Special Limited Partner has and will have no other assets other than its partnership interests in the Borrower.

Section 5.2 Power, Authorization and No Conflicts. The Borrower has all requisite power and authority and the legal right to own and operate its properties and to conduct its business and operations as they are currently being conducted and as proposed to be conducted by it. The execution, delivery and performance by the Borrower of this Agreement, the Taxable Loan Documents, the Subordinate Debt Documents and the other Funding Loan Documents to which the Borrower is a party (i) are within the Borrower's powers, (ii) have been duly authorized by all necessary company and legal action by or on behalf of the Borrower, and (iii) do not contravene the Partnership Agreement, operating agreement, articles of incorporation, bylaws, or certificate of limited partnership of the Borrower, the General Partner or the Special Limited Partner, as applicable, or any Legal Requirement applicable to the Borrower, the General Partner or the Special Limited Partner or any Material Contract or restriction binding on or affecting the Borrower, the General Partner or the Special Limited Partner or any of their respective assets, or result in the creation of any mortgage, pledge, lien or encumbrance upon any of its assets other than as provided by the terms thereof.

Section 5.3 Governmental Authorizations and Other Approvals. The Borrower, the General Partner and the Special Limited Partner have all necessary Governmental Actions and qualifications, and have complied with all applicable Legal Requirements necessary to conduct their business as it is presently conducted and to own, operate and construct the Project Facilities in accordance with the provisions of the Funding Loan Documents. Except as set forth on Schedule 5 hereto, the Borrower has obtained all Governmental Actions from such Governmental Authorities which are a necessary precondition to construct, own and operate the Project Facilities and all such Governmental Actions were duly issued, are in full force and effect and are not subject to any pending judicial or administrative proceedings, the period for judicial or administrative appeal or review having expired and no petition for administrative or judicial

appeal or review having been filed. The Project Facilities (upon completion of construction of the Project Facilities as contemplated in the Plans and Specifications) will comply with all Governmental Actions and Legal Requirements, including all zoning restrictions (including without limitation, use density, setbacks, parking and other similar requirements) or the Borrower has a valid variance for or exemption from such requirements. All Governmental Actions obtained by the Borrower have been validly issued and are in full force and effect. No such Governmental Action will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project Facilities including any transfer pursuant to foreclosure sale under the Mortgage.

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

Section 5.5 No Litigation. Except as disclosed on Schedule 1 attached hereto, there is no pending action or proceeding, including eminent domain proceedings, before any Governmental Authority or arbitrator against or involving the Borrower, the General Partner or the Special Limited Partner or to the Borrower's knowledge after due inquiry, the Project Facilities and, to the best knowledge of the Borrower, there is no threatened action or proceeding, including eminent domain proceedings, affecting the Borrower, the General Partner or the Special Limited Partner before any Governmental Authority or arbitrator which, in any case, might materially and adversely affect the business, operations, assets, condition (financial or otherwise) or prospects of the Borrower, the General Partner or the Special Limited Partner, or the validity or enforceability of this Agreement, the Governmental Note, the Taxable Loan Documents, the Subordinate Debt Documents or the Funding Loan Documents or the construction, operation or ownership of the Project Facilities, or the Federal Tax Status of the Governmental Note or, if specified on the Schedule of Financial Terms as applicable, the exemption of the Project Facilities from ad valorem real estate taxation under the laws of the State.

Section 5.6 No Violations. The Borrower and the General Partner are in compliance with, and not in breach of or default under (a) any applicable Governmental Actions or Legal Requirements with respect to the Project Facilities of any Governmental Authority having jurisdiction, or (b) the Funding Loan Documents, the Taxable Loan Documents, the Subordinate Debt Documents or any other credit agreement, indenture, mortgage, agreement or other instrument to which it is a party or otherwise subject. No event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute an event of default under any such instrument. The Borrower is not in violation, nor is there any notice or other record of any violation of any Legal Requirements, restrictive covenants or other restrictions applicable to any of the Project Facilities.

Section 5.7 Compliance. The ownership of the Project Facilities, the construction of the Project Facilities, and the use and operation of the Project Facilities as contemplated hereby do and shall, in all material respects, comply with, and are lawful and permitted uses under, the Tax Exemption Agreement and the Regulatory Agreement, all applicable building, fire, safety, zoning, subdivision, sewer, Environmental Laws, health, insurance and other Legal Requirements and plan approval conditions of any Governmental Authority. The Borrower has obtained all Governmental Actions from such Governmental Authorities which are a necessary precondition to construct, own and operate the Project Facilities and all such Governmental Actions were duly issued, are in full force and effect and are not subject to any pending judicial or administrative proceedings, the period for judicial or administrative appeal or review having expired and no petition for administrative or judicial appeal or review having been filed. The Project Facilities are located wholly within the boundaries of the Governmental Lender's jurisdiction. The Project

Facilities will satisfy all requirements of the Act and the Code with respect to multifamily rental housing and/or qualified residential rental facilities, and, if specified as applicable on the Schedule of Financial Terms, the requirements for exemption from ad valorem real estate taxation under the laws of the State.

Section 5.8 Title to Properties; Liens and Encumbrances. The Borrower has a valid leasehold interest in the real property on which the Project Facilities will be constructed pursuant to the Ground Lease and will be the owner of the Improvements thereon, free and clear of all liens or encumbrances except for the Permitted Encumbrances. All such real property, fixtures and equipment necessary to the conduct of the business of the Borrower and the operation of the Project Facilities are and will be in reasonable working order and are suitable for the purposes for which they are and will be used. There exist no liens, encumbrances or other charges against the Project Facilities (including without limitation statutory and other liens of mechanics, workers, contractors, subcontractors, suppliers, taxing authorities and others), except Permitted Encumbrances.

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

Section 5.10 Financial Information.

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

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

Section 5.11 ERISA. No employee pension plan maintained by the Borrower or the General Partner or any ERISA Affiliate which is subject to Part 3 of Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") has an accumulated funding deficiency (as defined in Section 302(a) of ERISA), no reportable event (as defined in Section 4043 of ERISA) has occurred with respect to any employee pension plan maintained for employees of the Borrower or any ERISA Affiliate and covered by Title IV of ERISA, no liability has been asserted against the Borrower, the General Partner or any ERISA Affiliate by the Pension Benefit Guaranty Corporation ("PBGC") or by a trustee appointed pursuant to Section 4042(b) or (c) of ERISA, and no lien has been attached and no person has threatened to attach a lien to any of the Borrower's, the General Partner's or any ERISA Affiliate's property as a result of failure to comply with ERISA or as a result of the termination of any employee pension plan covered by Title IV of ERISA. Each employee pension plan (as defined in Section 3(2) of ERISA) maintained for employees of the Borrower, the General Partner or any ERISA Affiliate which is intended to be qualified under Section 401 (a) of the Code, including all amendments to such plan or to any trust agreement, group annuity or insurance contract or other governing instrument, is the subject of a favorable determination by the Internal Revenue Service with respect to its qualification under Section 401(a) of the Code. With respect to any multi-employer pension plan (as defined in Section 3(37) of ERISA) to which the Borrower, the General

Partner or any ERISA Affiliate is or has been required to contribute after September 25, 1980, (i) no withdrawal liability (within the meaning of Section 4201 of ERISA) has been incurred by the Borrower, the General Partner or any ERISA Affiliate, (ii) no withdrawal liability has been asserted against the Borrower, the General Partner or any ERISA Affiliate by a sponsor or an agent of a sponsor of any such multi-employer plan, (iii) no such multi-employer pension plan is in reorganization (as defined in Section 4241(a) of ERISA), and (iv) neither the Borrower, the General Partner nor any ERISA Affiliate has any unfilled obligation to contribute to any such multi-employer pension plan. As used in this Agreement, “ERISA Affiliate” means (i) any corporation included with the Borrower, the General Partner or the Special Limited Partner in a controlled group of corporations within the meaning of Section 414(b) of the Code, (ii) any trade or business (whether or not incorporated or for-profit) which is under common control with the Borrower, the General Partner or the Special Limited Partner within the meaning of Section 414(c) of the Code, (iii) any member of an affiliated service group of which the Borrower, or the General Partner is a member within the meaning of Section 414(m) of the Code, and (iv) any other entity treated as being under common control with the Borrower or the General Partner under Section 414(o) of the Code.

Section 5.12 Environmental Representations. Except as set forth on the Environmental Audit delivered to the Controlling Person (a) the Borrower has no knowledge of any activity at the Project Facilities, or any storage, treatment or disposal of any Hazardous Substances connected with any activity at the Project Facilities, which has been conducted, or is being conducted, in violation of any Environmental Law; (b) the Borrower has no knowledge of any of the following which could give rise to material liabilities, material costs for remediation or a material adverse change in the business, operations, assets, condition (financial or otherwise) or prospects of the Borrower: (i) Contamination present at the Project Facilities, (ii) polychlorinated biphenyls present at the Project Facilities, (iii) asbestos or materials containing asbestos present at the Project Facilities, (iv) urea formaldehyde foam insulation present at the Project Facilities, or (v) lead-based paint at the Project Facilities; (c) no portion of the Project Facilities constitutes an Environmentally Sensitive Area; (d) the Borrower has no knowledge of any investigation of the Project Facilities for the presence of radon; (e) no tanks presently or formerly used for the storage of any liquid or gas above or below ground are present at any of the Project Facilities; (f) no condition, activity or conduct exists on or in connection with the Project Facilities which constitutes a violation of Environmental Laws; (g) no notice has been issued by any Governmental Authority to the Borrower, the General Partner or the Special Limited Partner identifying the Borrower, the General Partner or the Special Limited Partner as a potentially responsible party under any Environmental Laws; (h) there exists no investigation, action, proceeding or claim by any Governmental Authority or by any third party which could result in any liability, penalty, sanctions or judgment under any Environmental Laws with respect to the Project Facilities; and (i) the Borrower is not required to obtain any permit or approval from any Governmental Authority or need notify any Governmental Authority pursuant to any Environmental Law with regard to the construction of the Project Facilities.

Section 5.13 Outstanding Obligations and Material Contracts. Attached hereto as Schedule 2 is (i) a complete list of all Obligations of the Borrower and the General Partner as of the date of execution and delivery hereof, together with a description of the instruments evidencing, governing or securing such obligations (provided that no description need be provided of the Obligations hereunder) and (ii) a complete list of all other Material Contracts. There exists no default under any such instrument. Except for the obligations listed on Schedule 2, neither the Borrower nor the General Partner has incurred any Obligations, secured or unsecured, direct or contingent. Each of the Borrower and the General Partner has complied with all provisions of such Material Contracts in all material respects, to the extent such contract is applicable to such party, and there exists no default or event which, with the giving of notice or the passage of time, or both, would constitute a default, under any such Material Contract.

Section 5.14 Solvency. Each of the Borrower, the Guarantor, the General Partner and the Special Limited Partner is and, after giving effect to this Agreement and all other agreements of the

Borrower, the Guarantor, the General Partner and the Special Limited Partner being entered into on the date of execution and delivery of this Agreement, will be solvent (which for this purpose shall mean that it is able to pay its current debts as they come due).

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

Section 5.16 Documents. Each of the Borrower, the Guarantor and the Special Limited Partner has provided the Controlling Person and the Funding Lender with true, correct and complete copies of: (i) all documents executed by the Borrower, the Guarantor, the General Partner or the Special Limited Partner in connection with the Governmental Note, including all amendments thereto and compliance reports filed thereunder; (ii) all management and service contracts entered into by the Borrower in connection with the Project Facilities, including all amendments thereto; (iii) all correspondence, if any, relating to the Governmental Note from the Funding Lender, the Governmental Lender, the Securities and Exchange Commission, the Internal Revenue Service or any state or local securities regulatory body or taxing authority or any securities rating agency; and (iv) all documentation, if any, relating to governmental grants, subsidies or loans or any other loans, lines of credit or other financing (including, without limitation, the Taxable Loan Documents and the Subordinate Debt Documents) relating to the Borrower or the Project Facilities, whether or not secured by the Project Facilities. Each of the representations and warranties on the Borrower's part made in the Funding Loan Documents to which the Borrower is a party remain true and correct in all material respects and no Default exists under any covenants on the Borrower's part to perform under the Funding Loan Documents to which the Borrower is a party.

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

Section 5.18 Reserved.

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

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

the Improvements in accordance with the Plans and Specifications is provided for under the Construction Contract and the Prime Subcontract.

Section 5.21 Development Budget. The Development Budget attached hereto as Schedule 3 accurately reflects: (i) all anticipated costs of implementing and completing the Work within the Plans and Specifications and (ii) anticipated uses by source allocations for the purpose of complying with Section 142(a) of the Code.

Section 5.22 Plans and Specifications. The Borrower has furnished the Controlling Person and the Funding Lender with true and complete sets of the Plans and Specifications. The Plans and Specifications so furnished to the Controlling Person and the Funding Lender comply with all Legal Requirements, all Governmental Actions, and all restrictions, covenants and easements affecting the Project Facilities, and have been approved by the Investor Limited Partner and such Governmental Authority as is required for renovation of the Project Facilities.

Section 5.23 Survey. The survey for the Project Facilities delivered to the Controlling Person and the Funding Lender does not fail to reflect any material matter of survey affecting the Project Facilities or the title thereto.

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

Section 5.25 Intentionally omitted.

Section 5.26 Requisition. Each Requisition submitted to the Controlling Person and the Fiscal Agent shall constitute an affirmation that the representations and warranties of the Borrower contained in this Agreement and in the other Funding Loan Documents remain true and correct as of the date thereof unless otherwise noted in writing; and unless the Controlling Person is notified to the contrary, in writing, prior to the requested date of the advance under such Requisition, shall constitute an affirmation that the same remain true and correct on the date of such advance.

Section 5.27 State Law Verifications. The Borrower makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended. As used herein, "affiliate" means an entity that controls, is controlled by, or is under common control with the Borrower within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations and shall not be liquidated or otherwise limited, notwithstanding anything herein or therein to the contrary.

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, Texas Government Code, or Section 2270.0201, Texas Government Code. The foregoing representation excludes the Borrower and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

For purposes of Chapter 2271, Texas Government Code, Chapter 2274, Texas Government Code, and Chapter 2276, Texas Government Code, the Borrower hereby represents that it does not have at least 10 full-time employees.

ARTICLE 6

GENERAL COVENANTS

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

Section 6.1 Conduct of Business; Maintenance of Existence; Mergers. The Borrower and the General Partner will (i) engage solely in the business of financing, constructing, owning and operating the Project Facilities, and activities incident thereto, (ii) preserve and maintain in full force and effect its existence as a limited partnership or a limited liability company, as applicable, under the Legal Requirements of the state of its organization, and its rights and privileges and its qualification to do business in the State, (iii) not dissolve or otherwise dispose of all or substantially all of its assets, (iv) not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, (v) except as permitted in Section 6.11(b)(vi), not amend any provision of its certificate of formation or its Partnership Agreement, relating to its purpose, management or operation, without the prior written consent of the Controlling Person, and (vi) promptly and diligently enforce its rights under the Partnership Agreement and cause the Investor Limited Partner to make its capital contributions as and when required under the Partnership Agreement.

Section 6.2 Compliance with Legal Requirements; Payment of Impositions. The Borrower will comply with all Legal Requirements applicable to the Borrower or the Project Facilities. The Borrower will pay all Impositions and insurance premiums when due and will make the applicable deposits required by Section 8.2 of this Agreement for such purposes. The Borrower shall make commercially reasonable efforts to direct that copies of all regular Impositions and insurance premiums shall be sent directly by the Governmental Authority or insurer, as applicable, to Controlling Person.

Section 6.3 Maintenance of Governmental Authorizations and Tax Abatement. The Borrower shall timely obtain any Governmental Actions required for the construction of the Project Facilities not obtained prior to the Closing Date and shall provide copies thereof to the Controlling Person and the Funding Lender upon receipt. The Borrower will maintain in full force and effect all of its Governmental Actions and qualifications necessary for the conduct of its business as it is presently being conducted and the ownership, construction and operation of the Project Facilities as they are presently being operated and as contemplated by the terms of the Funding Loan Documents. The Borrower will promptly furnish copies of all reports and correspondence relating to a loss or proposed revocation of any such qualification to the Controlling Person. The Borrower shall obtain and maintain the Tax Abatement and shall operate the Project Facilities and take such other actions in such a manner as to continue to qualify for the Tax Abatement and to comply with the terms and conditions thereof. The Borrower will promptly furnish copies of all reports and correspondence relating to any potential loss or revocation of the Tax Abatement to the Controlling Person.

Section 6.4 Maintenance of Insurance.

(a) At all times throughout the term hereof, the Borrower shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as required by the Controlling Person for facilities of the type and size of the Project Facilities and shall pay, as the

same become due and payable, all premiums with respect thereto. The initial insurance requirements shall include, but not necessarily be limited to, the requirements set forth on Schedule 12 hereto and such additional insurance as Controlling Person may require from time to time.

(b) All insurance required by this Section 6.4 shall be produced and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All property and casualty insurance policies required by Section 6.4(a) hereof shall contain a standard non-contributory mortgagee clause showing the interest of the Funding Lender as first mortgagee and shall provide for payment to the Funding Lender of the net proceeds of insurance resulting from any claim for loss or damage thereunder. All policies of insurance required by Section 6.4(a) hereof shall provide for at least thirty (30) days' prior written notice of the restriction, cancellation or modification thereof to the Funding Lender, with a copy to the Controlling Person. The policy evidencing liability insurance required by Section 6.4(a) hereof shall name the Governmental Lender, the Controlling Person and the Funding Lender as additional named insureds. The Borrower acknowledges that a security interest in the policies of property and casualty insurance required by Section 6.4(a) and the net proceeds thereof is being granted pursuant to the Mortgage. Upon request of the Funding Lender, the Borrower will assign and deliver (which assignment shall be deemed to be automatic and to have occurred upon the occurrence of an Event of Default hereunder) to the Funding Lender, the policies of property and casualty insurance required under Section 6.4(a), so and in such manner and form that the Funding Lender shall at all times, upon such request and until the payment in full of the Governmental Note, have and hold said policies and the net proceeds thereof as collateral and further security under the Mortgage for application as provided in the Mortgage. The policies under Section 6.4(a) hereof shall contain appropriate waivers of subrogation.

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

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

Section 6.5 Compliance with Other Contracts and Funding Loan Documents. The Borrower will comply with all of its covenants and agreements under the Funding Loan Documents to which it is a party, as the same may hereafter be amended or supplemented from time to time, and each of such covenants is incorporated herein by reference as if fully set forth herein. The Borrower acknowledges that the Funding Loan Agreement imposes certain obligations upon the Borrower and the Borrower agrees to discharge such obligations as if they were fully set forth herein (notwithstanding that the Borrower is not a party to the Funding Loan Agreement). The Borrower shall comply with all of its covenants under the Taxable Loan Documents and the Subordinate Debt Documents. The Borrower shall comply in all material respects with,

or cause to be complied with, all requirements and conditions of all Material Contracts and insurance policies which relate to the Borrower or the Project Facilities.

Section 6.6 Maintenance of Project Facilities. The Borrower will, at its sole expense and as one of the Expenses (including use of the funds on deposit in the Accounts, in accordance with the terms of the Funding Loan Agreement and the Replacement Reserve Agreement), (i) maintain and preserve the Project Facilities in good working order and repair, fit for the purposes for which they were originally erected; (ii) enforce the Ground Lease; (iii) not permit, commit or suffer any waste or abandonment of the Project Facilities; (iv) not use (and use reasonable efforts to not permit tenants to use) the Project Facilities for any unlawful purpose and use reasonable efforts to not permit any nuisance to exist thereon; (v) promptly make such repairs or replacements (structural or nonstructural, foreseen or unforeseen) as are required for the proper operation, repair and maintenance of the Project Facilities in an economical and efficient manner and consistent with customary and prudent practices, standards and procedures applicable to properties of like size and type; (vi) perform all repairs or replacements in a good and workmanlike manner, and in compliance with all applicable Governmental Actions and Legal Requirements; (vii) keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas which may be owned by the Borrower in good and neat order and repair; (viii) not take (or fail to take) any action, which if taken (or not so taken) would increase in any way the risk of fire or other hazard occurring to or affecting the Project Facilities; and (ix) not sell, lease (other than pursuant to residential leases), cause a Sale of or otherwise dispose of any part of the Project Facilities, except as otherwise permitted hereunder and under the other Funding Loan Documents.

Section 6.7 Inspection Rights.

(a) The Borrower will, at any reasonable time and from time to time, permit the Controlling Person, the Funding Lender, the Governmental Lender, and the agents or representatives of the Controlling Person, the Funding Lender and the Governmental Lender, to examine and copy and make abstracts from the records and books of account of, and visit the properties of, the Borrower, and to discuss the affairs, finances and accounts of the Borrower with the General Partner and the Accountant. Upon reasonable prior notice, and subject to the rights of tenants, the Borrower will permit the Engineering Consultant to inspect, or cause to be inspected, the Project Facilities at any reasonable time or times as the Controlling Person may direct. The Borrower shall pay or reimburse the Controlling Person on demand for fees and expenses incurred in connection with such inspections.

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

(c) The Borrower shall promptly commence and diligently complete the work recommended by the Engineering Consultant within the time period set forth in the report. If the Borrower fails to complete the work within such time period, the Controlling Person, at the Controlling Person's discretion, may complete such work for and on the Borrower's behalf and may do any act or thing the Controlling Person deems necessary or appropriate to that end. The expenses incurred by the Controlling Person in completing such work shall bear interest at the Default Rate, shall be borne by the Borrower and shall be reimbursed to the Controlling Person immediately upon demand. All work performed by the

Borrower shall be performed in a good and workmanlike manner and shall be completely free and clear of any mechanics or materialman's liens and encumbrances and shall be subject to the requirements of Section 6.6 hereof.

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

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

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

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

(2) a compliance statement signed by an Authorized Person or designee of an Authorized Person stating that, except as disclosed in such certificate, (i) during such fiscal quarter the Borrower has observed and performed all of its covenants and agreements set forth in this Agreement and the other Funding Loan Documents (including the rules set forth in section 142(d) of the Code pertaining to the Federal Tax Status of the Governmental Note), except as disclosed in such certificate, (ii) if the Project Facilities have received a tax credit allocation, during such fiscal quarter the Project Facilities have complied with the requirements of Section 42 of the Code and the regulations issued thereunder, and (iii) no Event of Default has occurred or exists;

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

(1) audited financial statements for the Borrower, on a consolidated basis, including a balance sheet and related statements of income and changes in financial position as of the end of such Fiscal Year and for such Fiscal Year, which shall be prepared and reported on without qualification by the Accountant in accordance with GAAP, and shall fairly present the financial condition of the Borrower and the Project Facilities as of the end of such Fiscal Year (with a draft of such financial statements delivered within ninety (90) days of the close of such Fiscal Year); and

(2) a compliance statement signed by an Authorized Person or designee of an Authorized Person stating that (i) during such Fiscal Year the Borrower has observed and performed all of its covenants and agreements set forth in this Agreement and the other Funding Loan Documents, except as disclosed in such certificate, and (ii) no Default or Event of Default has occurred or exists, except as disclosed in such certificate;

(3) an occupancy report stating as of the last day of the month prior to the date of delivery thereof, with respect to each lease of all or any part of the Project Facilities, the tenant's name, the date thereof, the premises demised, the term, the rent, the

security deposits, any advance rent payments in excess of one month and any defaults by the tenant or the Borrower in respect thereof (including, without limitation, the amounts of arrearages); and

(4) notwithstanding the foregoing, if the Closing Date occurred on or after November 15, the Borrower may elect, by submission of a signed audit waiver request to Controlling Person, to include the period from the Closing Date through the end of such Fiscal Year in the subsequent Fiscal Year audited financial statements in lieu of providing audited annual statements for the Fiscal Year in which the Closing Date occurred.

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

(d) Weekly during any period with occupancy of less than 90% and monthly for other periods, an occupancy report for the Project Facilities, certified by an Authorized Person;

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

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

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

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

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

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

(k) Not later than the Completion Date: (i) a Completion Certificate in the form attached as Schedule 7 hereto, with a copy to the Fiscal Agent; and (ii) an Estimated Use of Proceeds Compliance Certificate in the form set forth in Schedule 8 hereto;

(l) Not later than the Stabilization Date: (i) a Construction Closeout Deliveries Certificate in the form attached as Schedule 9 hereto; (ii) a Final Use of Proceeds Compliance Certificate in the form set forth in Schedule 10 hereto; and (iii) a Stabilization Certificate in the form set forth on Schedule 11 hereto;

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

(n) Contemporaneously with the delivery to the Funding Lender copies of any notices, reports or other information provided to the Funding Lender under the Funding Loan Documents;

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

(p) As soon as possible, notice of any violation of the terms and conditions of the Ground Lease and a copy of any notice it receives from the Ground Lessor under the Ground Lease;

(q) Upon receipt thereof, copies of all real estate tax bills and insurance bills;

(r) Upon receipt thereof, copies of all bills for Governmental Lender Fees or Fiscal Agent Fees and, upon payment, evidence of payment of such fees;

(s) Promptly following filing thereof, all tax returns of the Borrower and, if requested by the Controlling Person, the General Partner; and

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

Section 6.10 Tax-Exempt Status. 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 Federal Tax Status of the Governmental Note. 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 6.10 and the Tax Exemption Agreement, the terms and requirements of the Tax Exemption Agreement shall control.

Section 6.11 Single Purpose Entities.

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

(b) The Borrower, the General Partner (with respect to itself only) and the Special Limited Partner shall (i) not maintain its assets in a way difficult to segregate and identify; (ii) ensure that business transactions between the Borrower and any Affiliate of the Borrower, the General Partner or the Special Limited Partner shall be entered into upon terms and conditions that are substantially similar to those that would be available on an arms-length basis with a third Person other than the General Partner or the Special Limited Partner, or any respective Affiliate thereof; (iii) not incur or contract to incur any obligations, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than, in the case of the Borrower, the Obligations evidenced by this Agreement and the other Funding Loan Documents, the Taxable Loan Documents and the Subordinate Debt Documents, or unsecured loans or guaranty payments made by the partners of the Borrower or Guarantor pursuant to the Partnership Agreement, or unsecured trade payables or the Developer Fee; (iv) not make any loans or advances to any third Person (including any Affiliate of the Borrower, the General Partner or the Special Limited Partner), except as otherwise permitted under this Agreement or the Funding Loan Documents; (v) do or cause to be done all things necessary to preserve its existence; (vi) not amend, modify or otherwise change its partnership certificate, Partnership Agreement, articles of incorporation or bylaws without obtaining the prior written consent of the Controlling Person, not to be unreasonably withheld, conditioned or delayed (and which Controlling Person will endeavor to accept or reject within ten (10) Business Days of request); provided that no consent shall be required for changes or amendments to the Partnership Agreement to the extent such change or amendment is solely required to effect a Permitted Transfer, and provided that any changes with respect to installments of capital contributions which constitute Required Equity Funds or the timing thereof, or that otherwise, except for a change or amendment solely required to effect a Permitted Transfer, materially and adversely affect the rights and interests of the Noteowners also require Funding Lender consent, which consent shall not be unreasonably withheld, conditioned or delayed; (vii) conduct and operate its business as presently conducted and operated; (viii) maintain its books and records and bank accounts separate from those of its Affiliates; (ix) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other Person (including any Affiliate); (x) file its own tax returns; (xi) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and in any event not less than that required under State law in order to remain a separate legal entity; (xii) not seek or consent to the dissolution or winding up, in whole or in part, of the Borrower, the General Partner or the Special Limited Partner; (xiii) not (A) consent to the dissolution or liquidation in whole or in part of the Borrower, or (B) permit the General Partner or the Special Limited Partner to dissolve, or (C) consent to the dissolution or liquidation of the General Partner or the Special Limited Partner; (xiv) not commingle the funds and other assets of the Borrower with those of the General Partner, the Special Limited Partner, any Affiliate thereof or any other Person; and (xv) not enter into any transaction with an Affiliate without the prior written consent of the Controlling Person or as permitted pursuant under the Funding Loan Documents.

Section 6.12 Negative Pledge; No Sale.

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

(b) Other than Permitted Transfers and the making of residential leases, the Borrower shall not sell, assign, transfer, convey or otherwise dispose of the Project Facilities, or any part thereof, or permit or consent to a Sale without in each instance (i) obtaining the express prior written consent of the Controlling Person, which consent may be withheld or granted (and be subject to the payment of such fees and the satisfaction of other conditions as set forth in Section 1.12 of the Mortgage) in the Controlling

Person's sole and absolute discretion; and (ii) complying with the applicable requirements of the Regulatory Agreement.

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

(a) The Borrower will pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all of the Borrower's Obligations under the Funding Loan Documents, the Taxable Loan Documents, the Subordinate Debt Documents and all of its other Obligations, whether now existing or hereafter arising, and comply with all covenants and agreements set forth in agreements evidencing Obligations of the Borrower.

(b) The Borrower shall pay or cause to be paid the Expenses, and Capital Expenditures and its other accounts payable with respect to and costs of operation and maintenance of the Project Facilities within thirty (30) days of receipt of an invoice therefor, or when the same shall otherwise be due and payable. The Borrower shall make no distribution of funds to its partners unless no Default or Event of Default exists, such distribution is in accordance with the provisions of the Partnership Agreement, and all current accounts payable shall have been paid and funds shall have been set aside for the payment of accounts payable becoming due within thirty (30) days of said distribution.

(c) Without obtaining the prior written consent of the Controlling Person, the Borrower will not create, incur, assume, guarantee or be or remain liable for any indebtedness or Obligations other than (i) Indebtedness under the Funding Loan Documents; (ii) Indebtedness under the Taxable Loan Documents; (iii) indebtedness under the Subordinate Debt Documents; (iv) current liabilities of the Borrower relating to the Project Facilities incurred in the ordinary course of business but not incurred through the borrowing of money or obtaining of credit; and (v) any unsecured loans or guaranteed payments from partners or their Affiliates or the Guarantor pursuant to the Partnership Agreement.

Section 6.14 Environmental Covenants.

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

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

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

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

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

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

(g) In the event of any Contamination affecting the Project Facilities, whether or not the same originates or emanates from the Project Facilities or any contiguous real estate, or if the Borrower otherwise shall fail to comply with any of the requirements of Environmental Laws, the Controlling Person may, at its election, but without the obligation so to do, give such notices, cause such work to be performed at the Project Facilities and take any and all other actions as the Controlling Person shall deem necessary

or advisable in order to remedy said Contamination or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the Default Rate from the date of payment by the Controlling Person, shall be immediately due and payable by the Borrower and until paid shall be added to and become a part of the Indebtedness and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Project Facilities attaching or accruing subsequent to the lien of the Mortgage on the Project Facilities.

Section 6.15 Controlling Person. The Borrower acknowledges and agrees that (i) the Funding Lender has the sole and exclusive right to arrange for servicing of the Borrower Loan and to appoint another Person to serve as its representative hereunder, and under the other Funding Loan Documents; (ii) the Funding Lender has appointed R4 Servicer LLC to serve in the capacity of Controlling Person hereunder and under the other Funding Loan Documents and R4 Servicer LLC, as Controlling Person, shall perform all of the duties expressly given to the Controlling Person or the Funding Lender with respect to the servicing, administration and collection activities under the Funding Loan Documents including, but not limited to those set forth in Section 8.2 of the Funding Loan Agreement; (iii) unless revoked in writing by the Funding Lender or the Controlling Person has resigned, the Borrower shall communicate solely with the Controlling Person with respect to matters arising under or relating to the Funding Loan Documents; and (iv) the Funding Lender retains the sole and exclusive right to appoint, remove or replace the Controlling Person, without the consent or approval of the Borrower. The Controlling Person is hereby granted the full power and authority to conduct the servicing, administration and collection activities for and on behalf of the Funding Lender as contemplated herein and, without limiting the generality of the foregoing, is authorized and empowered to make and accept all communications on behalf of the Funding Lender with Borrower, Guarantor and any of their agents and execute and deliver, on behalf of the Funding Lender, any and all instruments of amendment, modification, satisfaction, cancellation, sale, transfer, release, discharge and all other comparable instruments with respect to the Loan. The Funding Lender hereby constitutes and appoints the Controlling Person as the Funding Lender's true and lawful attorney in fact with the power and authority to perform the foregoing. The Borrower shall comply with the directions of the Controlling Person made on behalf of the Funding Lender.

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

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

Section 6.18 Further Assurances. The Borrower will promptly and duly execute, acknowledge and deliver from time to time such further instruments and take such further actions as may be reasonably required by the Governmental Lender, the Funding Lender or the Controlling Person to carry out the purposes and provisions of this Agreement and the other Funding Loan Documents, to confirm the priority and/or perfection of any lien, pledge, assignment or security interest created or intended to be created by this Agreement and to assure the Controlling Person and the Funding Lender of the subrogation and security rights in favor of the Funding Lender (or the Fiscal Agent for the benefit of the Funding Lender) for the

benefit of the Noteowners of the Governmental Note contemplated by this Agreement, by the other Funding Loan Documents and by the Funding Loan Agreement. The Borrower shall obtain any approvals required under the Ground Lease, the Taxable Loan Documents and the Subordinate Debt Documents in connection with any of the foregoing.

Section 6.19 Management Agreement. The Borrower has entered into a property management agreement in a form approved by the Controlling Person with the Managing Agent (together with any extension and replacements thereof and as the same may be amended, modified or supplemented from time to time the “Management Agreement”). Under the Management Agreement, the Managing Agent shall provide certain management services and shall be entitled to receive as compensation for those services an amount not in excess of the Underwritten Management Fee. Any amounts due the Managing Agent in excess of the Underwritten Management Fee shall be subordinated to the payment by the Borrower of all principal of, premium, if any, and interest due on the Governmental Note, all Third Party Costs, all required deposits into the Accounts and all payments due under the Ground Lease. The Borrower shall not replace the Managing Agent for the Project Facilities without the Controlling Person’s prior written approval, and the Management Agreement shall not be terminated or modified without the Controlling Person’s prior written approval. In the event the Managing Agent resigns or is removed, the Borrower shall promptly seek a replacement Managing Agent and submit such Managing Agent and its proposed form of Management Agreement to the Controlling Person for approval; if the Borrower has not done so within thirty (30) days of becoming aware of such resignation or removal, the Controlling Person may (but shall not be required to) engage a new Managing Agent on terms satisfactory to the Controlling Person in its sole discretion and at the expense of the Borrower. The sole and exclusive compensation (exclusive of reimbursement for expenses pursuant to the applicable Management Agreement) paid to manage the Project Facilities under the Management Agreement shall be as described in this Section 6.19. The Borrower shall have no employees whatsoever. The Managing Agent shall execute a consent to the Assignment of the Management Agreement pursuant to which the Managing Agent shall confirm the subordination provisions described above and agree that the Management Agreement shall be terminable by the Controlling Person, with or without cause, on thirty (30) days’ notice following and during the existence of an Event of Default.

Section 6.20 Determination of Taxability. The Borrower shall not admit in writing to the Governmental Lender or to any Governmental Authority that interest on the Governmental Note has become includable in gross income for purposes of federal income taxation without first providing reasonable advance notice to the Controlling Person and the Funding Lender and permitting the Controlling Person or the Funding Lender, at its sole discretion and at its expense, to contest such conclusion. Promptly after the Borrower first becomes aware of any Determination of Taxability or an event that could trigger a Determination of Taxability, the Borrower shall give written notice thereof to the Governmental Lender, the Funding Lender, the Controlling Person and the Funding Lender.

Section 6.21 Provision of Annual Reports; Reporting of Material Events.

(a) The Borrower shall, not later than 150 days after the end of the Borrower’s fiscal year, commencing within 150 days following the end of the Borrower’s current fiscal year, provide to the MSRB a report (the “Annual Report”) containing financial information and operating data with respect to the Project Facilities for the prior fiscal year including the name, address, number of units, number of units occupied as of the report date, average occupancy of the Project Facilities, revenues, operating expenses, net operating income, debt service on the Borrower Loan and net operating income after debt service. The Annual Report may, but is not required to, include audited financial statements.

(b) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the Borrower or any affiliate is an “obligated person” (as defined by Rule 15c2-12(b)(5) adopted by the Securities and Exchange

Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”)), which have been filed with the Funding Lender, the MSRB or the Securities and Exchange Commission. The Borrower shall clearly identify each such other document so included by reference.

(c) In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in this section; provided, that the financial statements of the Borrower may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the Borrower’s fiscal year changes, it shall give notice of such change in the same manner as for a Material Event this Section.

(d) This Section shall govern the giving of notices of the occurrence of any of the following events (each, a “Material Event”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of interest paid on the Governmental Note, or other Listed Events affecting the tax-exempt status of interest paid on the Governmental Note;
- (7) Modifications to rights of any interest in the Funding Loan, if material;
- (8) optional, contingent or unscheduled prepayments of the Borrower Loan or Funding Loan, if material, and tender offers;
- (9) Defeasances;
- (10) release, substitution or sale of property securing repayment of the Borrower Loan or the Funding Loan, if material;
- (11) Rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has

assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;

(13) the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) appointment of a successor or additional trustee/fiscal agent or paying agent or the change of the name of a trustee/fiscal agent or paying agent, if material;

(15) Incurrence of a financial obligation of the Borrower or obligated person, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation of the Borrower or obligated person, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms or other similar events under the terms of the financial obligation of the Borrower or obligated person, any of which reflect financial difficulties

(e) Whenever the Borrower obtains knowledge of the occurrence of a Material Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than eight (8) Business Days after the occurrence of such event, determine if such event is in fact a Material Event that would be required by the Rule to be disclosed.

(f) If the Borrower has determined that a Material Event is required to be disclosed then the Borrower shall prepare a written notice describing the Material Event and provide the same to the Funding Lender no more than ten (10) Business Days after the occurrence of the Material Event.

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

Section 6.23 Compliance With Anti-Terrorism Regulations. Neither the Borrower, the Special Limited Partner, nor any Person holding any legal or beneficial interest whatsoever in the Borrower shall at any time during the Term be described in, covered by or specially designated pursuant to or be affiliated with any Person described in, covered by or specially designated pursuant to Executive Order 13224 — Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended, or any similar list issued by OFAC or any other department or agency of the United States of America. Notwithstanding the foregoing, the Borrower and the Special Limited Partner hereby each confirm that if it becomes aware or receives any notice of any violation of the foregoing covenant and agreement (an “OFAC Violation”), the Borrower or the Special Limited Partner, as applicable, will immediately (i) give notice to the Controlling Person of such OFAC Violation, and (ii)

comply with all Legal Requirements applicable to such OFAC Violation, including, without limitation, Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701-06; the Iraqi Sanctions Act, Pub. L. 101-5 13, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S.C. Section 287c; the Antiterrorism and Effective Death Penalty Act, (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa-9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Governments Sanctions Regulations, 31 C.F.R. Part 596; and the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597 (collectively, the “Anti-Terrorism Regulations”), and the Borrower and the Special Limited Partner hereby authorizes and consents to the Controlling Person’s taking any and all reasonable steps the Controlling Person deems necessary, in its sole discretion, to comply with all Legal Requirements applicable to any such OFAC Violation, including the requirements of the Anti-Terrorism Regulations. Notwithstanding anything to the contrary in this Section, the Borrower shall not be deemed to be in violation of the covenants and agreements set forth in the first sentence of this Section if the Borrower timely complies with all requirements imposed by the foregoing sentence and all requirements of the Antiterrorism Regulations and all other applicable Legal Requirements relating to such OFAC Violation.

Section 6.24 Adoption of Capital and Operating Budgets.

(a) On or before December 1 of each Fiscal Year, the Borrower shall submit to the Controlling Person for approval a proposed capital and operating budget with respect to the Project Facilities to be effective for the next following Fiscal Year (the “Proposed Budget”). The Controlling Person shall have the right to approve or disapprove any Proposed Budget, which approval shall not be unreasonably withheld or delayed. Third party costs not within the Borrower’s control and costs associated with remediation of emergency conditions shall be permitted variances to the Annual Budget. If any Proposed Budget is not disapproved by the Controlling Person within thirty (30) days following submission by the Borrower, such budget shall be deemed approved. If any budget is disapproved, the Borrower shall thereafter consult with the Controlling Person in an effort to achieve a mutually acceptable Annual Budget for an additional thirty (30) days. To the extent the proposed operating budget is disapproved, the operating budget for the previous Fiscal Year shall remain in effect increased by five percent (5%) over the previous Fiscal Year (except for costs of utilities, Impositions and insurance and other third-party costs or cost associated with remediation of emergency conditions which shall be permitted variances to the Proposed Budget) until the parties resolve their differences. In addition to, and not in limitation of the foregoing, each Annual Budget may be revised from time to time with approval of Controlling Person to reflect changes to Expenses and proposed Capital Expenditures set forth in the then-current Annual Budget.

(b) Without limiting the generality that each Proposed Budget must be approved by the Controlling Person, each Proposed Budget:

- (i) shall be prepared on the basis of sound accounting practices consistently applied;
- (ii) shall reflect all amounts projected to be deposited in the Replacement Reserve Account and the projected revenues and Expenses of the Project Facilities;
- (iii) shall reflect all projected Capital Expenditures which are reasonably expected to be made in connection with the Project Facilities during the Fiscal Year covered by such Proposed Budget; and

(iv) shall be in such form as is reasonably acceptable to the Controlling Person and containing such other information as reasonably may be requested by the Controlling Person.

Section 6.25 Borrower's Approval of Funding Loan Agreement. The Borrower understands that the Governmental Lender will, pursuant to the Funding Loan Agreement and as security for the payment of the principal of, acceleration premium, if any, and the interest on the Governmental Note, assign and pledge to the Funding Lender and/or the Fiscal Agent, and create a security interest in favor of the Funding Lender (or the Fiscal Agent for the benefit of the Funding Lender), in certain of its rights, title and interest in and to this Agreement (including all payments hereunder) reserving, however, the Reserved Rights; and the Borrower hereby agrees and consents to such assignment and pledge. The Borrower acknowledges that it has received a copy of the Funding Loan Agreement for its examination and review. By its execution of this Agreement, the Borrower acknowledges that it has approved, has agreed to and is bound by the applicable provisions of the Funding Loan Agreement. The Borrower agrees that the Funding Lender and/or the Fiscal Agent shall be entitled to enforce and to benefit from the terms and conditions of this Agreement that relate to it notwithstanding the fact that it is not a signatory hereto.

Section 6.26 Conditions Precedent; Payment of Certain Fees, Deposits and Expenses. On the date of execution and delivery hereof, (a) the Controlling Person shall have received, in immediately available funds, an amount equal to the fees set forth in Section 2.2(a) hereof, and the fees of the Engineering Consultant set forth in Section 2.2(b) hereof incurred as of the date of the execution and delivery hereof, and (b) the Funding Lender shall have received the deposits required to be made in the Accounts on such date pursuant to Article 8 hereof.

Section 6.27 Additional Conditions Precedent. The rights of the Borrower to request the initial disbursement of funds under this Agreement shall be subject to the conditions precedent set forth in Section 9.12 hereof and on Schedule 6 hereof.

Section 6.28 No Amendments. The Borrower shall not amend, modify or otherwise change the Ground Lease, the Taxable Loan Documents or the Subordinate Debt Documents without the prior written consent of the Controlling Person.

Section 6.29 Construction of Improvements. The Borrower shall construct the Project Facilities in a true, thorough and workmanlike manner and substantially in accordance with the Plans and Specifications and in compliance with all applicable Governmental Actions and Legal Requirements. The Borrower shall provide, at the Borrower's expense all manner of materials, labor, implements and cartage of every description for the due completion of renovation or construction of the Project Facilities. The Borrower shall take all necessary steps to assure that commencement of renovation or construction of the Project Facilities shall begin within thirty (30) days following the Closing Date, shall proceed continuously and diligently and in a commercially reasonable manner, and shall be completed lien free in a timely manner substantially in accordance with the Plans and Specifications and in all instances in compliance with all applicable Governmental Actions and Legal Requirements, on or before the Completion Date, subject to delays caused by a Force Majeure.

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

Section 6.31 Correction of Deficiencies in Improvements. The Borrower agrees that it will correct any work performed and replace any materials that do not comply with the Plans and Specifications in any material respect. In the event of any dispute between the Borrower and the Controlling Person with respect to the interpretation and meaning of the Plans and Specifications, the same shall be determined by an independent engineer selected by the Borrower from the list of engineers approved by the Controlling Person.

Section 6.32 Loan Rebalancing. If, for any reason, the Controlling Person shall, in the reasonable exercise of the Controlling Person's judgment, determine that the combined total of (i) the remaining proceeds of the Funding Loan, (ii) the capital contributions from Borrower's partners; (iii) any other source of funds shown in the Development Budget attached hereto; and (iv) any other sums deposited by the Borrower with the Funding Lender are insufficient to pay through completion of the Project Facilities, all of the following sums: (x) all remaining costs of construction, rehabilitation, marketing, ownership, maintenance and leasing of the Project Facilities; and (y) all remaining interest and all other remaining sums which may accrue or be payable under the Funding Loan Documents, then the Controlling Person may require the Borrower to deposit with the Funding Lender for deposit into the Project Fund, within ten (10) days after written request by the Controlling Person, the projected deficiency, and such deposit shall be first disbursed in the same manner as the Borrower Loan is to be disbursed as provided herein before any further disbursements of the proceeds of the Borrower Loan shall be made. Notwithstanding the foregoing, if, at any time, Controlling Person determines, in Controlling Person's reasonable discretion, that it is unlikely that Borrower will receive all or a portion of the sources of funds shown on the Development Budget (other than Loan proceeds), Controlling Person may exclude such amount from its determination of whether the Borrower Loan is "in balance" as provided above.

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

Section 6.34 Special Servicing Costs. The Controlling Person, as servicer of the Borrower Loan, may charge the Borrower additional servicing fees and costs for special servicing requests. The Borrower shall pay as and when due all such special servicing fees or costs.

Section 6.35 Developer Fee. Borrower will not pay any Developer Fee unless permitted under Section 2 of the Developer Fee Pledge.

Section 6.36 Reserved.

Section 6.37 Extension of the Outside Stabilization Date.

(a) The Borrower may, upon thirty (30) days prior written notice to the Controlling Person, extend the deadline for the Project Facilities to achieve Stabilization so long as:

(1) there is no uncured Default or Event of Default under the Funding Loan Documents and the Borrower is then in compliance with its obligations under the Borrower Loan Documents;

(2) the extended deadline for the achievement of Stabilization is no later than six months after the initial Outside Stabilization Date; and

(3) there shall be paid to the Controlling Person, not less than thirty (30) days prior to the initial Outside Stabilization Date, an extension fee equal to 0.25% times the aggregate principal amount of the Borrower Note and the Taxable Construction Loan outstanding at the time such fee is paid; and

(4) the Borrower certifies in writing to the Controlling Person that cash flows generated from property operations and/or funds on deposit with the Fiscal Agent (or other sources approved by the Controlling Person) will be sufficient to pay debt service during the term of the extension.

(b) Reserved.

ARTICLE 7

DEFAULTS AND REMEDIES

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

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

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

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

(d) Any of the representations or warranties of the Borrower set forth in this Agreement, any of the other Funding Loan Documents or any other document furnished to the Governmental Lender, the Funding Lender the Controlling Person or the Fiscal Agent pursuant to the terms hereof proves to have been false or misleading in any material respect when made;

(e) Any provision of this Agreement or any of the other Funding Loan Documents to which the Borrower, the General Partner, the Special Limited Partner or any Guarantor is a party for any reason ceases to be valid and binding on the Borrower, the General Partner, the Special Limited Partner or

the Guarantor, is declared to be null and void, or is violative of any applicable Legal Requirement relating to a maximum amount of interest permitted to be contracted for, charged or received, or the validity or enforceability thereof is contested by the Borrower, the General Partner, the Special Limited Partner or any Guarantor or any Governmental Authority, or the Borrower, the General Partner, the Special Limited Partner or any Guarantor denies that it has any or further liability or obligation under this Agreement or any of the Funding Loan Documents to which the Borrower, the General Partner, the Special Limited Partner or any Guarantor is a party;

(f) The occurrence of an Event of Default as defined in the Funding Loan Agreement or the other Funding Loan Documents or an act or event (or failure to act or non-occurrence of an act) which, with the passage of time, the giving of notice or both, would constitute an Event of Default under the Funding Loan Agreement or the other Funding Loan Documents;

(g) The Borrower, any Guarantor, the General Partner or the Special Limited Partner (i) applies for or consents to the appointment of a receiver, trustee liquidator or custodian or the like of the Borrower, any Guarantor, the General Partner or the Special Limited Partner, as applicable, or of property of any such party or (ii) admits in writing the inability of the Borrower, any Guarantor, the General Partner or the Special Limited Partner to pay its debts generally as they become due, or (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated bankrupt or insolvent, (v) commences a voluntary case under the Bankruptcy Code or files a voluntary petition or answer seeking reorganization, an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or files an answer admitting the material allegations of a petition filed against the Borrower, any Guarantor, the General Partner or the Special Limited Partner in any bankruptcy, reorganization or insolvency proceeding, or action of the Borrower, any Guarantor, the General Partner or the Special Limited Partner is taken for the purpose of effecting any of the foregoing, or (vi) has instituted against it, without the application, approval or consent of the Borrower, any Guarantor, the General Partner or the Special Limited Partner, as applicable, a proceeding in any court of competent jurisdiction, under any Legal Requirements relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking in respect of the Borrower, any Guarantor, the General Partner or the Special Limited Partner an order for relief or an adjudication in bankruptcy, reorganization, dissolution, winding up or liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of the Borrower, any Guarantor, the General Partner or the Special Limited Partner or of all or any substantial part of the assets of such party or other like relief in respect thereof under any Legal Requirements relating to bankruptcy or insolvency law, and, if such proceeding is being contested by the Borrower, such Guarantor, the General Partner or the Special Limited Partner, as applicable, in good faith, the same (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed and undischarged for a period of sixty (60) days;

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

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

(j) The Project Facilities fail to achieve (i) Completion on or before the Completion Date; (ii) Stabilization on or before the Stabilization Date, or (iii) if specified on the Schedule of Financial Terms as applicable, to obtain and maintain the exemption from ad valorem real estate taxation under the laws of the State;

(k) Any litigation or administrative proceeding ensues, and is not dismissed within thirty (30) days, involving the Borrower, the General Partner, the Special Limited Partner or any Guarantor or any instrument, contract or document delivered by the Borrower to the Controlling Person or the Funding Lender in compliance with this Agreement, and the adverse result of such litigation or proceeding would have, in the Controlling Person's reasonable opinion, a materially adverse effect on the Borrower's, the General Partner's, the Special Limited Partner's or any Guarantor's ability to pay its obligations and comply with the covenants under this Agreement or any of the other Funding Loan Documents;

(l) Any one or more judgments or orders are entered against the Borrower, any Guarantor, the General Partner or the Special Limited Partner, and (1) continue unsatisfied and unstayed for thirty (30) days or (2) a judgment lien on any property of the Borrower, any Guarantor, the General Partner or the Special Limited Partner is recorded in respect thereof and is not stayed pending appeal by a bond or other arrangement given or obtained by the Borrower, any Guarantor, the General Partner or the Special Limited Partner on terms which do not violate any of the Borrower's covenants under this Agreement;

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

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

(o) If at any time the Borrower shall have been unable for a period of forty-five (45) days to meet the requirements for an Advance under this Agreement, regardless of whether the Borrower has requested an Advance that has not been funded;

(p) The Contractor shall have defaulted under the Construction Contract, which default the Controlling Person, in its sole opinion, shall deem to be substantial, and the Borrower, upon five (5) days written notice from the Controlling Person, shall have failed to exercise any right or remedy to which it shall be entitled;

(q) The Prime Subcontractor shall have defaulted under the Prime Subcontract, which default the Controlling Person, in its sole opinion, shall deem to be substantial, and the Borrower, upon five (5) days written notice from the Controlling Person, shall have failed to exercise any right or remedy to which it shall be entitled;

(r) An event of default or termination event pertaining to the Borrower as defined in and pursuant to the Taxable Loan Documents occurs and any applicable notice and/or cure period has expired;

(s) An event of default or termination event pertaining to the Borrower as defined in and pursuant to the Subordinate Debt Documents occurs and any applicable notice and/or cure period has expired; and

(t) The occurrence of a breach of the Ground Lease that constitutes, or would constitute, with the giving of notice or the passage of time, or both, the basis for the Ground Lessor to terminate the Ground Lease.

Section 7.2 Remedies. If an Event of Default has occurred and is continuing uncured, the Funding Lender, or the Controlling Person on behalf of the Funding Lender, may:

(a) Declare the principal of the Governmental Note then outstanding and the interest accrued thereon to be due and payable; and

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

(c) Enter upon the Project Facilities and take possession thereof, together with the Improvements in the course of construction or completed, and all of the Borrower's materials, supplies, tools, equipment and construction facilities and appliances located thereon, and proceed either in the name of the Funding Lender or in the name of the Borrower as the attorney-in-fact of the Borrower (which authority is coupled with an interest and is irrevocable by the Borrower) as the Controlling Person shall elect, to complete the construction of the Improvements at the cost and expense of the Borrower; if the Controlling Person elects to complete or cause the construction of the Improvements to be so completed, it may do so according to the terms of the Plans and Specifications and as the Controlling Person shall deem expedient or necessary, and the Funding Lender may enforce or cancel all contracts entered into as aforesaid or make other contracts which in the Controlling Person's reasonable opinion may seem advisable, and the Borrower shall be liable, under this Agreement and under the Borrower Note or any other note given by it pursuant to the provisions hereof, to pay the Funding Lender upon demand any amount or amounts expended by the Funding Lender or its representatives for such performance, together with any costs, charges or expenses incident thereto or otherwise incurred or expended by the Funding Lender or its representatives on behalf of the Borrower in connection with the Improvements, and the amounts so expended shall bear interest at the default rate specified in the Borrower Note, and shall be considered part of the indebtedness evidenced by the Borrower Note and secured by the Mortgage; and

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

(e) (1) Enter upon or take possession of the Project Facilities and call upon or employ suppliers, agents, managers, maintenance personnel, security guards, architects, engineers and inspectors to complete, manage or operate the Project Facilities or to protect the Project Facilities from injury; (2) pay out additional sums (which sums shall be immediately due and payable by the Borrower to the Funding Lender) and use any property of the Borrower associated with the Project Facilities, or any property of the

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

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

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

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

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

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

Lender under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Funding Lender may have.

Section 7.6 Governmental Lender and Borrower to Give Notice of Default. The Governmental Lender and the Borrower severally covenant that they will, at the expense of the Borrower, promptly give to the Funding Lender, the Controlling Person and the Investor Limited Partner and to each other written notice of the occurrence of any Event of Default under this Agreement, and any act, event or circumstance which, with the passage of time, or notice, or both, would constitute such an Event of Default of which they shall have actual knowledge or written notice, but the Governmental Lender shall not be liable for failing to give such notice.

Section 7.7 Cure by Investor Limited Partner and/or Special Limited Partner. Notwithstanding anything to the contrary contained herein, the Governmental Lender hereby agrees that any timely cure of any default made or tendered by the Investor Limited Partner and/or Special Limited Partner shall be deemed to be a cure by the Borrower, and shall be accepted or rejected on the same basis as if made or tendered by the Borrower; provided, however, that neither the Investor Limited Partner nor the Special Limited Partner shall have any obligation or duty to take any action to cure any default or to cause any default to be cured.

Section 7.8 Default Rate; Acceleration Premium. In the event there shall have occurred an acceleration of the obligations of the Borrower hereunder following an Event of Default on or before the First Par Call Date, any tender of payment of an amount necessary to satisfy the indebtedness evidenced by this Agreement shall include the acceleration premium set forth in Section 2.3(c) hereof. In addition, in the event that principal or interest payable hereunder is not paid when due, there shall be payable on the amount not timely paid, interest at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

Section 7.9 Reserved Rights; Regulatory Agreement Defaults.

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

(b) If there shall have occurred and be then continuing an event of default under the Regulatory Agreement which would, in the reasonable judgment of the Governmental Lender or the Funding Lender, jeopardize the Federal Tax Status of the Governmental Note (a "Regulatory Agreement Default") and such Regulatory Agreement Default remains uncured or unwaived for a period of sixty (60) days after the Borrower, the Controlling Person and the Funding Lender receive written notice from the Funding Lender or the Governmental Lender stating that a Regulatory Agreement Default has occurred and specifying the nature of such default, then, if authorized by the Funding Loan Documents, the Governmental Lender and the Funding Lender may, without the consent of the Controlling Person or the Funding Lender, exercise the remedy of pursuing specific performance of the Funding Loan Documents on account of such default, unless:

(i) The Governmental Lender and the Funding Lender, prior to the end of such sixty (60) day period, are provided with a Favorable Opinion of Governmental Lender Counsel (which opinion may be requested and obtained by the Controlling Person or the Funding Lender);

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

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

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

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

ARTICLE 8

DEPOSITS

Section 8.1 Deposits to and Disbursements from the Replacement Reserve Account. Pursuant to the Replacement Reserve Agreement, the Borrower shall pay or cause to be paid to the Fiscal Agent, for deposit into the Replacement Reserve Account, the amounts described in the Replacement Reserve Agreement. The sums contained in the Replacement Reserve Account from time to time, shall be maintained, disbursed, and applied as provided in the Replacement Reserve Agreement.

Section 8.2 Deposits to Tax and Insurance Escrow Fund. Unless otherwise directed by the Controlling Person, two Business Days before each Loan Payment Date, commencing the First Monthly Tax and Insurance Escrow Payment Date, and continuing each month thereafter, the Borrower shall pay,

or cause to be paid, to the Fiscal Agent an amount equal to the Monthly Tax and Insurance Amount for the Project Facilities to be deposited in the Tax and Insurance Escrow Fund.

Section 8.3 *Intentionally omitted.*

Section 8.4 Establishment of Operating Reserve Account. The Borrower shall, simultaneously with the Fourth Installment (as defined in the Partnership Agreement of the Borrower) establish and maintain an operating reserve fund (the “Operating Reserve Account”) in the Operating Reserve Amount. Moneys in the Operating Reserve Account may be used by the Borrower only to fund any operating deficits of the Borrower, Expenses, or for any other operating or capital needs approved by the Controlling Person and Investor Limited Partner in writing. During the continuance of an Event of Default or in order to prevent an Event of Default, the Operating Reserve Account shall be applied to by the Borrower, at the direction of the Controlling Person: (i) first to pay current debt service on the Governmental Note; (ii) second to pay other operating deficits of the Project Facilities; and (iii) thereafter to payment of other amounts owed by the Borrower. Borrower additionally covenants and agrees that promptly following the date that the Investor Limited Partner, or an Affiliate of the Investor Limited Partner, is no longer a partner under the Partnership Agreement of the Borrower (the “Operating Reserve Trigger”), the Operating Reserve Account shall be transferred to the Fiscal Agent and held as additional security for the Governmental Note. Notwithstanding any of the foregoing to the contrary and subject to the terms and conditions of the Partnership Agreement, the Borrower may request that the Controlling Person, with the consent of the Investor Limited Partner, reduce the amount of the Operating Reserve Account otherwise then-required to be maintained by twenty percent (20%) annually each year as compared to the previous year commencing in tenth (10th) year following the Stabilization Date. The Controlling Person shall consent to such reduction provided that: (i) the ratio of Stabilized NOI for the then-trailing twelve (12) month period to the principal, interest and fees payable under the Borrower Note and Borrower Loan Agreement over such twelve (12) month period, equals or exceeds 1.25 to 1.0; (ii) no Event of Default or event, which with the passage of time or the giving of notice or both, would constitute an Event of Default shall have occurred and then be continuing under the Funding Loan Documents; (iii) there have been no draws on the Operating Reserve Account during the trailing twelve (12) month period; and (iv) immediately prior to the initial reduction, the amount in the Operating Reserve Account shall be at least equal to the Operating Reserve Amount. In lieu of a cash-funded Operating Reserve Account, with the prior written consent of the Controlling Person, not to be unreasonably withheld, the Borrower may elect to provide an Operating Reserve Account Letter of Credit issued in favor of Investor Limited Partner, provided that after an Operating Reserve Trigger, the Operating Reserve Account Letter of Credit must be made in favor of Fiscal Agent. After an Operating Reserve Trigger, draws upon the Operating Reserve Account Letter of Credit will be made at the direction of the Controlling Person (including upon the request of Borrower for the Controlling Person to direct such draws) to be applied to the payment of Expenses, Capital Expenditures and amounts then due and owing under the Funding Loan Documents. If the financial strength rating of the provider of the Operating Reserve Account Letter of Credit at any time falls below “Aa” by Moody’s or “AA” by S&P or the Operating Reserve Account Letter of Credit is no longer in full force and effect, then the Borrower, within ten (10) days of either such event, shall provide either a replacement Operating Reserve Account Letter of Credit acceptable to the Controlling Person or cash in an amount equal to the amount then-required to be deposited in Operating Reserve Account. “Operating Reserve Account Letter of Credit” means an irrevocable and unconditional letter of credit naming the Fiscal Agent as the beneficiary thereunder which has been approved by the Controlling Person, in writing prior to its execution and delivery, issued by a bank or other financial institution which is acceptable to the Controlling Person, having at all times a long-term credit rating of at least “AA” by S&P and “Aa” by Moody’s, which letter of credit must be in an amount not less than the amount then-required for the Operating Reserve Account and provide for written notice to Investor Limited Partner, Fiscal Agent and Controlling Person at least thirty (30) days prior to be expiration thereof. If not renewed or extended, the Operating Reserve Account Letter of Credit must be drawn in full prior to

such expiration with the proceeds thereof held by Investor Limited Partner or, after an Operating Reserve Trigger, held by the Fiscal Agent.

Section 8.5 Investment. Funds in the Accounts shall be invested in Permitted Investments upon the direction of the Borrower with the consent of the Controlling Person, as set forth in Section 4.12 of the Funding Loan Agreement. Earnings on the Accounts hereunder shall be held or disbursed as set forth in Article IV of the Funding Loan Agreement. The Fiscal Agent will deposit any cash held from time to time in the Accounts in one or more bank accounts with an institution or institutions of the Fiscal Agent or Funding Lender's choosing. The Fiscal Agent shall have the right to invest or withdraw any deposited funds or to direct the liquidation of any investments held in order to pay the amounts required under this Agreement and the other Funding Loan Documents. Neither the Fiscal Agent nor the Funding Lender shall be liable for any loss sustained as a result of any liquidation of any collateral prior to its maturity. Any income or gain realized on such investments shall be credited to and become part of the respective Account and reinvested and applied as provided in the Funding Loan Agreement. Provided that no Default or Event of Default exists, the Borrower from time to time may request the Controlling Person to consent to the disbursement to or upon the order of the Borrower of the investment income previously credited to the Accounts, which consent by the Controlling Person shall not be unreasonably withheld or delayed.

Section 8.6 Security Interest in Accounts. The Borrower hereby assigns and pledges to the Governmental Lender, and grants the Governmental Lender a security interest in, as additional collateral security for the Borrower's obligations to the Governmental Lender hereunder (and the Borrower acknowledges and agrees that the Governmental Lender shall have a continuing security interest in) all of the Borrower's right, title and interest, if any, in all Accounts, all cash, cash equivalents, instruments, investments and other securities at any time held in the Accounts, all proceeds of the foregoing, and all of the Borrower's rights associated with such Accounts, if any. The Governmental Lender hereby directs the Fiscal Agent to hold all moneys in the Accounts from time to time as assignee of the Governmental Lender. For the avoidance of doubt, prior to an Operating Reserve Trigger, the Governmental Lender shall not have a security interest in the Operating Reserve Account.

Section 8.7 Liability of Funding Lender. In performing any of its duties hereunder, the Funding Lender shall not incur any liability to anyone for any damages, losses or expenses, except for its negligence, bad faith or willful misconduct; and the Funding Lender shall not incur any liability with respect to any action taken or omitted in good faith in the performance of its duties and responsibilities under this Agreement.

Section 8.8 Liability of Fiscal Agent. In performing any of its duties hereunder, the Fiscal Agent shall not incur any liability to anyone for any damages, losses or expenses, except for its negligence, bad faith or willful misconduct, and the Fiscal Agent shall not incur any liability with respect to any action taken or omitted in good faith in the performance of its duties and responsibilities under this Agreement.

ARTICLE 9

CONSTRUCTION AND FUNDING OF ADVANCES

Section 9.1 Construction of Project Facilities; Completion and Stabilization. The Borrower shall commence performance of the Work in respect of the Improvements no later than thirty (30) days' following the Closing Date, and shall achieve Completion of such Work in accordance with the Plans and Specifications on or before the Completion Date and Stabilization on or before the Stabilization Date. At the request of the Borrower and with the prior written approval of the Controlling Person, the Completion Date may be extended one or more times for such periods as the Controlling Person may approve in its sole

discretion and upon delivery of such other information and funds as the Controlling Person may require in its sole discretion and the Stabilization Date may be extended as provided in Section 6.37 herein.

Section 9.2 Making The Advances.

(a) At such time as the Borrower requests a disbursement of funds on deposit in the Project Fund, an Authorized Person shall complete, execute and deliver a Requisition to the Controlling Person for its approval. The Controlling Person shall endeavor to approve or object to any Requisition within ten (10) Business Days of its submission and the submission of all additional information required in connection with such Requisition and shall endeavor to provide specific information concerning the nature of any objection it may have.

(b) Each Requisition shall be submitted to the Controlling Person at least fifteen (15) Business Days prior to the date of the requested Advance, and no more frequently than once each month (excluding the month in which the initial advance is requested). The Borrower shall open and maintain a checking account with a financial institution reasonably satisfactory to the Controlling Person. Except as otherwise provided for herein, the Controlling Person shall direct the Fiscal Agent to deposit the proceeds of each Requisition into such account.

Section 9.3 Advances to Contractors; to Others. At its option during the existence of any Event of Default or Default, the Funding Lender may make, or direct the Fiscal Agent to make, any or all advances: (a) for costs incurred under any construction contract directly to a contractor, subcontractor or vendor, (b) through the Title Company, or (c) to any Person to whom the Controlling Person in good faith determines payment is due.

Section 9.4 Requisition. Each Requisition shall be in the form set forth on Exhibit B hereto, shall be signed on behalf of the Borrower by an Authorized Person, shall be subject to approval by the Controlling Person prior to payment and shall state with respect to each disbursement to be made: (a) the number of the Requisition; (b) the amount to be disbursed; (c) that each obligation therein for which such disbursement is being requested has been properly incurred and has not been the basis for any previous disbursement; and (d) that the expenditure of such disbursement, when added to all previous disbursements, will result in (i) not less than ninety-five percent (95%) of all disbursements of proceeds of the Governmental Note having been used to pay or reimburse the Borrower for Qualified Project Costs, (ii) not more than two percent (2%) of the proceeds of the Governmental Note having been applied to payments of Costs of Issuance, and (iii) less than twenty-five (25%) of the proceeds of the Governmental Note having been applied to payments for the land.

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

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

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

Section 9.7 Contingency Reserve. The amount allocated to “contingency” in the Development Budget is not intended to be disbursed without, and will only be disbursed upon, the prior approval of the Controlling Person. The disbursement of a portion of the contingency reserve shall in no way prejudice the Controlling Person or the Funding Lender from withholding disbursement of any further portion of the contingency reserve.

Section 9.8 Stored Materials; Removal of Materials.

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

(1) such materials are components in a form ready for incorporation into the Improvements and shall be so incorporated within a period of thirty (30) days; and

(2) such materials are stored at the Project Facilities, or at such other site as the Controlling Person shall approve, and are insured and protected against theft and damage.

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

Section 9.9 Cost Overruns and Savings.

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

(b) If the revised Development Budget indicates an increase in costs of the Work for the Project Facilities (in excess of the aggregate contingency amount and savings), no further Requisitions for the Work at the Project Facilities need be approved by the Controlling Person unless and until the Borrower has deposited with the Funding Lender (or the Fiscal Agent at the direction of the Funding Lender) any required funds necessary to cause the amount remaining on deposit with the Funding Lender or the Fiscal Agent (or available for draw under the Funding Loan) and any Required Equity Funds yet to be deposited with the Funding Lender or the Fiscal Agent to be sufficient to complete fully the construction of the Improvements in accordance with the Plans and Specifications to the extent applicable, and to pay all other projected costs in connection with the Work.

(c) If the revised schedule indicates a decrease in costs of the Work for the Project Facilities, no savings may be reallocated by the Borrower unless and until the Borrower has furnished the Controlling Person and the Engineering Consultant with evidence satisfactory to them that the labor performed and materials supplied in connection with such line item of costs have been satisfactorily completed and paid for in full. At such time, such savings may be reallocated by the Borrower, with the consent of the Controlling Person, to other line items.

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

Section 9.10 Right to Retain the Engineering Consultant.

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

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

(c) Except to the extent of any gross negligence or willful misconduct, none of the Controlling Person, Funding Lender nor the Engineering Consultant shall have any liability to the Borrower on account of (i) the services performed by the Engineering Consultant, (ii) any neglect or failure on the part of the Engineering Consultant to properly perform its services, or (iii) any approval by the Engineering Consultant of construction of the Improvements. Neither the Controlling Person nor the Engineering Consultant assumes any obligation to the Borrower, the General Partner, the Special Limited Partner or any other Person concerning the quality of the Work performed or the absence of defects from the Improvements.

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

Section 9.12 Initial Advances. The right of the Borrower to request the initial disbursement of proceeds of the Funding Loan on the Closing Date shall be subject to the satisfaction of the conditions precedent listed on Part A of Schedule 6 attached hereto.

Section 9.13 Subsequent Advances. The right of the Borrower to draw any subsequent advances of funds shall be subject to the satisfaction of the conditions listed on Part B of Schedule 6 attached hereto.

Section 9.14 Construction Information and Verification. From time to time, within ten (10) days after the written request of Controlling Person, the Borrower shall deliver to Controlling Person any and all of the following information and documents, to the extent applicable to the construction or renovation of the Project Facilities, that Controlling Person may request, all in forms acceptable to Controlling Person, as applicable:

(a) Current Plans and Specifications for the Improvements certified by the Architect as being complete and accurate, and a line item cost breakdown for the proposed construction and/or rehabilitation of the Improvements;

(b) A current, complete and correct list showing the name, address, telephone number and license information of each contractor, subcontractor and material supplier engaged in connection with the construction and/or rehabilitation of the Improvements, and the total dollar amount of each contract and subcontract (including any changes) and the scope of work involved, together with the amounts paid through the date of the list and all other information reasonably requested by Controlling Person;

(c) True and correct copies of the most current versions of all executed contracts and subcontracts with each party identified in the list described in clause (b) above, including any changes;

(d) True and correct copies of all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Governmental Authorities or third parties necessary for the construction and/or rehabilitation of the Improvements and the operation of, and access to, the Project;

(e) Copies of (i) owner/architect/contractor project meeting minutes; (ii) requests for information (RFI), submittal logs, proposed change orders (PCO), and change order logs; (iii) independent test results, (iv) quality inspection reports; and (v) anticipated cost reports, buy-out logs and Major Contracts;

(f) A construction schedule showing the progress of construction or rehabilitation, as the case may be, and the projected sequencing and completion times for uncompleted Work, all as of the date of the schedule; and

(g) Any update to any item described above which Borrower may have previously delivered to Controlling Person.

(h) Borrower expressly authorizes Controlling Person to contact Architect, Contractor or any contractor, subcontractor, material supplier, surety or any Governmental Authority to verify any information disclosed in accordance with this Section 9.14. Controlling Person shall give notice to Borrower of any such contacts, provided that neither Controlling Person nor Funding Lender shall incur any liability to Borrower by reason of the failure to give such notice, and Borrower's obligations under the Borrower Loan Documents shall not be affected in any manner by any failure to give such notice. The Construction Contract shall require the Contractor to disclose such information to Funding Lender and Controlling Person. Any defaulting architect, contractor, subcontractor, material supplier or surety shall be promptly replaced, and Borrower shall promptly deliver all required information and documents to Controlling Person and Funding Lender regarding each replacement architect, contractor, subcontractor, material supplier and surety. Controlling Person may disapprove any architect, contractor, subcontractor, material supplier, surety or other party whom Controlling Person in its reasonable judgment may deem financially or otherwise unqualified, however, the absence of any such disapproval shall not constitute a representation of qualification.

Section 9.15 Effect of Approval. Approval of any Requisition by the Controlling Person shall not constitute an approval or acceptance of the Work or materials, nor shall such approval give rise to any liability or responsibility relating to: (i) the quality of the work, the quantity of the work, the rate of progress in completion of the Work, or the sufficiency of materials or labor being supplied in connection therewith; and (ii) any errors, omissions, inconsistencies or other defects of any nature in the Plans and Specifications. Any inspection of the work that the Controlling Person may choose to make, whether through any consulting engineer or architect, agent or employee or officer, during the progress of the work shall be solely for the Controlling Person's information and under no circumstances will they be deemed to have been made for the purpose of supervising or superintending the Work, or for the information or protection of any right or interest of any Person other than the Controlling Person and the Funding Lender.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Notices. All notices and other communications provided for hereunder shall be in writing and sent by electronic mail (with confirmed receipt) and by reputable overnight mail service or private delivery service addressed to the appropriate party at the addresses set forth in Section 10.4 of the Funding Loan Agreement. Any of such notice parties may change the address to which notices to it are to be sent by written notice given to the other persons listed in Section 10.04 of the Funding Loan Agreement. All notices shall, when sent as aforesaid, be effective when received.

Section 10.2 Successors and Assigns; Third Party Beneficiaries. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, including, without limitation, the Funding Lender. Each of the Controlling Person and the Fiscal Agent is an express third party beneficiary of this Agreement with full rights of enforcement hereof. The Borrower may not assign its interests in or its rights, duties or obligations under this Agreement without the prior written consent of the Controlling Person. The Borrower and the Governmental Lender intend that no person other than the parties hereto, the Funding Lender, the Controlling Person, the Fiscal Agent and their respective successors and assigns as permitted hereunder, shall have any claim or interest under this Agreement or right of action hereon or hereunder.

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

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

Section 10.5 Costs, Expenses and Taxes. The Borrower agrees to pay on the Closing Date and thereafter within thirty (30) days after demand, all reasonable costs and expenses of the Governmental Lender, the Fiscal Agent, the Controlling Person and the Funding Lender in connection with the preparation, execution, delivery and administration of this Agreement, the other Funding Loan Documents and any other documents that may be delivered in connection with this Agreement or the other Funding Loan Documents or any amendments or supplements thereto, including, without limitation, the fees and expenses of the Engineering Consultant, the cost of an annual appraisal (but only upon the occurrence and during the continuation of an Event of Default) of the Project Facilities by an appraiser selected by the

Controlling Person, and the reasonable fees and expenses of counsel for the Funding Lender and the Controlling Person with respect thereto and with respect to advising the Funding Lender and the Controlling Person as to their respective rights and responsibilities under this Agreement, the other Funding Loan Documents and such other documents, and all costs and expenses, if any, (including, without limitation, reasonable counsel fees and expenses of the Controlling Person and the Funding Lender) in connection with the enforcement of this Agreement, the other Funding Loan Documents and such other documents.

Section 10.6 Severability; Interest Limitation. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable in any jurisdiction, it shall be ineffective as to such jurisdiction only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision as to such jurisdiction to the extent it is not prohibited or unenforceable, nor invalidate such provision in any other jurisdiction, nor invalidate the other provisions hereof, all of which shall be liberally construed in favor of the Governmental Lender in order to effect the provisions of this Agreement. Notwithstanding anything to the contrary herein contained, the total liability of the Borrower for payment of interest pursuant hereto shall not exceed the maximum amount, if any, of such interest permitted by applicable Legal Requirements to be contracted for, charged or received, and if any payments by the Borrower to the Funding Lender include interest in excess of such a maximum amount, the Funding Lender shall apply such excess to the reduction of the unpaid principal amount due pursuant hereto, or if none is due, such excess shall be refunded to the Borrower; provided that, to the extent permitted by applicable Legal Requirements, in the event the interest is not collected, is applied to principal or is refunded pursuant to this sentence and interest thereafter payable pursuant hereto shall be less than such maximum amount, then such interest thereafter so payable shall be increased up to such maximum amount to the extent necessary to recover the amount of interest, if any, theretofore uncollected, applied to principal or refunded pursuant to this sentence. Any such application or refund shall not cure or waive any Event of Default. In determining whether or not any interest payable under this Agreement exceeds the highest rate permitted by applicable Legal Requirements, any non-principal payment (except payments specifically stated in this Agreement to be "interest") shall be deemed, to the extent permitted by applicable Legal Requirements, to be an expense, fee, premium or penalty rather than interest.

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

Section 10.8 Complete Agreement. Taken together with the other Funding Loan Documents and the other instruments and documents delivered in compliance herewith, this Agreement is a complete memorandum of the agreement of the parties with respect to the subject matter hereof.

Section 10.9 Consent to Jurisdiction; Venue; Waiver of Jury Trial. The parties hereby irrevocably (i) agree that any suit, action or other legal proceeding arising out of or relating to this Agreement or the other Funding Loan Documents may be brought in any federal court located in the State and consents to the jurisdiction of such court in any such suit, action or proceeding; (ii) agree that any suit, action or other legal proceeding relating to the Funding Loan Documents shall be brought solely in a federal or state court located in the State and (iii) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The parties hereby irrevocably consent to the service of any and all process in any such suit, action or proceeding by mailing of copies of such process to such party at its address provided under or pursuant to Section 10.1 hereof. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable legal requirements. All mailings under this Section shall be by certified or registered mail, return receipt requested. Nothing in this Section shall affect the right of the Controlling Person and the Funding Lender to serve legal process in any other manner permitted

by applicable Legal Requirements. **THE BORROWER HEREBY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING UNDER THIS AGREEMENT, ANY OF THE OTHER FUNDING LOAN DOCUMENTS OR OTHERWISE IN CONNECTION HEREWITH.**

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

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

Section 10.12 Sale of Governmental Note and Secondary Market Transaction.

(a) At the Controlling Person or Funding Lender's request (to the extent not already required to be provided by the Borrower under this Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Controlling Person or Funding Lender customarily adheres or which may be reasonably required in the marketplace or by the Controlling Person or Funding Lender in connection with obtaining a rating or one or more sales or assignments of all or a portion of the Governmental Note or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Note (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs including, without limitation, any costs associated with receiving a rating on the Governmental Note, shall be paid by the Controlling Person or Funding Lender, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower and the Governmental Lender shall, so long as the Borrower Loan is still outstanding:

(i) (1) provide financial and other information with respect to the Governmental Note, and with respect to the Project Facilities, the Borrower, the Managing Agent, or the contractor of the Project Facilities, (2) provide financial statements, audited, if available, relating to the Project Facilities with customary disclaimers for any forward looking statements or lack of audit, and (3) at the expense of the Controlling Person or Funding Lender, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports, termite and other insect infestation reports and other due diligence investigations of the Project Facilities, the Borrower, Guarantor, Managing Agent, Contractor and other third parties in connection with the Governmental Note, as may be reasonably requested from time to time by the Controlling Person or Funding Lender or the rating agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Controlling Person or Funding Lender pursuant to this paragraph (i) and the other information provided pursuant to this Agreement and the other Funding Loan Documents used in connection with a Secondary Market Transaction being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Controlling Person or Funding Lender and the rating agencies;

(ii) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project Facilities, the Borrower, General

Partner, Guarantor, Managing Agent, Contractor or other third parties and the Funding Loan Documents reasonably acceptable to the Controlling Person or Funding Lender, consistent with the facts covered by such representations and warranties as they exist on the date thereof, including a “bringdown” of the representations and warranties contained in the Funding Loan Documents as of the date thereof and a representation that no default or event of default has occurred and is continuing; and

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

(b) The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a “Secondary Market Disclosure Document”), or provided or made available to investors or prospective investors in the Securities, the rating agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 10.12(c) hereof, with the Controlling Person and Funding Lender in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project Facilities necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

(c) In connection with a Secondary Market Disclosure Document, the Borrower, General Partner or Guarantor shall provide, or in the case of a Borrower-engaged third party such as the Managing Agent, cause it to provide, information reasonably requested by the Controlling Person or the Funding Lender pertaining to the Borrower, General Partner or Guarantor, the Project Facilities or such third party (and portions of any other sections reasonably requested by the Controlling Person or the Funding Lender pertaining to the Borrower, General Partner or Guarantor, the Project Facilities or the third party). The Borrower shall, if requested by the Controlling Person or the Funding Lender, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, General Partner or Guarantor, the Project Facilities or the third party, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project Facilities or the third party) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such third parties; provided further that the Borrower will be required to cause such third parties to provide similar certification with respect to any information not so certified by the Borrower. Furthermore, the Borrower hereby indemnifies the Fiscal Agent, the Controlling Person, the Funding Lender, the Governmental Lender and trustee, sponsor, guarantor and the underwriter group for any securities, and their affiliates, officers, directors, partners, members, agents, attorneys and controlling persons (the “Underwriter Group”) for any liabilities to which any such parties may become subject to the extent such liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document.

(d) In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) defend and indemnify the Controlling Person, the Funding Lender, the Fiscal Agent, the

Governmental Lender, its members, and the Underwriter Group for any liabilities to which the Funding Lender, the Controlling Person, the Governmental Lender, the Fiscal Agent or the Underwriter Group may become subject insofar as such liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading, and (ii) reimburse the Controlling Person, the Funding Lender, the Fiscal Agent, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Controlling Person, the Funding Lender, the Fiscal Agent or the Underwriter Group in connection with defending or investigating the liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties, but shall require such third parties to provide such indemnification with respect to information they certify.

(e) Promptly after receipt by an indemnified party under this Section 10.12 of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 10.12 and provided that the Borrower duly provides the defense and indemnity herein described, including payment of all required fees, expenses and liabilities, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior written consent of the Borrower.

(f) In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in this Section 10.12 is for any reason held to be unenforceable by an indemnified party in respect of any liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under this Section 10.12, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

Section 10.13 Nonrecourse.

(a) Notwithstanding anything to the contrary contained in this Agreement (other than Sections 10.13(b) through (e) hereof) or the other Funding Loan Documents, the Governmental Lender agrees that, in connection with the exercise of any rights or remedies available to the Governmental Lender under this Agreement or any of the other Funding Loan Documents (other than the Environmental Indemnity and the other guaranty agreements of the Guarantors), the Governmental Lender shall look solely

to the enforcement of the lien and security interests created by this Agreement and the other Funding Loan Documents and to the collateral and other security held by the Funding Lender (or the Fiscal Agent for the benefit of the Funding Lender).

(b) Notwithstanding the preceding subsection, the Borrower and the Guarantor shall have full recourse and personal liability for, and be subject to, judgments and deficiency decrees arising from and to the extent of any loss or damage suffered or incurred by the Governmental Lender, the Funding Lender, the Controlling Person or the Noteowners as a result of the occurrence of any of the following events:

(i) the Borrower fails to pay to the Funding Lender upon demand after an Event of Default all Rents to which the Funding Lender is entitled under Section 2 of the Mortgage 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 10.13(b)(i) if Borrower is unable to pay to the Funding Lender all Rents and security deposits as required by the Mortgage because of a valid order issued in a bankruptcy, receivership, or similar judicial proceeding;

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

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

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

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

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

(A) any Person that is not an Affiliate creates a mechanic's lien or other involuntary lien or encumbrance against the Project Facilities and Borrower has not complied with the provisions of this Agreement.

(B) a transfer of property by devise, descent or operation of law occurs upon the death of a natural person in violation of the requirements set forth in the Funding Loan Documents.

(C) the Borrower grants an easement that does not meet the requirements set forth in the Funding Loan Documents.

(D) Borrower executes a Lease that does not meet the requirements set forth in the Funding Loan Documents;

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

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

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

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

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

(ii) the Borrower's taking any action which adversely affects the Federal Tax Status of the Governmental Note, or the Borrower's omitting or failing to take any action required to maintain the Federal Tax Status of the Governmental Note;

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

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

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

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

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

(viii) the Project Facilities or any part of the Project Facilities becomes an asset in a voluntary bankruptcy or becomes subject to any voluntary reorganization, receivership,

insolvency proceeding, or other similar voluntary proceeding pursuant to any other federal or state law affecting debtor and creditor rights;

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

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

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

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

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

(iii) any costs and expenses incurred by the Governmental Lender, the Controlling Person and the Funding Lender in connection with the collection of any amount for which Borrower is personally liable under this Section 10.13, 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; and

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

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

(f) Notwithstanding anything to the contrary, Governmental Lender, Funding Lender, Controlling Person and Noteowners shall not be deemed to have waived any right such Persons may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of Borrower's and Guarantor's Obligations under the Funding Loan Documents or to require that all collateral shall continue to secure all Obligations under the Funding Loan Documents.

Section 10.14 Publicity. The Borrower hereby authorizes the Controlling Person or the Funding Lender and their respective affiliates, without further notice or consent, to use the Borrower's and its affiliates' name(s), logo(s) and photographs related to the Project Facilities in its advertising, marketing and communications materials on a national and/or international basis. Such materials may include web

pages, print ads, direct mail and various types of brochures or marketing sheets, and various media formats other than those listed (including without limitation video or audio presentations through any media form). In these materials, the Controlling Person or the Funding Lender also may discuss at a high level the types of services and solutions the Controlling Person or the Funding Lender has provided the Borrower. This authorization shall remain in effect unless the Borrower notifies the Controlling Person in writing in accordance with the notice provisions set forth herein that such authorization is revoked. The Controlling Person or the Funding Lender shall also have the right to publicize its involvement in the financing of the Project Facilities, including the right to maintain a sign indicating such involvement at a location at the Project Facilities reasonably acceptable to the Borrower and Controlling Person.

Section 10.15 Determinations by the Funding Lender and Controlling Person. Subject to specific provisions in this Agreement to the contrary, in any instance under this Agreement where the consent or approval of the Controlling Person or the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Controlling Person or the Funding Lender under this Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Controlling Person or the Funding Lender (or its designated representative) at its sole and absolute discretion. The Funding Lender may by separate instrument delegate, assign, transfer and set over unto the Controlling Person any or all of the rights, remedies, duties and obligations of the Funding Lender under the Funding Loan Agreement, this Agreement and the other Funding Loan Documents, in which event the Controlling Person shall have each of the rights, remedies, duties and obligations delegated to it as if specifically named herein and in the other Funding Loan Documents, as applicable, and shall be entitled to act in its own name, but if necessary in the name and stead of the Funding Lender, to enforce each of the remedies provided to the Funding Lender hereunder or under the other Funding Loan Documents.

Section 10.16 Further Assurances. The Borrower will promptly and duly execute, acknowledge and deliver from time to time such further instruments and take such further actions as may be reasonably required by the Governmental Lender, the Funding Lender or the Controlling Person to carry out the purposes and provisions of this Agreement and to the other Funding Loan Documents, to make elections or take actions (or, as requested, to refrain from making elections or taking actions) related to the audit procedures involving the Borrower and/or its members, equityholders, shareholders and/or partners set forth in the Bipartisan Budget Act of 2015 so that the Borrower's members, equityholders, shareholders, and/or partners will be directly responsible for any audit adjustments, changes or modifications rather than the Borrower, to confirm the priority and/or perfection of any lien, pledge, assignment or security interest created or intended to be created by this Agreement and the other Funding Loan Documents and to assure the Controlling Person and the Funding Lender of the subrogation and security rights in favor of the Funding Lender (or the Fiscal Agent for the benefit of the Funding Lender) for the benefit of the Noteowners of the Governmental Note contemplated by this Agreement, by the other Funding Loan Documents in connection with any of the foregoing and such approvals shall be in form satisfactory to the Controlling Person.

[The remainder of this page is left blank intentionally.]

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

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

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

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, a Texas housing finance corporation, its sole member

By: _____
Name: Aaron Eaquinto
Title: General Manager

EXHIBIT A
FORM OF BORROWER NOTE

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

\$[30,000,000]

[CLOSING DATE]

FOR VALUE RECEIVED, LDG THE LEGACY ON Kiest, LP, a limited partnership duly formed and validly existing under the laws of the State of Texas (the “Borrower”), by this promissory note (the “Note” or “Borrower Note”) hereby promises to pay to the order of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “Governmental Lender”) the principal sum of [THIRTY MILLION] and no/100 Dollars (\$[30,000,000]), together with interest on the drawn and unpaid principal amount hereof, from the Closing Date (as defined in the Funding Loan Agreement referenced below) until paid in full, at a rate per annum, and acceleration premium, if any, as set forth herein.

1. **Defined Terms.** As used in this Note, the following terms shall have the following definitions:

“**First Loan Payment Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**First Optional Call Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**First Par Call Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**First Principal Payment Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**First Put Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**Fixed Rate**” shall mean the fixed rate set forth on the Schedule of Financial Terms and computed on the basis of a 360-day year comprised of twelve 30-day months.

“**Funding Loan Agreement**” shall mean that certain Funding Loan Agreement dated as of [July 1], 2025 by and among Texas Department of Housing and Community Affairs, as the “Governmental Lender”, BOKF, NA, as the “Fiscal Agent”, and Community Housing Investment Partners II, LP, as the “Funding Lender”.

“**Loan Payment Date**” has the meaning set forth in the Funding Loan Agreement.

“**Maturity Date**” shall have the meaning set forth in the Schedule of Financial Terms.

“**Maximum Lawful Rate**” has the meaning set forth in the Funding Loan Agreement.

“**Stabilization Date**” has the meaning set forth in the Funding Loan Agreement.

“**Surplus Funding Loan Proceeds**” means all drawn but unexpended moneys and any unliquidated investments with respect thereto remaining upon final Completion and delivery of the

Construction Closeout Deliveries and after payment in full of the Project Costs, except for Funding Loan proceeds retained to pay for Project Costs not then due and payable.

All other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Borrower Loan Agreement.

2. **Method of Payment.** All payments due under this Note shall be payable to Fiscal Agent, or, if there is no Fiscal Agent, to the Funding Lender, or its successor. Each such payment shall be made by wire transfer of immediately available funds in accordance with wire transfer instructions that the Funding Lender or Controlling Person shall supply by written notice to the Borrower from time to time on the date that is two Business Days before any other date that any payment of interest, premium, if any, principal or other amount is required to be made hereunder.

3. **Payments Due on Non-Business Days.** In any case where the date of maturity of, interest on or premium, if any, or principal of this Note or the date fixed for prepayment of any Borrower Note shall not be a Business Day, then payment of such interest, premium or principal need not be made on such date but shall be made on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for prepayment, and, in the case of such payment, no interest shall accrue for the period from and after such date.

4. **Interest Rate.** Interest shall accrue on the drawn and unpaid principal of this Note from, and including, the Closing Date, until the Maturity Date, at the Fixed Rate. Notwithstanding any other provision of this Note to the contrary, interest shall not exceed the Maximum Lawful Rate.

5. **Payment of Principal and Interest.** Principal and interest shall be paid as follows:

(a) Borrower shall pay all amounts due under this Note at the times and in the amounts set forth herein and in the Borrower Loan Agreement. Borrower shall make its payments under this Note in immediately available funds.

(b) Commencing on the First Loan Payment Date and continuing on each Loan Payment Date thereafter until and including the First Principal Payment Date, Borrower shall pay monthly payments of interest only, at the Interest Rate, in successive monthly installments. Such payments shall be made to the Fiscal Agent by 2:00 p.m., New York City time, on the second (2nd) Business Day prior to each Loan Payment Date.

(c) Commencing on the First Principal Payment Date, and continuing on each Loan Payment Date thereafter until and including the Maturity Date, Borrower shall pay monthly payments of principal and interest as set forth on the Debt Service Schedule to the Borrower Loan Agreement, in successive monthly installments. Such payments shall be made to the Fiscal Agent by 2:00 p.m., New York City time, on the second (2nd) Business Day prior to each Loan Payment Date.

(d) Any accrued interest remaining past due may, at Funding Lender's discretion, be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note, and any reference below to "accrued interest" shall refer to accrued interest that has not become part of the unpaid principal balance.

(e) Borrower shall pay all unpaid principal of and interest on this Note on the Maturity Date and any other amounts due hereunder.

(f) Any regularly scheduled monthly installment of principal and interest that is received by Funding Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(g) Borrower shall make all payments of principal and interest under this Note without relief from valuation and appraisal laws.

(h) Borrower acknowledges that the calculation of all interest payments shall be made by the Funding Lender and Controlling Person and shall be final and conclusive, absent manifest error.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, the prepayment premium payable hereunder, if any, and all other amounts payable under this Note and any other Borrower Loan Document shall at once become due and payable, at the option of Funding Lender, without any prior notice to Borrower (except if notice is required by applicable law, then after such notice). Funding Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Prepayments.**

(a) In connection with any prepayment (*i.e.*, any receipt by Funding Lender of principal, other than principal required to be paid in monthly installments pursuant to Section 5 of this Note, prior to the Maturity Date) made under this Note, whether voluntary or involuntary, a prepayment premium shall be payable to the extent provided in Section 9 of this Note and Section 2.3 of the Borrower Loan Agreement and/or the Schedule of Financial Terms. EXCEPT AS OTHERWISE PERMITTED HEREIN, NO VOLUNTARY PREPAYMENTS OF THIS NOTE, IN WHOLE OR IN PART, SHALL BE PERMITTED.

(b) *Optional Prepayment of Borrower Note.*

(i) The Borrower Note is subject to optional prepayment in whole but not in part, by the Borrower upon not less than forty-five (45) days written notice to the Funding Lender, the Controlling Person, the Governmental Lender and the Fiscal Agent (which notice shall be unconditional and irrevocable) on any Loan Payment Date occurring on or after the First Optional Call Date, at a prepayment price as set forth on the Schedule of Financial Terms, plus accrued interest thereon to, but not including, the prepayment date.

(ii) The Borrower Note is subject to optional prepayment in part on any Loan Payment Date specified by the Borrower and consented to by the Controlling Person following Completion but not later than the Stabilization Date in an amount which will not reduce, in the aggregate, the Borrower Loan to less than the Minimum Permanent Loan Amount at a prepayment price equal to 100% of the principal amount being prepaid without premium or penalty plus interest accrued thereon to, but not including, the prepayment date.

(c) *Mandatory Prepayment of Borrower Note.*

(i) The Borrower Note is subject to mandatory prepayment in part upon the written direction of the Controlling Person from, and to the extent of, any Surplus Funding Loan Proceeds, on any Loan Payment Date after Completion of the Project Facilities and delivery of the Construction Closeout Deliveries, but in no event later than the Stabilization

Date, at a prepayment price equal to 100% of the principal amount of the Borrower Note to be prepaid plus interest accrued thereon to, but not including, the prepayment date.

(ii) The Borrower Note is subject to mandatory prepayment in whole or in part upon the written direction of the Controlling Person on any Loan Payment Date to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project Facilities are deposited in the Tax and Insurance Escrow Fund and are not to be used to repair or restore the Project Facilities at a prepayment price equal to 100% of the principal amount of the Borrower Note to be prepaid plus interest accrued thereon to, but not including, the prepayment date.

(iii) The Borrower Note is subject to mandatory prepayment in part on any Loan Payment Date at a prepayment price equal to 100% of the principal amount of the Borrower Note to be prepaid plus interest accrued thereon to, but not including, the prepayment date upon the written direction of, and in the amount as specified by, the Controlling Person equal to the greater of: (i) the amount necessary to cause the Project Facilities to meet the requirements of clause (ii) of the definition of Stabilization,” on the Stabilization Date; or (ii) the amount necessary to reduce, in the aggregate, the Borrower Loan to not more than the Maximum Permanent Loan Amount.

(iv) The Borrower Note is subject to extraordinary mandatory prepayment in whole or in part on any Loan Payment Date at the direction of the Controlling Person at a prepayment price equal to 100% of the principal amount of the Borrower Note to be prepaid plus interest accrued thereon to, but not including, the prepayment date following receipt by the Funding Lender of the direction of the Controlling Person, within one hundred eighty (180) days of the occurrence of any of the following events:

(A) the Project Facilities shall have been damaged or destroyed to such an extent that in the judgment of the Controlling Person (A) it cannot reasonably be restored within a period of three (3) consecutive months to the condition thereof immediately preceding such damage or destruction, (B) the Borrower is thereby prevented from carrying on its normal operations at the Project Facilities for a period of three (3) consecutive months, or (C) it would not be economically feasible for the Borrower to replace, repair, rebuild or restore the same;

(B) title in and to, or the temporary use of, all or substantially all of the Project Facilities shall have been taken under the exercise of the power of eminent domain by any Governmental Authority or any Person acting under Governmental Authority (including such a taking as, in the judgment of the Controlling Person, results in the Borrower being prevented thereby from carrying on its normal operations at the Project Facilities for a period of three (3) consecutive months);

(C) as a result of any changes in the Constitution of the State, or the Constitution of the United States of America or by legislative or administrative action (whether state or federal) or by final decree, judgment, decision or order of any court or administrative body (whether state or federal), any material provision of the Borrower Loan Agreement or the Funding Loan Documents, in the judgment of the Controlling Person shall have become void or unenforceable or impossible

of performance in accordance with the intent and purpose of the parties as expressed therein;

(D) unreasonable burdens or excessive liabilities shall have been imposed on the Borrower with respect to the operations of the Project Facilities, including, without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Note that, in the judgment of the Controlling Person, render the continued operation of the Project Facilities uneconomical;

(E) changes which the Borrower cannot reasonably control or overcome in the economic availability of materials, supplies, labor, equipment and other properties and things necessary for the efficient operation of the Project Facilities for the purposes contemplated by the Borrower Loan Agreement shall have occurred or technological changes that the Borrower cannot reasonably overcome shall have occurred that, in the judgment of the Controlling Person, render the continued operation of the Project Facilities uneconomical;

(F) legal curtailment of the Borrower's use and occupancy of all or substantially all of the Project Facilities for any reason other than that set forth in (ii) above, which curtailment shall, in the judgment of the Controlling Person, prevent the Borrower from carrying on its normal operations at the Project Facilities for a period of three (3) consecutive months; or

(G) the Borrower Loan Agreement is terminated prior to its expiration for any reason, including the occurrence of an Event of Default under the Borrower Loan Agreement.

(v) The Borrower Note is subject to mandatory prepayment in whole at a prepayment price equal to 100% of the principal amount of the Borrower Note to be prepaid plus interest accrued thereon to, but not including, the prepayment date, on the first Loan Payment Date for which notice of prepayment can be given in accordance with the Funding Loan Agreement within forty-five (45) days after the occurrence of a Determination of Taxability; provided, however, if mandatory prepayment on account of a Determination of Taxability of less than all the Governmental Note would result, in the Favorable Opinion of Governmental Lender Counsel, in the interest on the Governmental Note outstanding following such mandatory prepayment being excludable from the gross income of the Noteowners of such Governmental Note outstanding, then the Borrower Note is subject to mandatory prepayment upon the occurrence of a Determination of Taxability in the amount specified in such opinion, provided that such prepayment must be in an Authorized Denomination.

(vi) The Borrower Note is subject to mandatory prepayment in whole on any Loan Payment Date specified by the Controlling Person on or after the First Put Date, if the Controlling Person directs prepayment by providing notice to the Borrower, the Funding Lender, the Fiscal Agent and the Governmental Lender at least one hundred eighty (180) days prior to the Loan Payment Date specified in such notice on which the Borrower Note is to be prepaid at a prepayment price equal to 100% of the principal amount thereof plus interest accrued thereon to, but not including, the prepayment date.

8. **Obligations of the Borrower Absolute and Unconditional.** Subject to Section 10.13 of the Borrower Loan Agreement, the obligations of the Borrower to make all payments required under this Note and the other Borrower Loan Documents on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder and under the other Borrower Loan Documents shall be primary, absolute, unconditional and irrevocable, and shall be paid or performed strictly in accordance with the terms of this Note and the other Borrower Loan Documents under any and all circumstances, without notice or demand, and without abatement, deduction, set-off, counterclaim, 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 Facilities or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Project Facilities 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 Facilities, 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 legal organization or status of the Funding Lender, Governmental Lender or Fiscal Agent, or any default of hereunder or under any other Borrower Loan Document, and regardless of the invalidity of any action of the Funding Lender or the invalidity of any portion of this Note or the other Borrower Loan Documents. Provided further, the obligations of Borrower under this Note and the other Borrower Loan Documents shall not be affected by:

- (a) any lack of validity or enforceability of any Borrower Loan Document or any of the Funding Loan Documents;
- (b) any amendment of, or any waiver or consent with respect to, any of the Borrower Loan Documents or Funding Loan Documents;
- (c) the existence of any claim, set-off, defense or other rights which Borrower, General Partner or Guarantor may have at any time against Funding Lender (other than the defense of payment in accordance with the terms of this Note or the other Borrower Loan Documents) or any other Person, whether in connection with this Note or any other Borrower Loan Document, the Funding Loan Documents or any transaction contemplated thereby or any unrelated transaction;
- (d) any breach of contract or other dispute between Borrower, General Partner or Guarantor, and Funding Lender;
- (e) any Requisition or any document presented in connection therewith, proving to be forged, fraudulent, untrue, inaccurate, invalid or insufficient in any respect (except in the event of willful misconduct by Funding Lender with respect to same); or
- (f) any exchange, release or nonperfection of any lien or security interest in any collateral pledged or otherwise provided to secure any of the obligations contemplated herein, in any other Borrower Loan Document or in any Funding Loan Document.

The Borrower hereby waives the application to it of the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Note or the other Borrower Loan Documents or which releases or purports to release the Borrower therefrom. Nothing contained herein shall be construed as prohibiting the Borrower from pursuing any rights or remedies it may have against any Person in a separate legal proceeding.

9. **Default Interest and Acceleration Premium.** In the event that principal or interest payable on the Borrower Note is not paid when due, there shall be payable on the amount not timely paid,

interest at the Default Rate, to the extent permitted by law. This interest shall accrue at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full. In the event there shall have occurred an acceleration of the Borrower Note or the Borrower's obligations under the Borrower Loan Agreement following an Event of Default on or before the First Par Call Date, any tender of payment of any amount necessary to pay the Borrower Note in full shall include the acceleration premium set forth in Section 2.3(c) of the Borrower Loan Agreement.

10. **Costs and Expenses.** To the fullest extent allowed by applicable law, Borrower shall pay all expenses and costs, including, without limitation, out-of-pocket expenses and reasonable fees of attorneys (including, without limitation, in-house attorneys) and expert witnesses and costs of investigation, incurred by Funding Lender, Governmental Lender or Fiscal Agent as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Borrower Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. For purposes of this Section 10, attorneys' out of pocket expenses shall include, but are not limited to, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses.

11. **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 Borrower and all endorsers and guarantors of this Note and all other third party obligors.

12. **Governing Law.** This Note shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

13. **Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Funding Lender's right to bring any suit, action or proceeding relating to matters arising under this Note against Borrower or any of Borrower's assets in any court of any other jurisdiction.

14. **Further Assurances.** Borrower shall at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that Funding Lender may reasonably request, in order to protect any right or interest granted by this Note or to enable the Funding Lender to exercise and enforce its rights and remedies under this Note.

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

16. **Controlling Person.** Borrower hereby acknowledges and agrees that, pursuant to the terms of the Funding Loan Documents: (a) from time to time, Funding Lender may appoint a controlling person to collect payments, escrows and deposits, to give and to receive notices under this Note or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives written notice from Funding Lender to the contrary, any action or right which shall or may be taken or

exercised by Funding Lender may be taken or exercised by such controlling person with the same force and effect.

17. **Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, BORROWER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN BY BORROWER KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

18. **Time of the Essence.** Time is of the essence with respect to this Note.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Note or caused this Note to be duly executed and delivered by its authorized representative as of the date first set forth above.

LDG THE LEGACY ON KIEST, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, a Texas housing finance corporation, its sole member

By: _____
Name: Aaron Eaquinto
Title: General Manager

ENDORSEMENT

Pay to the order of BOKF, NA, without recourse, as Fiscal Agent under the Funding Loan Agreement referred to in the within mentioned Agreement, as security for such Governmental Note issued under such Funding Loan Agreement. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Borrower Note.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

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

Dated: _____, 2025

EXHIBIT B
FORM OF WRITTEN REQUISITION
OF THE BORROWER

BORROWER: LDG The Legacy on Kiest, LP

PROJECT: The Legacy on Kiest

REQUISITION NO.: _____

In the Amount of \$ _____

TO: BOKF, NA, as Fiscal Agent
1401 McKinney, Suite 1000
Houston, Texas 77010
Attention: Corporate Trust Department

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

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

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

Requisition - Contents and Attachments

- ☐ Borrower's Request for Payment
- ☐ Borrower's Representations and Warranties
- ☐ Updated Loan Balancing (Sources and Uses) & Monthly Requisition Spreadsheet
- ☐ Contractor's Application and Certification for Payment (AIA Form G-702 & G-703)
- ☐ Architect, Contractor, Owner Change Order (Executed AIA G-701(s) added to G-702)
- ☐ Pending Change Order and Change Order Log (dated)
- ☐ Vendor Payee List or equivalent
- ☐ Requisitions and Invoices Supporting Application
- ☐ Contractor's Requisition Certificate
- ☐ Architect's Requisition Certificate
- ☐ Lien Waivers, Conditional for the current Hard cost pay request

- ☐ Lien Waivers, Unconditional for payment thru the prior period pay request
- ☐ Stored Materials Log and documentation (e.g., insurance, bill of sale, invoices, photos) as Applicable
- ☐ Current Project Schedule
- ☐ Other Documents as Requested by the Funding Lender or Controlling Person

Representations and Warranties

1. No changes have been made in the Plans and Specifications which require and have not received the prior approval of (i) the Controlling Person under the terms of the Borrower Loan Agreement dated as of [July 1], 2025 (the “Agreement”), (ii) any Governmental Authority having jurisdiction over the Project Facilities or (iii) any other parties from whom such approval is required.
2. Construction of the Improvements has been performed in accordance with the Plans and Specifications (other than any changes that did not constitute Material Change Orders).
3. As of the date hereof, the Borrower has executed change orders (increasing/decreasing) the cost of construction of the Improvements by \$_____ in the aggregate, has notified the Engineering Consultant of such changes and, to the extent necessary, has received any and all necessary approvals from the Controlling Person.
4. Funding of this Requisition shall be in accordance with the terms and provisions of the (i) Agreement, and (ii) the Funding Loan Agreement dated as of [July 1], 2025, with respect to the Governmental Note.
5. All money requisitioned by the Borrower for construction of the Improvements and disbursed by the Fiscal Agent under previously approved requisitions have been paid to the Contractor and, to the Borrower’s best knowledge, all subcontractors, vendors and suppliers; all other funds requisitioned by the Borrower and disbursed by the Fiscal Agent under previously approved requisitions have been expended for the purpose for which they were requisitioned.
6. All of the information submitted to the Controlling Person and the Funding Lender in connection with this Requisition is true and accurate in all material respects as of the date of submission.
7. The representations and warranties set forth in the Funding Loan Documents are true and correct in all material respects as of the date hereof with the same effect as if made on this date.
8. The Borrower represents and warrants that (i) there has occurred no Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default on the part of the Borrower or the Guarantor under the terms of the Funding Loan Documents, (ii) except as previously disclosed by the Borrower to the Controlling Person, the Borrower has not received notice from or been informed by any Governmental Authority or the Engineering Consultant of any alleged deficiencies in the work performed to date or any deviation of such work from Plans and Specifications or notice of any assertion of a claim that the Improvements have not been constructed in accordance with all applicable Legal Requirements, (iii) with the exception of any Permitted Encumbrances and those being contested by the Borrower in accordance with the terms of the Funding Loan Documents, there are no liens against any portion of the Project Facilities or any other asset of the Borrower, and (iv) the Funding Loan Documents are in full force and effect.
9. The Borrower represents and warrants that this Requisition is in the form of requisition required by the Controlling Person.
10. The Borrower represents and warrants that, following payment of the amounts requested under this Requisition, not less than 95% of amounts paid from proceeds (including investment proceeds) of the Governmental Note have been applied to the payment of Qualified Project Costs.

11. Attached hereto are copies of lien waivers from all such contractors, subcontractors and materialmen requisitioning payment under this Requisition, the originals of which have been delivered to the Title Insurance Company.
12. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto under the Borrower Loan Agreement.

Executed this ____ day of ____, 202__.

LDG THE LEGACY ON KIEST, LP, a Texas limited partnership

By: _____
Name: _____
Title: Authorized Person

Approved:

R4 SERVICER LLC, as Controlling Person

By: _____
Name: _____
Title: _____

Dated: _____, 202__

Contractor's Application for Payment

Contractor's Application and Certification for Payment (AIA Form G-702 & G-703)
Architect, Contractor, Owner Change Order (Executed AIA G-710(s) added to G-702)
Pending Change Order and Change Order Log (dated)

Requisitions and Invoices

Contractor's Requisition Certificate

Application for Payment No. _____

TO: Community Housing Investment Partners II, LP ("Funding Lender")
R4 Servicer LLC ("Controlling Person")

FROM: [] ("Contractor")

RE: Construction of The Legacy on Kiest (the "Project Facilities") by LDG The Legacy on Kiest, LP ("Borrower").

We are the general contractor for the Project Facilities and, to induce the Controlling Person to approve disbursements of Borrower Loan proceeds and other amounts by the Fiscal Agent and/or the Funding Lender to assist in funding construction of the Improvements and knowing that the Funding Lender and the Controlling Person will rely on this certificate in doing so, we hereby certify as follows:

1. In reference to our contract dated _____, 20____, with Borrower for construction of the Improvements, and the Plans and Specifications therefor, no amendments, modifications or changes have been made with respect to our contract or the Plans and Specifications except such as have had your prior written approval. There are no pending change orders except as follows:
2. Our Application for Payment No. _____, dated _____, 202____, which we understand is to be included as an item in the Borrower's requisition to you, is in full compliance with the terms of our contract with Borrower, and, upon the payment of same, we will have no other or additional claim (including claims for so-called "extras") against Borrower on account of our contract or otherwise for and through the period of time ending upon the date of our Application for Payment, for all labor and materials furnished by us through and including the date of our Application for Payment except as follows:
 - a. Retainage not exceeding ____% of the value of labor and materials incorporated into the Project Facilities and covered by applications submitted by us on account of the construction of the Improvements for which payment is to be made to us after substantial completion of our contract, as provided therein (the amount of said retainage), as of the end of the period covered by our Application for Payment dated _____, 202____, is \$_____; and
 - b. [specify other claims, if any]
3. The Borrower is not in default of any of the Borrower's obligations to us as of the date hereof except as follows: _____ [none] _____
4. We have paid in full all our obligations to subcontractors, workmen, suppliers and materialmen for and with respect to all labor and materials supplied through and including the date of our last Application for Payment, except for an amount equal to ____% thereof, which we are holding in accordance with the terms of such obligations and our contract, and all our subcontractors have paid their subcontractors, workmen and materialmen in full for and with respect to all labor and materials supplied through and including the date of our last Application for Payment.
5. To the fullest extent allowed by law, we waive and release any and all rights to claim any lien for labor done or materials furnished up to an amount equal to the amount of our Application for Payment dated _____, 202____ plus the amount of all our previously funded applications.

Executed as an instrument under seal this _____ day of _____, 202__.

DHFC THE LEGACY ON Kiest GENERAL
CONTRACTOR, LLC

By: _____
Name: _____
Title: _____

Architect's Requisition Certificate

Application for Payment No. _____

TO: Community Housing Investment Partners II, LP ("Funding Lender")
 R4 Servicer LLC ("Controlling Person")

FROM: _____ ("Architect")

RE: Construction of The Legacy on Kiest (the "Project Facilities") by LDG The Legacy on
 Kiest, LP ("Borrower")

We are the architect for the Project Facilities and, to induce the Controlling Person to approve disbursements of Borrower Loan proceeds and other amounts by the Fiscal Agent and/or the Funding Lender to assist in funding construction of the Improvements, and knowing that the Controlling Person will rely on this certificate in doing so, we hereby certify as follows:

1. We inspected the Project Facilities on _____, 20__ and found the status of Work at the Project Facilities on that date and the progress made on the Project Facilities since our last certificate to you dated _____, 20__ to be as follows: [substantially in accordance with the approved, as amended and approved, plans and specifications]. [non-compliant with the approved plans and specifications]. [other – describe here]
2. We delivered the Plans and Specifications for the Project Facilities, copies of which have been delivered to you (the "Plans and Specifications"). We have made no changes to the Plans and Specifications except as you have approved in writing. There are no pending change orders or construction change directives except as provided in the current Pending Change Order and Change Order Log.
3. All Work to date has been done in accordance with the Plans and Specifications and in a good and workmanlike manner. All materials and fixtures usually furnished and installed or stored on site at the current stage of construction have been furnished, installed or stored on site. All of the Work to date is hereby approved except as follows: _____
4. We have examined the requisition being submitted herewith to you by Borrower, which requisition includes an Application for Payment from DHFC The Legacy on Kiest General Contractor, LLC ("Contractor") respecting construction of the Improvements. The payment so applied for by Contractor does not exceed (when added to the payments heretofore applied for by and paid to Contractor) __% of the value of labor and materials incorporated into the Improvements.
5. All permits, licenses, approvals and the like required to complete construction of the Improvements have been validly issued by the appropriate authorities and are in full force and effect, and there is no violation of any of the provisions thereof or of any Legal Requirements applicable to the Project Facilities of which we have notice or knowledge as of the date hereof except as follows:

6. Access to and egress from the Project Facilities and all improvements to be constructed thereon are in accordance with all applicable Legal Requirements. Water, drainage and sanitary sewerage facilities and telephone, gas and electric services of public utilities are or are due to be installed in the locations indicated on the Plans and Specifications and are adequate to serve the Project Facilities. All necessary approvals for installation of or connection to said facilities or services have been obtained.
7. To the best of our knowledge, there are no petitions, actions or proceedings pending or threatened to revoke, rescind, alter or declare invalid any laws, ordinances, regulations, permits, licenses or approvals for or relating to the Project Facilities.
8. No amendments, modifications or changes have been made to our contract dated _____, 20__ with the Borrower except such as have had your prior written approval.
9. The Borrower is not in default of any of the Borrower's obligations to us as of the date hereof except as follows: _____

This certificate is rendered based on our examination of the Project Facilities, the Plans and Specifications, the data comprising the Application for Payment and all other matters which we deem relevant. We are to incur no liability under this certificate except for failure to exercise due professional skill and diligence.

Executed as a sealed instrument this _____ day of _____, 202__.

[ARCHITECT]

By: _____

Name: _____

Title: _____

Borrower's Request for Payment

[attach spreadsheets in form provided by R4 Capital]

Lien Waivers

EXHIBIT C
MOLD/MILDEW ADDENDUM

This Mold and Mildew Addendum (the "Addendum") dated _____, 20__ is attached to and made a part of the lease dated _____, 20__ (the "Lease") by and between LDG The Legacy on Kiest, LP ("Lessor") and _____ ("Resident") for unit number _____ (the "Unit") in The Legacy on Kiest.

Resident acknowledges that it is necessary for Resident to provide appropriate climate control, keep the Unit clean, and take other measures to retard and prevent mold and mildew from accumulating in the Unit. Resident agrees to clean and dust the Unit on a regular basis and to remove visible moisture accumulation on windows, walls and other surfaces as soon as reasonably possible. Resident agrees not to block or cover any of the heating, ventilation or air- conditioning ducts in the Unit. Resident also agrees to immediately report to the management office: (i) any evidence of a water leak or excessive moisture in the Unit, as well as in any storage room, garage or other common area; (ii) any evidence of mold- or mildew-like growth that cannot be removed by simply applying a common household cleaner and wiping the area; (iii) any failure or malfunction in the heating, ventilation or air conditioning system in the Unit; and (iv) any inoperable doors or windows. Resident further agrees that Resident shall be responsible for damage to the Unit and Resident's property as well as personal injury to Resident and Occupants resulting from Resident's failure to comply with the terms of this Addendum.

A default under the terms of this Addendum shall be deemed a material default under the terms of the Lease, and Lessor shall be entitled to exercise all rights and remedies at law or in equity. Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control. Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for purposes of the Lease.

Resident or Residents:
(all Residents must sign here)

Lessor:

Resident's Signature

LDG The Legacy on Kiest, LP

Resident's Name

By: _____
Authorized Representative:

Resident's Unit No.

Resident's Signature

Resident's Name

Resident's Unit No.

EXHIBIT D-1

CERTIFICATE OF AUTHORIZED PERSONS

BORROWER: LDG The Legacy on Kiest, LP

PROJECT: The Legacy on Kiest

DATE: [_____]

TO: BOKF, NA, as “Fiscal Agent”
1401 McKinney, Suite 1000
Houston, Texas 77010
Attention: Corporate Trust Department

Community Housing Investment Partners II, LP, as “Funding Lender”
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as “Controlling Person”
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

LDG The Legacy on Kiest, LP hereby certifies and designates, on behalf of itself and its general partner, any one of the following individuals as an “Authorized Person” as defined in that certain Funding Loan Agreement dated as of [July 1], 2025 by and among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs (the “Funding Loan Agreement”). Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Funding Loan Agreement

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[Aaron Eaquinto]	[General Manager]	_____
[SLP REPRESENTATIVE]	[_____]	_____

This certificate and designation may be modified at any time by Borrower upon written notice to the Funding Lender, the Fiscal Agent and the Controlling Person as described in the definition of “Authorized Person”; however, the Funding Lender, the Fiscal Agent and the Controlling Person may continue to rely on this certificate and designation until it shall have received any such written notice from Borrower.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Executed this ____ day of ____, 2025

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

EXHIBIT D-2

FORM OF AUTHORIZED PERSONS CHANGE CERTIFICATE

BORROWER: LDG The Legacy on Kiest, LP

PROJECT: The Legacy on Kiest

DATE: _____

TO: BOKF, NA, as “Fiscal Agent”
1401 McKinney, Suite 1000
Houston, Texas 77010
Attention: Corporate Trust Department

Community Housing Investment Partners II, LP, as “Funding Lender”
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as “Controlling Person”
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

LDG The Legacy on Kiest, LP hereby revokes any prior certificate and designation of “Authorized Person” and hereby certifies and designates, on behalf of itself and its general partner, any one of the following individuals as an “Authorized Person” as defined in that certain Funding Loan Agreement dated as of [July 1], 2025 by and among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs (the “Funding Loan Agreement”). Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Funding Loan Agreement

<u>Name</u>	<u>Title</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____

This certificate and designation may be modified at any time by Borrower upon written notice to the Funding Lender, the Fiscal Agent and the Controlling Person as described in the definition of “Authorized Person”; however, the Funding Lender, the Fiscal Agent and the Controlling Person may continue to rely on this certificate and designation until it shall have received any such written notice from Borrower.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Executed this ____ day of ____, 202__

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

SCHEDULE 1
SCHEDULE OF LITIGATION

[TO COME]

SCHEDULE 2
SCHEDULE OF OBLIGATIONS AND MATERIAL CONTRACTS

1. Funding Loan Documents
2. Borrower Loan Documents
3. Taxable Loan Documents
4. Subordinate Debt Documents

SCHEDULE 3
DEVELOPMENT BUDGET

[continues next page]

[DEVELOPMENT BUDGET TO COME]

SCHEDULE 4
PLANS AND SPECIFICATIONS

[continues next page]

[PLANS AND SPECIFICATIONS TO COME]

SCHEDULE 5
PERMITS AND APPROVALS NOT YET OBTAINED
[TO COME.]

SCHEDULE 6 CONDITIONS TO ADVANCES

A. CONDITIONS TO INITIAL ADVANCE. The right of Borrower to draw the initial advance shall be subject to the fulfillment of the following conditions precedent in a manner, and by documentation, satisfactory to the Controlling Person:

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

2. Subcontracts; Other Contracts. The Borrower shall have delivered to the Controlling Person, and the Controlling Person shall have approved, a list of all subcontractors and materialmen who have been or, to the extent identified by the Borrower, will be supplying labor or materials for the Project Facilities in the amount of \$10,000 or more. The Borrower shall have delivered to the Controlling Person correct and complete photocopies of all other executed contracts with contractors, subcontractors, engineers or consultants for the Project Facilities in an amount of \$25,000 or more, and of all development, management, brokerage, sales or leasing agreements for the Project Facilities.

3. Validity of Liens. The Mortgage, the Assignment of Project Documents, the Assignment of Capital Contributions, the Developer Fee Pledge, the General Partner Pledge and the Special Limited Partner Pledge shall be effective to create in the Fiscal Agent or Funding Lender, as applicable, a legal, valid and enforceable lien and security interest in the collateral identified therein. All filing, recordings, deliveries of preserve such liens and security interests shall have been duly effected.

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

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

(b) Title Policy. The Title Policy, or a pro forma policy that constitutes a commitment to issue the Title Policy in the form of such pro forma policy, together with proof of payment of all fees and premiums for such policy and true and accurate copies of all documents listed as exceptions under such policy.

(c) Other Insurance. Duplicate originals or certified copies of all policies of insurance required hereunder to be obtained and maintained during the construction of the Improvements.

(d) Evidence of Sufficiency of Funds. Evidence that the proceeds of the Funding Loan, the Taxable Construction Loan and the Subordinate Debt,, together with Required Equity Funds delivered on the Closing Date or to be delivered after the Closing Date pursuant to the Funding Loan Agreement and the Partnership Agreement, will be sufficient to cover all Project Costs reasonably anticipated to be incurred to complete the

Improvements prior to the Completion Date and to carry the Project Facilities through to Stabilization.

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

- (a) the methods of access to and egress from the Project Facilities, and nearby or adjoining public ways, meeting the reasonable requirements of the Project Facilities and the status of completion of any required improvements to such access;
- (b) the availability of water supply and storm and sanitary sewer facilities meeting the reasonable requirements of the Project Facilities;
- (c) the availability of all other required utilities, in location and capacity sufficient to meet the reasonable needs of the Project Facilities; and
- (d) the obtaining of all approvals, permits and licenses or evidence that no such permits or licenses are required, which are required, necessary or desirable for the construction of the Improvements and the access thereto, together with copies of all such Governmental Actions.

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

7. Soils Report. A soils report for the Project Facilities prepared by a soils engineer approved by the Controlling Person, which report shall indicate that based upon actual surface and subsurface examination of the Project Facilities, the soils conditions are fully satisfactory for the proposed construction and operation of the Improvements and upon which report or reports the Controlling Person and the Funding Lender shall be expressly entitled to rely. A termite or other insect infestation report prepared by a firm approved by the Controlling Person, which report shall indicate that based upon actual inspection of the Project Facilities either (i) that no termite or other insect infestation at the Project Facilities, or (ii) that termite or insect infestation is present and recommended steps for extermination and remediation of the conditions at the Project Facilities, and upon which report or reports the Controlling Person and the Funding Lender shall be expressly entitled to rely.

8. Survey and Taxes. A Survey of the land upon which the Project Facilities are (or will be) located (and any existing improvements thereon) and Surveyor's Certificate, and evidence of payment of all real estate taxes and municipal charges on the Land (and any existing improvements thereon) which were due and payable prior to the Closing Date.

9. Deposit of Funds. The initial installment of Required Equity Funds and any other source of funds required for closing shall have been delivered to the satisfaction of the Controlling Person.

10. Requisition. If any portion of the initial Advance shall be for hard costs of construction, a completed Requisition and together with the approval of the Engineering Consultant.

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

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

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

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

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

16. Appraisal. The Controlling Person shall have received an Appraisal, in form and substance satisfactory to the Controlling Person.

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

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

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

20. Reserved.

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

1. Prior Conditions Satisfied. All conditions precedent to any prior disbursement shall continue to be satisfied as of the date of the Requisition of such subsequent advance.
2. Performance; No Default. The Borrower shall have performed and complied with all terms and conditions herein required to be performed or complied with by it on or prior to the date of such Requisition, and on such date there shall exist no Default or Event of Default.
3. Representations and Warranties. Each of the representations and warranties made by the Borrower in the Funding Loan Documents, the Taxable Loan Documents or otherwise made by or on behalf of the Borrower in connection therewith after the date thereof shall have been true and correct in all respects on the date on when made and shall also be true and correct in all material respects on the Borrower on the date of such Requisition (except to the extent of changes resulting from transactions contemplated or permitted by the Funding Loan Documents and the Taxable Loan Documents).
4. No Damage. If the Improvements shall have been materially injured or damaged by fire, explosion, accident, flood or other casualty, such Improvements are able to be and are diligently being restored in accordance with the terms of the Mortgage.
5. Receipt by Controlling Person. The Controlling Person shall have received:
 - (a) Requisition. A completed Requisition in the form set forth on Exhibit B to this Agreement, accompanied by the certificates, applications, invoices and other materials required thereby together with approval of the portion of the Requisition applicable to the Work for such Advance by the Engineering Consultant, accompanied by a certificate or report from the Engineering Consultant to the effect that in its opinion, based on site observations and submissions by the Contractor, the Work for which the Advance is requested to the date thereof was performed in a good and workmanlike manner and stating that the remaining non-disbursed portion of the Funding Loan proceeds and other available funds specified in the Development Budget are adequate to complete construction of the Improvements in accordance with the Plans and Specifications; and
 - (b) Endorsement to Title Policy. At the time of each advance to update the date of and increase the amount of coverage by the amount of such advance, such endorsements (a "Down Date Endorsement") shall be delivered by the Title Company, increasing the coverage under the Title Policy by the amount of the approved Requisition plus the amount of any proceeds of the Funding Loan disbursed from the Capitalized Interest Account of the Project Fund;
6. Foundation Survey; Current Survey. If the Plans and Specifications provide for construction of the foundations, including expansion or modification of existing foundations, within thirty (30) days after completion of construction of the foundations of the Improvements, a survey certified by a registered engineer or surveyor showing that the foundations are located within the perimeter of the Land and any set back lines and at the location shown on the Plans and Specifications, and from time to time. An updated Survey if required by the Title Insurance Company or the Controlling Person;
7. Approval by Engineering Consultant. Approval of the Requisition for such disbursement by the Engineering Consultant, accompanied by a certificate or report from the Engineering Consultant to the effect that in its opinion, based on site observations and submissions by the Contractor, the construction of the Improvements to the date thereof was performed in a good and workmanlike manner and in accordance with the Plans and Specifications, stating the estimated total cost of construction of the Improvements, stating the percentage of in-place construction of the Improvements, and stating that the remaining non-disbursed portion of the Project Fund and Required Equity Funds allocated for such purpose in the Development Budget is adequate to complete the construction of the Improvements;

8. Contracts. Evidence that one hundred percent (100%) of the cost of the remaining Work is covered by firm fixed price or guaranteed maximum price contracts or subcontracts, or orders for the supplying of materials, with contractors, subcontractors, materialmen or suppliers satisfactory to the Controlling Person.
9. Mechanics' Liens. The Controlling Person may withhold or refuse to fund any advance hereunder if any mechanic's lien has been filed or recorded and not bonded over or otherwise collateralized to the satisfaction of the Controlling Person, or if notice of intention to record or file any such lien has been received.
10. Lien Waivers. No sums shall be disbursed until the Borrower has delivered a waiver or full, conditional or partial release of liens from all contractors, subcontractors, materialmen or others who may be entitled to a lien, as permitted by law for the work supplied or materials provided and for which payment is requested, and with respect to all contractors, subcontractors, materialmen or others entitled to a lien for work done or materials provided and paid from any prior advance funded by reliance on conditional lien waivers, on unconditional waiver or release of lien with respect to such work.
11. Required Equity Funds. All installments of Required Equity Funds which shall be then due and payable under the Partnership Agreement shall have been deposited with the Fiscal Agent.
12. Release of Retainage. In addition to the conditions set forth in this Section, the Controlling Person's obligation to approve any Requisition for Retainage shall be subject to receipt by the Controlling Person of the Engineering Consultant's certification of completion as to the Work performed under any contract or subcontract for which the Retainage will be disbursed.
13. Loan Rebalancing. The Controlling Person shall not be obligated to authorize any further advances until the requirements of Section 6.32 of this Agreement have been satisfied.
14. Material Change Orders. No Material Change Order shall have been made without the written approval of the Controlling Person.

SCHEDULE 7
FORM OF COMPLETION CERTIFICATE

_____, 20__

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

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

Re: The Legacy on Kiest (the "Project Facilities")

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities, hereby certifies to Community Housing Investment Partners II, LP, as Funding Lender (the "Funding Lender"), and R4 Servicer LLC as Controlling Person, acting on behalf of the Funding Lender of the Governmental Note issued in connection with the Project Facilities (the "Controlling Person") that "Completion" of the Project Facilities (as defined in the Funding Loan Agreement dated as of [July 1], 2025 (the "Funding Loan Agreement") by and among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs (the "Governmental Lender")) has been attained as of the date hereof and all conditions relating thereto as set forth in the Borrower Loan Agreement dated as of [July 1], 2025 between the undersigned and the Governmental Lender (the "Borrower Loan Agreement") have been satisfied. Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Funding Loan Agreement or the Borrower Loan Agreement.

The undersigned hereby represents and warrants that:

1. Attached hereto schedule of all Punchlist Items attached to an AIA Form G-704 or other similar notice of substantial completion as required by clause (i) of the definition of "Completion" contained in the Funding Loan Agreement;
2. Attached hereto are true copies of all Governmental Actions as required by clause (ii) of the definition of "Completion" contained in the Funding Loan Agreement;
3. The requirements of clause (iii) and clause (iv) of the definition of "Completion" in the Funding Loan Agreement are true and correct as of the date hereof except for the following:
[] [Not Applicable]

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

Accepted and agreed to by:

R4 SERVICER LLC, as Controlling Person

By: _____
Name: _____
Title: _____

Effective Date: _____

Schedule of Attachments to Completion Certificate

Punchlist Items

Governmental Actions

SCHEDULE 8
FORM OF ESTIMATED USE OF PROCEEDS COMPLIANCE CERTIFICATE

_____, 20__

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

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

Re: The Legacy on Kiest (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities hereby certifies to Community Housing Investment Partners II, LP, as the Funding Lender (the “Funding Lender”) and R4 Servicer LLC, as Controlling Person (the “Controlling Person”) that;

- (i) no less than 95% of the net proceeds of the Funding Loan has been or will be spent for Qualified Project Costs of the Project Facilities as required by Section 142(a) of the Internal Revenue Code.
- (ii) not less than 50% of the land and basis of the Project Facilities has been financed with the proceeds of the Funding Loan for purposes of Section 42(h)(4).

Attached hereto is a schedule of expected expenditures evidencing compliance with the foregoing and showing all costs of the Project Facilities, the amounts expended, for each category of cost, the source of funds therefor, and a calculation of the percentage of the net proceeds of the Funding Loan expended.

Capitalized terms used herein and not defined shall have the meanings ascribed to such terms in the Funding Loan Agreement dated as of [July 1], 2025 among the Funding Lender, the Fiscal Agent and the Governmental Lender.

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

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

Schedule of Attachments to Estimated Use of Proceeds Compliance Certificate

[Attach Schedule]

SCHEDULE 9

FORM OF CONSTRUCTION CLOSEOUT DELIVERIES CERTIFICATE

_____, 202__

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

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

Re: The Legacy on Kiest (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities hereby certifies to Community Housing Investment Partners II, LP, as the Funding Lender (the “Funding Lender”) and R4 Servicer LLC, as Controlling Person (the “Controlling Person”) that that each of the “Construction Closeout Deliveries” (as defined in the Funding Loan Agreement dated as of [July 1], 2025 (the “Funding Loan Agreement”)) by and among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs (the “Governmental Lender”)) has been attained as of the date hereof and all conditions relating thereto as set forth in the Borrower Loan Agreement dated as of [July 1], 2025 between the undersigned and the Governmental Lender (the “Borrower Loan Agreement”) have been satisfied. Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Funding Loan Agreement or the Borrower Loan Agreement.

The undersigned hereby represents and warrants that:

1. Attached hereto is an original, executed Architect’s certificate in the form attached hereto as Exhibit A as required by clause (iii) of the definition of “Construction Closeout Deliveries” contained in the Funding Loan Agreement.
2. Attached hereto are true, complete and correct copies of all use and occupancy permits issued in connection with the Project Facilities (the “Permits”) as referenced in clause (ii) of the definition of “Completion” contained in the Funding Loan Agreement. The Permits are all of the permits, licenses or approvals required for the occupancy of the Project Facilities as a multifamily residential facility. No appeal, action or proceeding challenging any of the Permits has been filed; there is no pending claim, litigation or governmental proceeding challenging the Permits.

3. Attached hereto is a complete schedule of all Punchlist Items referenced in clause (i) of the definition of "Completion" contained in the Funding Loan Agreement. The undersigned has completed all Punchlist Items.

4. Attached are lien waivers required by clause (vi) of the definition of "Construction Closeout Deliveries" contained in the Funding Loan Agreement.

5. Attached hereto is an endorsement down dating the Title Policy insuring the Mortgage in favor of the Funding Lender (or the Fiscal Agent for the benefit of the Funding Lender), subject only to Permitted Encumbrances, as required by clause (viii) of the definition of "Construction Closeout Deliveries" contained in the Funding Loan Agreement.

6. Attached hereto is an as-built ALTA/NSPS Survey, certified to the Funding Lender, Fiscal Agent and the Controlling Person and meeting the requirements of clause (ix) of the definition of "Construction Closeout Deliveries" contained in the Funding Loan Agreement.

7. Attached hereto is evidence of completion of the Environmental Completion Conditions.

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

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

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

Accepted and agreed to by:

R4 SERVICER LLC, as Controlling Person

By: _____
Name: _____
Title: _____

Effective Date: _____, 202__

Schedule of Attachments to Construction Closeout Deliveries Certificate

Architect's Completion Certificate

Occupancy Permits

Lien Waivers

Endorsement to Title Policy

As-Built Survey

Insurance Certificates

Evidence of Payment of Impositions

Evidence of Satisfaction of Environmental Completion Conditions

EXHIBIT A

Form of Architect's Certificate

ARCHITECT'S COMPLETION CERTIFICATE

The undersigned, an architect duly licensed and registered in the State of Texas has prepared final working plans and detailed specifications (the “**Plans and Specifications**”) for LDG The Legacy on Kiest, LP (the “**Borrower**”) in connection with the construction of improvements on certain real property located in Dallas, Texas, such improvements or project being known as The Legacy on Kiest (the “**Improvements**”).

The undersigned hereby certifies to Community Housing Investment Partners II, LP and R4 Servicer LLC that to the best of our knowledge, information and belief: (i) all of the Improvements and the Property have been completed in accordance with the Plans and Specifications, (ii) a [temporary] certificate of occupancy has been issued for the Project[, provided however that there is no work remaining to be done that would impair or delay the permanent occupancy of the Project or any portion thereof and issuance of a permanent certificate of occupancy with respect to the Project, and other permits required for the continued use and occupancy of the Improvements have been issued with respect thereto by the governmental agencies having jurisdiction thereof], and (iii) the Improvements have been constructed in compliance with the Plans and Specifications and are in compliance with the requirements and restrictions of the governmental authorities having jurisdiction, including applicable zoning, building, environmental, fire, and health ordinances, rules and regulations, including without limitation, the Americans with Disabilities Act, the Rehabilitation Act of 1973 and the design and construction requirements of the Fair Housing Act.

[Architect]

By: _____

Date: _____

SCHEDULE 10
FORM OF FINAL USE OF PROCEEDS COMPLIANCE CERTIFICATE

_____, 202__

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

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

Re: The Legacy on Kiest (the “Project Facilities”)

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities hereby certifies to Community Housing Investment Partners II, LP, as the Funding Lender (the “Funding Lender”) and R4 Servicer LLC, as Controlling Person (the “Controlling Person”) that:

- (i) no less than 95% of the proceeds of the Funding Loan has been or will be spent for Qualified Project Costs of the Project Facilities as required by Section 142(a) of the Internal Revenue Code.
- (ii) not less than 50% of the land and basis of the Project Facilities has been financed with the proceeds of the Funding Loan for purposes of Section 42(h)(4).

Attached hereto is the Cost Certification evidencing compliance with the foregoing and showing all costs of the Project Facilities, the amounts expended, for each category of cost, the source of funds therefor, and a calculation of the percentage of the net proceeds of the Funding Loan expended.

Capitalized terms used herein and not defined shall have the meanings ascribed to such terms in the Funding Loan Agreement dated as of [July 1], 2025 among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs.

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

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

Schedule of Attachments to Final Use of Proceeds Compliance Certificate

Cost Certification

SCHEDULE 11
FORM OF STABILIZATION CERTIFICATE

_____, 202__

Community Housing Investment Partners II, LP, as Funding Lender
c/o R4 Capital Funding LLC
780 Third Avenue, 16th Floor
New York, New York 10017
Attention: Tara Nussbaum

R4 Servicer LLC, as Controlling Person
155 Federal Street, Suite 1400
Boston, Massachusetts 02110
Attention: Greg Doble and Shannon Chase

Re: The Legacy on Kiest (the "Project Facilities")

Ladies and Gentlemen:

The undersigned, being the owner of the Project Facilities, hereby certifies to Community Housing Investment Partners II, LP, as the Funding Lender (the "Funding Lender") and R4 Servicer LLC, as Controlling Person (the "Controlling Person") that the date of Stabilization was _____, 202__ and:

The undersigned hereby represents and warrants that:

1. At least _____% of the residential units included in the Improvements have been _____% occupied by credit-worthy qualified tenants meeting the requirements of the Funding Loan Documents and Borrower Loan Documents in each of the prior _____ (____) consecutive months.
2. The ratio of Stabilized NOI in each of the prior _____ (____) consecutive months to maximum principal, interest, Governmental Lender Fees and Fiscal Agent Fees payable in any month [other than the month in which the Maturity Date occurs] on the amount of Borrower Note is _____ to 1.0.
3. No Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default shall have occurred and be continuing under the Funding Loan Documents, the Borrower Loan Documents, the Taxable Loan Documents, the General Partner Pledge, the Special Limited Partner Pledge, the Developer Fee Pledge or the Guarantor Documents.
4. The Borrower has at all times been and is currently in compliance with all requirements set forth in the Regulatory Agreement.
5. The Borrower Note has been repaid in part in amount not less than the amount required pursuant to Section 7(c)(iii) of the Borrower Note.
6. The Taxable Construction Loan has been repaid in full.
7. Stabilization [has/has not] occurred.
8. Attached hereto is a copy of the Stabilization test showing the calculation of Stabilization.

Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Funding Loan Agreement dated as of [July 1], 2025 among the Funding Lender, the Fiscal Agent and Texas Department of Housing and Community Affairs.

LDG THE LEGACY ON Kiest, LP, a Texas limited partnership

By: DHFC The Legacy on Kiest GP, LLC, a Texas limited liability company, its general partner

By: City of Dallas Housing Finance Corporation, its sole member

By: _____
Name: _____
Title: _____

Accepted and agreed to by:

R4 SERVICER LLC, as Controlling Person

By: _____
Name: _____
Title: _____

Effective Date: _____, 202__

Stabilization Spreadsheet

SCHEDULE 12
INITIAL INSURANCE REQUIREMENTS

The Project Facilities must be continuously covered by acceptable property insurance policies meeting the minimum requirements described below. This is a general outline of the insurance coverages required by the Controlling Person, additional coverage may be required at the Controlling Person's discretion.

[continues next page]


 R4 CAPITAL FUNDING	R4 Capital Funding LLC Tax Exempt Bond Investment Standards	v4.4 March 2022
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EXHIBIT 3A – INSURANCE REQUIREMENTS

For transactions containing both


R4 Capital Funding LLC

debt &

R4 Capital LLC equity

GENERAL INSURANCE REQUIREMENTS

1. R4 Capital LLC, the Limited Partner, and R4 Capital Funding LLC, the Lender, and/or the Fiscal Agent, their successors and/or assigns, collectively are to be known as “R4”.
2. Attached are Construction Period and Permanent Phase insurance requirements outlining the **minimum** types and amounts of insurance that are satisfactory to R4.
3. The required insurance coverage may be provided by one or more individual policies, one or more Blanket Insurance policies, a Master Insurance Program, or any combination of these. Coverage may also be added to a policy through endorsements or riders. Regardless of the form, each policy, endorsement, or rider must show the complete address of the Property.
4. All insurers must be A- or better rated according to A.M. Best & Company with a Financial Size Category rating by A.M. Best of VIII or higher.
5. All policies shall state that the insurance carrier shall give the Named Insured and Additional Insureds / Interests a minimum of ten (10) days’ notice in before cancellation for non-payment of premium or non- renewal and a minimum of thirty (30) days’ notice before cancellation for all other reasons.
6. All insurance policies shall apply on a **Primary and Non-Contributory** basis to coverage carried by the Additional Insureds, whether included in the standard policy form or by specific endorsement.
7. All insurance policies shall contain a **Waiver of Subrogation** in favor of the Additional Insureds, hereunder to waive the rights of the Named Insured’s insurers’ rights of recovery, whether included in the standard policy form or by specific endorsement, and where allowable by law (**NOTE** – also applies to the Employers Liability portion of the Workers Compensation / Employers Liability coverage).
8. Insurance certificates reflecting the coverages outlined herein are to be submitted to R4 within fourteen
(14) days prior to closing and thereafter at least five (5) days prior to expiration, including any and all project specific amendments deemed necessary and required by R4.
 - a. The evidence of insurance is to reference compliance with all the requirements listed in this document.
 - b. Complete copies of the required policies are to be provided upon request.
 - c. Certificates (Acord 25 for Liability and Acord 27 or 28 for Builder’s Risk/Property) are to identify the Named Insureds, Additional Insureds, and Loss Payees as outlined herein and shall reference the complete and accurate Property address in the “description of operations” of the insurance certificate.
 - d. Certificate / Additional Interest Holder:

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For Equity –

“Limited Partner Entity” (to be provided by R4)

R4 Capital LLC

155 Federal Street, Suite 1602

Boston, MA 02110

For Debt –

“Fiscal Agent or Trustee Entity” (to be provided by R4)

R4 Capital Funding LLC

R4 Servicer LLC

155 Federal Street, Suite 1602

Boston, MA 02110

e. **Mortgagee Clause (applies to R4CF debt only):**

For Debt - All property and casualty insurance policies shall contain a standard non-contributory mortgagee clause showing the interest of the Fiscal Agent or Trustee as first mortgagee and shall provide for payment to the Fiscal Agent or Trustee of the net proceeds of insurance resulting from any claim for loss or damage thereunder.


9. R4 reserves the right to amend these requirements at any time as deemed appropriate.

10. R4 may require:

- a. **For Equity** – Additional coverages or higher limits of insurance or against other hazards for which insurance is reasonably obtainable and which, at the time, are commonly insured against in the case of similar properties conducting similar activities within the geographic area of the Property, whether such additional insurance requirements are otherwise described or contemplated herein.
- b. **For Debt** - additional insurance coverages to meet Freddie Mac Multifamily Insurance Requirements whether such additional insurance requirements are otherwise described or contemplated herein. If, at any time, R4 is not in receipt of written evidence satisfactory to R4 that all insurance policies are in full force and effect, within fourteen (14) days after R4 has requested same or if the Partnership fails to maintain the insurance required hereunder, after notice is given to the Partnership, R4 shall have the right, but shall not be obligated, to take such action as R4 deems necessary to protect their interest in the Property, including the obtaining of such insurance coverage as R4 in its reasonable discretion deems appropriate. All premiums incurred by R4 in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Partnership to R4 within ten (10) days of demand.

11. **For Debt** – all the Permanent Phase Partnership insurance requirements are intended to meet the minimums of Freddie Mac Multifamily Insurance Requirements including coverage for any “special hazards” (i.e., swimming pools, garages, exercise rooms, restaurants, drug stores, etc.).

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 R4 CAPITAL FUNDING	R4 Capital Funding LLC Tax Exempt Bond Investment Standards	v4.4 March 2022
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CONSTRUCTION PHASE REQUIREMENTS

INSURANCE REQUIREMENTS DURING CONSTRUCTION

PERIOD FOR


PARTNERSHIP

1. **Builders' Risk**

- a) **Policy Form:** Coverage to be provided on an “All Risk” or “Special Form” basis using a completed value non- reporting Builder’s Risk form to insure damage to project/property under construction, including existing structures, for 100% of the replacement cost of the construction value (including contingency), 12 months Business Interruption (loss of rents), and Soft Costs (see section 1.i below).
- b) **Named Insured:** Partnership
- c) **Loss Payee:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity)
- d) **Mortgagee:** “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt).
- e) **Terrorism Insurance:** Required for all projects with a replacement cost equal to or greater than \$20 million, and/or if located in a high-risk area. For projects with a replacement cost under \$20 million and not in a high- risk location, terrorism coverage is not mandatory.
- f) **Blanket Insurance Coverage:** Any of the insurance coverages required hereunder may be provided by a “blanket” insurance policy affording protection to multiple locations owned, operated by, or affiliated with the Insureds or Additional Insureds, provided, however, that:
 - (i) Any such “blanket” policy shall make available to the Project on a “per–location” basis no less than the limits of protection, terms and conditions required hereunder as though the insurance were provided on a standalone basis; and
 - (ii) R4 determines, in the exercise of its sole and absolute discretion, that the amount of such coverage is sufficient considering the other risks and properties insured under the blanket policy. A copy of the most recent Schedule of Values or confirmation of values under construction is required.
- g) **Deductible:** The maximum deductible for “All Other Perils” allowable under the Builder’s Risk is:

For Project Specific Builder’s Risk Policies:

Total Project Value	Maximum Per Occurrence Deductible
>\$10M	\$50,000

 R4 CAPITAL FUNDING		R4 Capital Funding LLC Tax Exempt Bond Investment Standards	v4.4 March 2022
	≥ \$10M		\$75,000

For a policy providing Blanket Insurance Limits:

One percent of the aggregate Replacement Cost of the covered properties, to a maximum per occurrence deductible of \$250,000.

Waivers may be available at the sole discretion of R4 on a case-by-case basis.



- h) **Property to be Covered:** Real and personal property to be insured hereunder shall include property owned by contractors during construction and intended for permanent installation in the project, site work and general contractor's fees, excavation, underground pipes, conduits, and foundations.
- i) **Perils:** Perils insured against shall be at least as broad as those included in Insurance Services Organization ("ISO") Special Form (CP 10 30 10 00), or its equivalent and shall also include coverage for the following perils:
- (i) Resulting loss or damage to work which is not faulty, arising from faulty workmanship/materials and faulty design, and
 - (ii) Collapse of any sort.
- j) **Soft Costs:** Coverage shall be provided for consequential losses which arise because of damage to the project by an insured peril, commonly referred to as "soft costs" or "delayed start up" coverage, including but not limited to the following:
- (i) Additional costs resulting from the renegotiation of leases and other similar extra expenses incurred following interruption of the Project, including relocation expenses,
 - (ii) Additional realty taxes and other assessments actually incurred for the period the construction has been extended beyond the projected completion date,
 - (iii) Additional advertising and promotional expenses including lease up and marketing which become necessary because of the delay,
 - (iv) Additional interest on money borrowed to finance construction or repair,
 - (v) Additional architect, engineering, consulting, legal and accounting fees,
 - (vi) Additional insurance premiums, and
 - (vii) Extra costs incurred to continue construction and meet contract dates.
 - (viii) "Increased Time to Rebuild" during the period when the policy's period of recovery has been extended because of requirements to bring the project into compliance with current building laws and codes.
- k) **Water Damage:** Coverage is to be provided for property damage and loss of income caused by rising waters, surface water and back-up of sewers and drains and seepage of underground water mains.
- l) **Localized Perils:** A Property located in an area prone to localized perils, such as sinkhole, mine subsidence, volcanic eruption, and avalanche, must have one or more insurance policies in place to cover these perils. Sinkholes are particularly common in Florida. Mine subsidence may occur in any location where there is, or has been, subterranean mining, but is particularly common in Pennsylvania, Ohio, Illinois, and Colorado.

Coverage must no less than the estimated Replacement Cost of the buildings affected by the localized peril, with deductibles no greater than those stated in section 1.g above.

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

For each building that is fully or partially located in a SFHA, R4 requires flood insurance equal to at least the following:

- (v) The RCV of the first two floors of the building above grade, plus
- (vi) The RCV of any floors below grade, plus
- (vii) 12 months of business income/rental value associated with the building, and
- (viii) The insurable value of owned contents or business personal property within the building.

*R4 does not require flood insurance for low-value, non-residential structures located in a SFHA. Such structures include maintenance buildings, storage sheds, pool houses, carports, laundry buildings, and gatehouses.

Coverage may be provided by the Builder's Risk insurer by endorsing the policy to include Flood as a covered peril, **or** by a National Flood Insurance Plan ("NFIP") policy in the amount equal to the lesser of the full insurable value or \$500,000 per building with a deductible not to exceed \$10,000 per building, with excess coverage provided for the difference (if any) between the maximum limit provided by NFIP policy(ies) and the full insurable value under the Builder's Risk/Property policy **or** a Difference in Conditions policy for the completed value of the project.


The following are the maximum deductibles allowed for flood insurance policies:

Building

- \$50,000 per building for a Project/Property with 10 buildings or less located in SFHAs
- \$500,000 per occurrence for a Project/Property with more than 10 buildings located in SFHAs

Business Income/Rental Value

- 15 days waiting period when expressed as a time-element deductible
- \$100,000 per occurrence when expressed as a monetary deductible

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NFIP

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

If the deductible for Flood under the Builder's Risk policy is equal to or exceeds \$500,000 per building per occurrence, R4 may require NFIP or DIC coverage to be placed as primary coverage.

If in the future any FEMA map changes occur, the follow will apply:

(iii) No change in the flood map, the Property remains in an SFHA

If all or any of the buildings that are part of the Property were previously in an SFHA and remain in an SFHA, Flood insurance must remain in force.

(iv) Change in the flood map, the Property is now in an SFHA

If all or any of the buildings that were not previously in an SFHA are now in an SFHA, R4 requires the Property to be covered by the required amount of Flood insurance no later than 120 days after the effective date of the FEMA NFIP map change. Flood insurance may be obtained from NFIP and/or a private insurance company meeting R4 requirements.

Documentation required for coverage discontinuation


R4 will not require flood insurance coverage for a Property that is no longer in an SFHA upon receipt of any one of the following:

- (iv) Letter of Map Amendment (LOMA) from FEMA excluding the insurable improvements or the entire Property from the SFHA, or
- (v) Letter of Map Revision (LOMR) from FEMA removing the community's SFHA designation, or
- (vi) Letter of Determination Review (LODR) concluding that the insurable improvements are not in the SFHA

R4 may require flood insurance for buildings located outside of a SFHA Zone A or V, if it determines that flood insurance is warranted, such as for buildings with a history of prior flooding, in proximity to a high hazard source of flooding, or subject to risk of storm surge flooding.

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- n) **Earthquake Insurance:** A Level 1 due diligence seismic risk assessment for damageability, performed by a qualified engineer conforming to current ASTM standards, will be required for all Projects in seismic zones 3 and 4 and for any Projects located in the states of California, Oregon, and Washington. The study shall determine the Probable Maximum Loss (“PML”) assuming a 475-year return period event and 50 percent probability of non-exceedance, which shall be defined as the Scenario Expected Loss (“SEL”). R4 will decline investments in properties with an SEL of 30% or greater, using the above stated standard.
- Coverage must be obtained at 100% of the replacement cost, with a maximum deductible of 5%, for Projects in seismic zones 3 or 4 with PML results ranging from 20% through 29.99%. In addition, the General Partner will need to demonstrate that measures have been taken to mitigate potential loss to the Project both during the construction and the operational phases.
- o) **Coinurance** is to be waived, or the policy shall contain an agreed amount endorsement acceptable to R4.
- p) **Ordinance or Law insurance:** Coverage is to be provided for:
- (i) Demolition
 - (ii) Increased Cost of Construction
 - (iii) Contingent Coverage for the Operation of Building Laws insuring the value of the undamaged portion of the premises (completed value).
- Ordinance and Law Coverage must include an “Increased Time to Rebuild” endorsement that extends business income and extra expense coverage to provide additional time to restore operations when delayed due to enforcement of building or zoning laws.
- q) **Debris Removal:** Insurance is to be covered for a limit of 10% of the value of the property loss.
- r) **Hail, windstorm, or hurricane:** Coverage to apply subject to a maximum 5% deductible. Time element coverage is to be provided for a period of 12 months.
- s) **Boiler and machinery:** Coverage to apply to damage or loss arising from testing of central heating, ventilation, and cooling system (HVAC), and other portions of the Property, if the damage is the result of an explosion of steam boilers.
- t) **Unscheduled location coverage:** For temporary, offsite storage of building materials, fixtures, machinery & equipment, and appliances awaiting installation.
- u) **Transit:** Coverage for property that will be installed at the property, up to the replacement cost value for any one conveyance.
- v) **Personal Property of Others:** Coverage to be provided for property which the insured maybe liable.
- w) **Mold:** Coverage is to be provided for mold resulting from a covered cause of loss.
- x) **Time Element** coverage is to be extended to include:
- (i) Utilities Interruption covering all utilities including water, sewer, steam, and telecommunications and must include overhead transmission lines
 - (ii) Civil Authority

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- (iii) Ingress/Egress loss caused by inability to access insured property due to a covered loss at surrounding properties
- y) **Permission to Occupy:** If any of the units will be turned over and occupied prior to completion, policy shall include a Permission for Partial Occupancy Endorsement.

2. Commercial General Liability (“CGL”) Insurance.

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates. A copy of the policy declarations page showing the Partnership as “Named Insured”, or policy endorsement showing the Partnership as “Additional Named Insured”, must be provided.
- c) **Additional Insureds:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt).
- d) **Limits:**
 - \$2,000,000 general aggregate per project
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) **Aggregate:** If the policy covers multiple locations, a per project aggregate limit is required and must be endorsed onto the policy, using ISO Endorsement CG 25 03, or its equivalent.
- f) **Deductible:** \$25,000 maximum per occurrence.
- g) **Pollution:** Pollution exclusion must specify that hostile fire or building heating equipment and products is not excluded.
- h) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 10, or its equivalent, for the Additional Insureds listed above. Coverage is to be extended to include completed operations under ISO Endorsement CG 20 37. Coverage is to apply on a primary noncontributory basis when coverage under other policies are available to the additional insureds, using CG 20 01, or its equivalent. If coverage is written on any other forms, copies must be attached.
- i) **Construction-Related Activities:** Coverage shall not limit liability arising from construction related activities.
- j) **Unacceptable Exclusions:**
 - (i) “Limitation of Coverage to Designated Premises or Project”, ISO CG 21 44 07 98, or its equivalent
 - (ii) Residential work exclusions or limitations, or subcontractor warranty provisions
 - (iii) Professional Liability exclusions are not to apply to bodily injury, personal injury, or property damage liability

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3. Vehicle Liability Insurance (if an automobile is used by the Partnership at the subject property)

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates.
- c) **Additional Insureds:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt). Coverage to apply on a primary and non-contributory basis when other insurance is available to the additional insureds.
- d) **Limit:** \$1,000,000 combined single limit per accident
- e) Insurance shall include coverage for owned, leased, hired, and non-owned vehicles used in the course of employment for the Named Insured.

4. Umbrella/Excess Liability Insurance

- a) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates.
- b) **Additional Insureds:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) Coverage must be no less broad than the underlying Commercial General Liability policy required above. If coverage is not follow-form, differences must be identified.
- d) **Limits:**

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3M per occurrence & aggregate

Mid-rise Apartment Building (4-10 stories):

\$5M per occurrence & aggregate

High-rise Apartment Building (11-20 stories):


\$10M per occurrence & aggregate

+ 20 stories


\$25M per occurrence & aggregate

Aggregates are to apply on a per project basis.

S12-17

 R4 CAPITAL FUNDING	R4 Capital Funding LLC Tax Exempt Bond Investment Standards	v4.4 March 2022
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f) **Environmental/Pollution Liability Insurance** *

**Required if R4 determines there are significant conditions located at the project site as outlined in the project Phase I/II reports.*

- a) **Named Insured:** Partnership and its respective employees, agents, subsidiaries, and affiliates
- b) **Additional Insureds:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Form:** Claims Made
- d) **Limit:** \$3,000,000 per claim and annual aggregate
- e) **Coverage:** Coverage provided for third party bodily injury and property damage, and cleanup costs for unknown conditions on site.

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INSURANCE REQUIREMENTS DURING CONSTRUCTION

PERIOD FOR

GENERAL CONTRACTOR¹

1. Commercial General Liability (“CGL”) Insurance.

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** General Contractor and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limits:**
 - \$2,000,000 general aggregate per project
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) **Terrorism Insurance:** Certified (TRIA) and non-certified is only required for projects that exceed \$20,000,000 in total development costs.
- f) **Aggregate:** If the policy covers multiple locations or projects/activities, a per project aggregate limit is required and must be endorsed onto the policy, using ISO Endorsement CG 25 03, or its equivalent.
- g) **Deductible:** \$25,000 maximum per occurrence.
- h) **Pollution:** Pollution exclusion must specify that hostile fire or building heating equipment and products is not excluded.
- i) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 10, or its equivalent, for the Additional Insureds listed above. Coverage is to be extended to include completed operations per ISO Endorsement CG 20 37. Coverage is to apply on a primary noncontributory basis when coverage under other policies are available to the additional insureds, using CG 20 01, or its equivalent. If coverage is written on any other forms, copies must be attached.
- j) **Construction-Related Activities:** Coverage shall not limit liability arising from

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construction related activities.

¹ Coverage requirements must be met by each prime contractor having a direct contract with the Partnership.



k) Unacceptable Exclusions:

- (i) “Limitation of Coverage to Designated Premises or Project”, ISO CG 21 44 07 98, or its equivalent
- (ii) Residential work exclusions or limitations, or subcontractor warranty provisions
- (iii) Professional Liability exclusions are not to apply to bodily injury, personal injury, or property damage liability

2. Vehicle Liability Insurance.

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** General Contractor and their respective employees, agents, subsidiaries, affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limit:** \$1,000,000 combined single limit per accident
- e) Insurance shall include coverage for **owned, leased, hired, and non-owned vehicles** used in the course of employment for the Named Insured.

3. Workers’ Compensation and Employer’s Liability Insurance.

- a) **Named Insured:** General Contractor
- b) **Certificate Holder:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

c) Limits:

Worker’s Compensation:

Per Statute

Employers Liability:


\$1,000,000 each accident bodily injury

\$1,000,000 policy limit bodily injury

\$1,000,000 per employee disease

Or minimum limits required by Umbrella

If the employer is domiciled in the states of North Dakota, Ohio, Wyoming, or Washington (commonly known as “Monopolistic Workers Compensation” states), proof of Worker

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Compensation coverage through the State Fund must be provided, and proof of Stop Gap Employer's Liability must be provided. Stop Gap Employer's Liability must be scheduled under the required Umbrella/Excess Liability coverage in section 4 below.

4. Umbrella/Excess Liability Insurance.

- a) **Named Insured:** General Contractor and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) Coverage must be no less broad than the underlying CGL, Auto Liability and Employers Liability policies required above. If coverage is not follow-form, differences must be identified.
- d) **Limits:**
 - Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:
\$3 Million Per Occurrence/\$3M Annual Aggregate.

Mid-rise Apartment Building (4-10 stories):

\$5 Million Per Occurrence/\$5M Annual Aggregate.

High-rise Apartment Building (11-20 stories):


\$10 Million Per Occurrence/\$10M Annual Aggregate

+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

5. Contractor’s Environmental Pollution Liability*

- a) **Named Insured:** General Contractor and all sub-contractors for pollution exposures.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Form:** Claims Made
- d) **Limit:** \$3,000,000 per pollution incident. Limit may be revised depending on severity of work.
- e) **Perils:** Coverage for asbestos, lead-based paint, construction, and remediation operations or as directed by R4 whether performed by contractor or sub-contractor or other third-party. Coverage is to apply to all bodily injury, property damage and environmental liability as well as cleanup cost for pollution conditions both on and migrating from the worksite.
- f) Coverage must be maintained for a minimum period of three years post remediation completion.
- g) **Improper Supervision:** of subcontractors is to be covered.

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** This insurance is required when the General Contractor or its Subcontractor is responsible for remediation.*



INSURANCE REQUIREMENTS DURING CONSTRUCTION

PERIOD FOR

ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS, PROJECT MANAGERS OR CONSULTANTS

1. Commercial General Liability (“CGL”) Insurance.

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Architect, Engineer, Construction Manager, Project Manager or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limits:**
 - \$2,000,000 general aggregate per project
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) General Liability coverage form must not exclude Third Party Bodily Injury/Property Damage under the Products/Completed operations hazard from the rendering or failure to render professional service.
- f) **Aggregate:** If the policy covers multiple locations, a per project aggregate limit is required and must be endorsed onto the policy, using ISO Endorsement CG 25 03, or its equivalent.
- g) **Deductible:** \$25,000 maximum per occurrence
- h) **Additional Interests’ coverage:** To be provided under ISO Endorsement CG 20 10, or its equivalent, for architects, engineers, or surveyors and for construction managers, project managers or consultants. Coverage is to apply on a primary noncontributory basis when coverage under other policies are available to the additional insureds, using CG 20 01, or its equivalent. If coverage is written on any other forms, copies must be attached.
- i) **Construction-Related Activities:** Coverage shall not limit liability arising from construction related activities.

j) Unacceptable Exclusions:

- (i) “Limitation of Coverage to Designated Premises or Project”, ISO CG 21 44 07 98, or its equivalent
- (ii) Residential work exclusions or limitations, or subcontractor warranty provisions
- (iii) Professional Liability exclusions are not to apply to bodily injury, personal injury, or property damage liability

2. Vehicle Liability Insurance.

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** Architect, Engineer, Construction Manager, Project Manager or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limit:** \$1,000,000 combined single limit per accident
- e) Insurance shall include coverage for **owned, leased, hired, and non-owned vehicles** used in the course of employment for the Named Insure

3. Workers’ Compensation and Employer’s Liability Insurance.

- a) **Named Insured:** Architect, Engineer, Construction Manager, Project Manager or Consultant
- b) **Certificate Holder:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

c) Limits:Worker’s Compensation:

Per Statute


Employers Liability:

\$1,000,000 each accident bodily injury

\$1,000,000 policy limit bodily injury

\$1,000,000 per employee disease

Or minimum limits required by Umbrella

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If the employer is domiciled in the states of North Dakota, Ohio, Wyoming, or Washington (commonly known as “Monopolistic Workers Compensation” states), proof of Worker Compensation coverage through the State Fund must be provided, and proof of Stop Gap Employer’s Liability must be provided. Stop Gap Employer’s Liability must be scheduled under the required Umbrella/Excess Liability coverage in section 4 below.

4. Umbrella/Excess Liability Insurance.

- a) **Named Insured:** Architect, Engineer, Construction Manager, Project Manager or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) Coverage must be no less broad than the underlying CGL, Auto Liability and Employers Liability policies required above. If coverage is not follow-form, differences must be identified.

d) Limits:

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3 Million Per Occurrence/\$3M Annual Aggregate.

Mid-rise Apartment Building (4-10 stories):

\$5 Million Per Occurrence/\$5M Annual Aggregate.

High-rise Apartment Building (11-20 stories):

\$10 Million Per Occurrence/\$10M Annual Aggregate


+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

Aggregates are to apply on a per project basis

5. Professional Liability/Errors & Omissions

- a) **Named Insured:** Architect, Engineer, Construction Manager, Project Manager or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- b) **Certificate Holder:** Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Limit:** \$1,000,000 per claim or 10% of construction contract, whichever is greater
- d) **Form:** Claims made
- e) **Policy Description of Work:** If work is different than the primary licensing or certificate (i.e., architect performing engineering work, etc. then policy description of “scope of work” must be provided).

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- f) Coverage must be maintained for a minimum period of three years post construction completion.

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INSURANCE REQUIREMENTS DURING CONSTRUCTION

PERIOD FOR


ENVIRONMENTAL REMEDIATION CONTRACTORS AND/OR CONSULTANTS

1. Commercial General Liability (“CGL”) Insurance.

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Environmental Remediation Contractor and/or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

d) Limits:

- \$2,000,000 general aggregate per project
- \$2,000,000 products-completed operations aggregate
- \$1,000,000 per occurrence bodily injury and property damage liability
- \$1,000,000 personal injury and advertising injury liability
- \$50,000 fire damage (per fire) to rented property
- \$5,000 medical payments
- e) **Aggregate:** If the policy covers multiple locations, a per project aggregate limit is required and must be endorsed onto the policy using ISO Endorsement CG 25 03, or its equivalent.
- f) **Deductible:** \$25,000 maximum per occurrence
- g) **Pollution:** Pollution exclusion must specify that hostile fire or building heating equipment and products is not excluded.
- h) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 10, or its equivalent, for the Additional Insureds listed above. Coverage is to be extended to include completed operations per ISO Endorsement CG 20 37. Coverage is to apply on a primary noncontributory basis when coverage under other policies are available to the additional insureds, using CG 20 01, or its equivalent. If coverage is written on any other forms, copies must be attached.
- i) **Unacceptable Exclusions:**
 - (i) “Limitation of Coverage to Designated Premises or Project”, ISO CG 21 44 07 98, or its equivalent

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- (ii) Residential work exclusions or limitations, or subcontractor warranty provisions
- (iii) Professional Liability exclusions are not to apply to bodily injury, personal injury, or property damage liability

2. Vehicle Liability Insurance.

- a) **Policy Form:** ISO Business Auto Form CA 00 01, or its equivalent
- b) **Named Insured:** Environmental Remediation Contractor and/or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limit:** \$1,000,000 combined single limit per accident
- e) Insurance shall include coverage for **owned, leased, hired, and non-owned vehicles** used in the course of employment for the Named Insured.

3. Workers’ Compensation and Employer’s Liability Insurance.

- a) **Named Insured:** Environmental Remediation Contractors or Consultants
- b) **Certificate Holder:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Limits:**

Worker’s Compensation:

Per Statute

Employers Liability:


\$1,000,000 each accident bodily injury

\$1,000,000 policy limit bodily injury

\$1,000,000 per employee disease

Or minimum limits required by Umbrella

If the employer is domiciled in the states of North Dakota, Ohio, Wyoming, or Washington (commonly known as “Monopolistic Workers Compensation” states, proof of Worker Compensation coverage through the State Fund must be provided, and proof of Stop Gap Employer’s Liability must be provided. Stop Gap Employer’s Liability must be scheduled under the required Umbrella/Excess Liability coverage in section 4 below.

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4. Umbrella/Excess Liability Insurance.

- a) **Named Insured:** Environmental Remediation Contractors or Consultants and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CFDebt)
- c) **Coverage:** Must be no less broad than the underlying CGL, Vehicle and Employers Liability policies required above. If coverage is not following form, differences must be identified.

d) Limits:

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3 Million Per Occurrence/\$3M Annual Aggregate.

Mid-rise Apartment Building (4-10 stories):

\$5 Million Per Occurrence/\$5M Annual Aggregate.

High-rise Apartment Building (11-20 stories):

\$10 Million Per Occurrence/\$10M Annual Aggregate


+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

Aggregates are to apply on a per project basis.


5. Contractor’s Environmental Pollution Liability

- a) **Named Insured:** Environmental Remediation Contractor and/or Consultant for pollution exposures.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CFDebt)
- c) **Form:** Claims Made
- d) **Limit:** \$3,000,000 per pollution incident. Limit may be revised depending on severity of work.
- e) **Perils:** Coverage for asbestos, lead-based paint, construction, and remediation operations or as directed by R4 whether performed by contractor or sub-contractor or other third-party. Coverage is to apply to all bodily injury, property damage and environmental liability as well as cleanup cost

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for pollution conditions both on and migrating from the worksite.


- f) Coverage must be maintained for a minimum period of three years post remediation completion.
- g) Improper Supervision of subcontractors is to be covered.

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6. Professional/Errors & Omissions Liability (If contractor is consulting as well as remediating).

- a) **Named Insured:** Environmental Remediation Contractor and/or Consultant and their respective employees, agents, subsidiaries, and affiliates.
- b) **Certificate Holder:** “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee” (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Limit:** \$1,000,000 per claim or 10% of construction contract, whichever is greater
- d) **Form:** Claims made
- e) **Scope of Work:** If work is different than the primary licensing or certificate (i.e., architect performing engineering work, etc. then policy description of “scope of work” must be provided).
- f) Coverage must be maintained for a minimum period of three years post work completion.

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PERMANENT POST CONSTRUCTION REQUIREMENTS

PERMANENT INSURANCE**REQUIREMENTS FOR****PARTNERSHIP****1. Property Insurance.**

The Partnership is to insure damage to property on the following minimum terms, coverage extensions and conditions:

a) **Policy Form:** All Risk

b) **Named Insured:** Partnership

c) Loss Payee:

For Equity – “Limited Partner, ISAOA” and R4 Capital LLC

For Debt – Fiscal Agent or Trustee (mortgagee with first priority mortgage lien) with a standard mortgagee or mortgage holder’s clause and loss payable clause in favor of, and in a form, acceptable to R4.

d) Limits:

(i) Building(s) (real property) is/are to be insured for 100% of Replacement Cost Value (“RCV”) including an Inflation Guard endorsement (if available).

(ii) Contents (personal property) is to be insured for full Replacement Cost

(iii) Business Interruption / Loss of Rents / Extra Expense – See section 1. v.


e) **Terrorism/TRIA:** Required for all projects with a replacement cost equal to or greater than \$20 million, and/or if located in a high-risk area. For projects with a replacement cost under \$20 million and not in a high- risk location, terrorism coverage is not mandatory.

f) **Perils:** Perils insured against shall be at least as broad as those included in Insurance Services Organization (“ISO”) Special Form (CP 10 30 10 00), or its equivalent.

g) **Blanket Insurance Coverage:** Any of the insurance coverages required hereunder may be provided by a “blanket” insurance policy affording protection to multiple locations owned, operated by, or affiliated with the Insureds or Additional Insureds, provided, however, that:

(i) Any such “blanket” policy’s All Risk limit must at all times be no less than the greater of the largest Total Insured Value (“TIV”) for any individual property covered by the blanket insurance policy limit or 10% of the aggregate TIV of the entire portfolio covered by the blanket insurance policy limit. The blanket policy shall make available to the Project on a “per-location” basis no less than the limit of protection, terms and conditions required hereunder as though the insurance were provided on a standalone basis; and

(ii) Additional requirements may apply for Windstorm, Flood, Earthquake, Ordinance or Law, Pollution and/or Boiler and Machinery coverages if also provided under a blanket

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insurance policy.

- (iii) R4 determines, in the exercise of its sole and absolute discretion, that the amount of such coverage is sufficient considering the other risks and the geographical spread of risk for the properties insured under the blanket policy. A copy of the most recent Schedule of Values or confirmation of values is required.

- h) **Deductible:** The maximum deductible per occurrence (other than National Flood Insurance Program (NFIP), windstorm and earthquake insurance) for property damage (All-Risk) insurance is:

<u>Total Project Value</u>	<u>Maximum Per Occurrence Deductible</u>
< \$10M	\$50,000
≥ \$10M	\$75,000

For a policy providing Blanket Insurance Limits:

One percent of the aggregate Replacement Cost of the covered properties, to a maximum deductible of \$250,000.

Waivers may be available at the sole discretion of R4 on a case-by-case basis.

- i) **Hail, Windstorm or Named Storm:** Coverage to apply subject to a maximum 5% deductible. Time element coverage is to be provided for a period of 12 months.
- j) **Wind Insurance:** If the All-Risk Property insurance policy excludes coverage for loss arising out of windstorm, a separate wind policy is acceptable. Coverage must insure the project at the full replacement cost and include business income and extra expense and loss of rents coverage (12 months). Additional requirements may apply if coverage is provided through a State Pool.
- k) **Boiler and machinery:** Coverage shall apply to all mechanical and electrical equipment, or any other objects typically insured under a boiler and machinery insurance policy, against direct physical damage, time element and extra expense. If coverage is provided under a separate boiler & machinery policy, a Joint Loss Agreement is required.
- l) **Transit:** Coverage for property in transit.
- m) **Personal Property of Others:** Coverage to be provided for property which the insured may be liable.
- n) **Mold:** Coverage is to be provided resulting from a covered cause of loss.
- o) **Water Damage:** Coverage is to be provided for property damage caused by back-up of sewers and drains and seepage of underground water mains.

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

For each building that is fully or partially located in a SFHA, R4 requires flood insurance equal to at least the following:

- (ix) The RCV of the first two floors of the building above grade, plus
- (x) The RCV of any floors below grade, plus
- (xi) 12 months of business income/rental value associated with the building, and
- (xii) The insurable value of owned contents or business personal property within the building.

*R4 does not require flood insurance for low-value, non-residential structures located in a SFHA. Such structures include maintenance buildings, storage sheds, pool houses, carports, laundry buildings, and gatehouses.

Coverage may be provided by the Builder's Risk insurer by endorsing the policy to include Flood as a covered peril, or by a National Flood Insurance Plan ("NFIP") policy in the amount equal to the lesser of the full insurable value or \$500,000 per building with a deductible not to exceed \$10,000 per building, with excess coverage provided for the difference (if any) between the maximum limit provided by NFIP policy(ies) and the full insurable value under the Builder's Risk/Property policy or a Difference in Conditions policy for the completed value of the project.


The following are the maximum deductibles allowed for flood insurance policies:

Building

- \$50,000 per building for a Project/Property with 10 buildings or less located in SFHAs
- \$500,000 per occurrence for a Project/Property with more than 10 buildings located in SFHAs

Business Income/Rental Value

- 15 days waiting period when expressed as a time-element deductible
- \$100,000 per occurrence when expressed as a monetary deductible

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NFIP

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

If the deductible for Flood under the Builder's Risk policy is equal to or exceeds \$500,000 per building per occurrence, R4 may require NFIP or DIC coverage to be placed as primary coverage.

If in the future any FEMA map changes occur, the follow will apply:

- (v) No change in the flood map, the Property remains in an SFHA
 If all or any of the buildings that are part of the Property were previously in an SFHA and remain in an SFHA, Flood insurance must remain in force.
- (vi) Change in the flood map, the Property is now in an SFHA
 If all or any of the buildings that were not previously in an SFHA are now in an SFHA, R4 requires the Property to be covered by the required amount of Flood insurance no later than 120 days after the effective date of the FEMA NFIP map change. Flood insurance may be obtained from NFIP and/or a private insurance company meeting R4 requirements.


Documentation required for coverage discontinuation

R4 will not require flood insurance coverage for a Property that is no longer in an SFHA upon receipt of any one of the following:

- (vii) Letter of Map Amendment (LOMA) from FEMA excluding the insurable improvements or the entire Property from the SFHA, or
- (viii) Letter of Map Revision (LOMR) from FEMA removing the community's SFHA designation, or
- (ix) Letter of Determination Review (LODR) concluding that the insurable improvements are not in the SFHA

R4 may require flood insurance for buildings located outside of a SFHA Zone A or V, if it determines that flood insurance is warranted, such as for buildings with a history of prior flooding, in proximity to a high hazard source of flooding, or subject to risk of storm surge flooding.

- p) **Earthquake Insurance:** A Level 1 due diligence seismic risk assessment for damageability, performed by a qualified engineer conforming to current ASTM standards, will be required for all Projects in seismic zones 3 and 4 and for any Projects located in the states of California, Oregon, Washington. The study shall determine the Probable Maximum Loss ("PML") assuming a 475-year return period event and 50 percent probability of non-exceedance, which shall be defined as the Scenario Expected Loss ("SEL"). R4 will decline investments in properties with an SEL of 30% or greater, using the above stated standard.


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Coverage must be obtained at 100% of the replacement cost, with a maximum deductible of 5%, for Projects in seismic zones 3 or 4 with PML results ranging from 20% through 29.99%. In addition, the General Partner will need to demonstrate that measures have been taken to mitigate potential loss to the Project both during the construction and the operational phases. **For Debt only** – subject to Freddie Mac requirements.

- q) **Coinurance** is to be waived, or the policy shall contain an agreed amount endorsement acceptable to R4.

- r) **Ordinance or Law** insurance consisting of coverage for:
 - (v) Demolition (10% of full replacement cost)
 - (vi) Increased Cost of Construction (10% of full replacement cost)
 - (vii) Contingent Coverage for the Operation of Building Laws insuring the value of the undamaged portion of the premises (full replacement cost)
 - (viii) "Increased Time to Rebuild" during the period when the policy's period of recovery has been extended because of requirements to bring the project into compliance with current building laws and codes.
- s) **Debris Removal** insurance is to be covered for a limit of 10% of the value of the property loss.
- t) **Pollution Clean-up and Removal** Coverage is to be provided under the property policy subject to a sublimit of no less than \$100,000.
- u) **Business Interruption / Loss of Rents / Extra Expense** insurance covering all income earned by the Partnership for the project, including rental income for a period of 12 months (for Debt – loans in excess of \$50MM require coverage limit of 18 months) (Time Element coverages) and extended period of indemnity endorsement for 90 days.
- v) **Time Element** coverage is to be extended to include:
 - (iv) Utilities Interruption covering all utilities including water, sewer, steam, and telecommunications and must include overhead transmission lines
 - (v) Civil Authority
 - (vi) Ingress/Egress loss caused by inability to access insured property due to a covered loss at surrounding properties
- w) **Localized Perils:** A Property located in an area prone to localized perils, such as sinkhole, mine subsidence, volcanic eruption, and avalanche, must have one or more insurance policies in place to cover these perils. Sinkholes are particularly common in Florida. Mine subsidence may occur in any location where there is, or has been, subterranean mining, but is particularly common in Pennsylvania, Ohio, Illinois, and Colorado.

Coverage must no less than the estimated Replacement Cost of the buildings affected by the localized peril, with deductibles no greater than those stated in section 1.h) above.

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2. **Commercial General Liability (“CGL”) Insurance.**

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates. *A copy of the policy declarations page showing the Partnership as “Named Insured”, or policy endorsement showing the Partnership as “Additional Named Insured” must be provided.*
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
 - d) **Limits:**
 - \$2,000,000 general aggregate per location
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) **Aggregate:** If the policy covers multiple locations, a per location aggregate limit is required and must be endorsed onto the policy, using ISO Endorsement CG 25 04, or its equivalent.
- f) **Deductible:** \$25,000 maximum per occurrence
- g) **Pollution:** Pollution exclusion must specify that hostile fire or building heating equipment and products is not excluded.
- h) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 26, or its equivalent, for the Additional Insureds listed above. If coverage is written on any other forms, copies must be attached.
- i) **Construction-Related Activities:** Coverage shall not limit liability arising from construction related activities.
- j) **Unacceptable Exclusions:**
 - (i) “Limitation of Coverage to Designated Premises or Project”, ISO CG 21 44 07 98, or its equivalent
 - (ii) Residential work exclusions or limitations, or subcontractor warranty provisions
 - (iii) Professional Liability exclusions are not to apply to bodily injury, personal injury, or property damage liability

3. Vehicle Liability Insurance (if an automobile is used by the Partnership at the subject property)

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates..
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limit:** \$1,000,000 combined single limit per accident

4. Umbrella/Excess Liability Insurance.

- a) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) Coverage must be no less broad than the underlying CGL, Auto Liability and Employers Liability policies required above. If coverage is not follow-form, differences must be identified.

d) Limits:

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3 Million Per Occurrence/\$3M Annual Aggregate.

Mid-rise Apartment Building (4-10 stories):

\$5 Million Per Occurrence/\$5M Annual Aggregate.

High-rise Apartment Building (11-20 stories):


\$10 Million Per Occurrence/\$10M Annual Aggregate

+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

Aggregates are to apply on a per location basis

NOTE: Additional limits may apply in situations where R4 is providing debt to multiple projects.

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5. **Environmental/Pollution Liability Insurance** *

**Required if R4 determines there are significant conditions located at the property site as outlined in the project Phase I/II reports.*

- a) **Named Insured:** Partnership, and its respective employees, agents, subsidiaries and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Form:** Claims Made
- d) **Limit:** \$3,000,000 per claim and annual aggregate
- e) **Coverage:** Coverage provided for third party bodily injury and property damage, and cleanup costs for unknown conditions on site.

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PERMANENT INSURANCE REQUIREMENTS**(Including “in-place”****rehab) FOR****PROPERTY MANAGERS****1. Commercial General Liability (“CGL”) Insurance.**

- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Property Manager and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
 - d) **Limits:**
 - \$2,000,000 general aggregate per location
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) **Aggregate:** If the policy covers multiple locations, a per location aggregate limit is required and must be endorsed onto the policy, using ISO Endorsement CG 25 04, or its equivalent.
- f) **Deductible:** \$25,000 maximum per occurrence
- g) **Pollution:** Pollution exclusion must specify that hostile fire or building heating equipment and products is not excluded.
- h) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 26, or its equivalent, for the Additional Insureds listed above. If coverage is written on any other forms, copies must be attached.

2. Vehicle Liability Insurance.

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** Property Manager and their respective employees, agents, subsidiaries, affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC

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(for R4CFDebt)

- d) **Limit:** \$1,000,000 combined single limit per accident
- e) **Form:** ISO Business Auto form CA 00 01, or its equivalent
- f) Insurance shall include coverage for **owned, leased, hired, and non-owned vehicles** used in the course of employment for the Named Insured.

3. Workers' Compensation and Employer's Liability Insurance.

- a) **Named Insured:** Property Manager
- b) **Certificate Holder:** "Limited Partner, ISAOA" and R4 Capital LLC (for R4 Equity) and "Fiscal Agent or Trustee" (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

c) Limits:

Worker's Compensation:

Per Statute

Employers Liability:

\$1,000,000 each accident bodily injury

\$1,000,000 policy limit bodily injury

\$1,000,000 per employee disease

Or minimum limits required by Umbrella

If the employer is domiciled in the states of North Dakota, Ohio, Wyoming, or Washington (commonly known as "Monopolistic Workers Compensation" states), proof of Worker Compensation coverage through the State Fund must be provided, and proof of Stop Gap Employer's Liability must be provided. Stop Gap Employer's Liability must be scheduled under the required Umbrella/Excess Liability coverage in section 4 below.

4. Umbrella/Excess Liability Insurance.

- a) **Named Insured:** Property Manager and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** "Partnership", "General Partner", "Limited Partner, ISAOA" and R4 Capital LLC (for R4 Equity) and "Fiscal Agent or Trustee", R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Coverage:** Must be no less broad than the underlying CGL, Vehicle and Employers Liability policies required above. If coverage is not follow-form, differences must be identified.


d) Limits:

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3 Million Per Occurrence/\$3M Annual Aggregate.

Mid-rise Apartment Building (4-10 stories):

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\$5 Million Per Occurrence/\$5M Annual Aggregate.


High-rise Apartment Building (11-20 stories):

\$10 Million Per Occurrence/\$10M Annual Aggregate

+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

Aggregates are to apply on a per location basis

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5. Fidelity Bond (including in-place rehabs and properties in permanent insurance phase)

- a) **Named Insured:** Property Manager
- b) **Joint Loss Payee:** Partnership
- c) **Coverage:** is to be provided for loss of General Partner's and Limited Partner's money and securities resulting from dishonesty of Named Insured's employees.
- d) **Limit:** Amount equal to six months' gross rental income for the specific property undermanagement.

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**PERMANENT INSURANCE REQUIREMENTS
(Including “in-place” rehabs)**


SERVICES PROVIDERS OF SUPPORTIVE LIVING FACILITIES

1. Commercial General Liability (“CGL”) Insurance.


- a) **Policy Form:** An ISO-based occurrence form CGL policy (CG 00 01 or its equivalent) shall be used.
- b) **Named Insured:** Services Provider and their respective employees, agents, subsidiaries, and affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- d) **Limits:**
 - \$2,000,000 general aggregate per project
 - \$2,000,000 products-completed operations aggregate
 - \$1,000,000 per occurrence bodily injury and property damage liability
 - \$1,000,000 personal injury and advertising injury liability
 - \$50,000 fire damage (per fire) to rented property
 - \$5,000 medical payments
- e) **Aggregate:** If the policy covers multiple locations, a per Project aggregate limit is required and must be endorsed onto the policy, using a designated location endorsement, ISO CG 25 04, or its equivalent.
- f) **Deductible:** \$25,000 maximum per occurrence
- g) **Additional Interests coverage:** To be provided under ISO Endorsement CG 20 26, or its equivalent, for the Additional Insureds listed above. If coverage is written on any other forms, copies must be attached.

2. Vehicle Liability Insurance.

- a) **Policy Form:** ISO Business Auto form CA 00 01, or its equivalent
- b) **Named Insured:** Services Provider and their respective employees, agents, subsidiaries, affiliates.
- c) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

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- f) **Limit:** \$1,000,000 combined single limit per accident
- c) **Form:** ISO Business Auto form CA 00 01, or its equivalent
- d) Insurance shall include coverage for **owned, leased, hired, and non-owned vehicles** used in the course of employment for the Named Insured.

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3. **Workers' Compensation and Employer's Liability Insurance.**

- a) **Named Insured:** Services Provider
- b) **Certificate Holder:** "Limited Partner, ISAOA" and R4 Capital LLC (for R4 Equity) and "Fiscal Agent or Trustee" (as designated by R4CF), R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)

c) **Limits:**

Worker's Compensation:

Per Statute

Employers Liability:

\$1,000,000 each accident bodily injury

\$1,000,000 policy limit bodily injury

\$1,000,000 per employee disease

Or minimum limits required by Umbrella

If the employer is domiciled in the states of North Dakota, Ohio, Wyoming, or Washington (commonly known as "Monopolistic Workers Compensation" states), proof of Worker Compensation coverage through the State Fund must be provided, and proof of Stop Gap Employer's Liability must be provided. Stop Gap Employer's Liability must be scheduled under the required Umbrella/Excess Liability coverage in section 4 below.

4. **Umbrella/Excess Liability Insurance.**

- a) **Named Insured:** Services Provider and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** "Partnership", "General Partner", "Limited Partner, ISAOA" and R4 Capital LLC (for R4 Equity) and "Fiscal Agent or Trustee", R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) Coverage must be no less broad than the underlying CGL, Auto Liability and Employers Liability policies required above. If coverage is not follow form, differences must be identified.

d) **Limits:**

Garden Apts. 1-3 stories, Single Floor, & other non-elevator buildings:

\$3 Million Per Occurrence/\$3M Annual Aggregate.



**R4 CAPITAL
FUNDING**

**R4 Capital Funding LLC
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Mid-rise Apartment Building (4-10 stories):

\$5 Million Per Occurrence/\$5M Annual Aggregate.

High-rise Apartment Building (11-20 stories):

\$10 Million Per Occurrence/\$10M Annual Aggregate

+ 20 stories

\$25M Per Occurrence/\$25M Annual Aggregate

Aggregates are to apply on a per project basis

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5. Professional Liability/Errors & Omissions

- a) **Named Insured:** Services Provider (or Consultant) and their respective employees, agents, subsidiaries, and affiliates.
- b) **Additional Insureds:** “Partnership”, “General Partner”, “Limited Partner, ISAOA” and R4 Capital LLC (for R4 Equity) and “Fiscal Agent or Trustee”, R4 Capital Funding LLC and R4 Servicer LLC (for R4CF Debt)
- c) **Limit:** \$1,000,000 per claim and annual aggregate
- d) **Form:** Claims made
- e) **Policy Description of Work:** If work is different than the delivery of social and / or human services and / or the entity’s license / certification (i.e., social or service workers performing typical human services work, etc. then policy description of “scope of work” must be provided)
- f) Coverage must be maintained for a minimum period of three years post contract completion.

6. Fidelity Bond – required for all entities that handle partnership funds (including in-place rehabs and properties in permanent insurance phase).

- a) **Named Insured:** Services Provider
- b) **Joint Loss Payee:** Partnership
- c) **Coverage:** is to be provided for loss of General Partner’s and Limited Partner’s money and securities resulting from dishonesty of Named Insured’s employees. In addition, coverage is to be provided for theft of resident’s property and facility property.
- d) **Limit:** Regarding money and securities, the amount is equal to six months’ gross rents and for theft of resident’s property and facility’s property, the amount is a minimum of \$100,000.

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*Confidential Information of R4 Capital
Funding LLC*

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SCHEDULE 13
EVIDENCE OF APPROVAL OF TAX ABATEMENT

[Not applicable.]