

**LOAN AGREEMENT**

between

**GOLDEN STATE FINANCE AUTHORITY**

and

**HARMONY BAKERSFIELD AR, L.P.**

relating to

\$3,730,000  
Senior Housing Revenue Bonds  
(Harmony Court Bakersfield Apartments Project)  
2016 Series E-1

and

\$1,997,000  
Subordinate Senior Housing Revenue Bonds  
(Harmony Court Bakersfield Apartments Project)  
2016 Series E-2

Dated as of September 1, 2016

---

---

All of the right, title and interest of the Golden State Finance Authority in and to this Loan Agreement (except for the Unassigned Issuer Rights) are being assigned to Wilmington Trust, National Association, as Trustee, as security for the above-referenced bonds pursuant to the Trust Indenture dated as of September 1, 2016 (the "Indenture").

# TABLE OF CONTENTS

	Page	
ARTICLE I	DEFINITION OF TERMS	2
Section 1.01.	Defined Terms .....	2
ARTICLE II	REPRESENTATIONS, WARRANTIES AND SPECIAL TAX COVENANTS	6
Section 2.01.	Express Warranties of the Issuer; Exclusion of Other Warranties .....	6
Section 2.02.	General Representations, Warranties and Covenants of Borrower .....	7
Section 2.03.	Acquisition, Improvement and Rehabilitation of Project .....	15
Section 2.04.	Completion of Project .....	17
Section 2.05.	Compliance With Regulatory Agreement and Tax Certificate .....	17
Section 2.06.	Maintenance of Project .....	17
Section 2.07.	Covenants Regarding the Tax-Exempt Status of the Bonds .....	18
Section 2.08.	Variations Between Agreements .....	19
Section 2.09.	Additional Financing .....	19
Section 2.10.	Modification of Tax Covenants .....	19
Section 2.11.	[Reserved] .....	20
ARTICLE III	THE BONDS; BOND PROCEEDS; THE INDENTURE	20
Section 3.01.	Issuance of Bonds .....	20
Section 3.02.	Bond Proceeds; Investments .....	20
Section 3.03.	[Reserved] .....	20
Section 3.04.	Indenture Approval and Requirements .....	20
ARTICLE IV	THE LOAN, PREPAYMENTS, ASSIGNMENTS	21
Section 4.01.	Loan by the Issuer .....	21
Section 4.02.	Loan and Other Payments .....	23
Section 4.03.	[Reserved] .....	24
Section 4.04.	Prepayment Generally .....	24
Section 4.05.	Optional Prepayment of Loan; Concurrent Bond Redemption .....	25
Section 4.06.	Mandatory Prepayment of Loan .....	25
Section 4.07.	Amounts Required for Prepayment .....	25
Section 4.08.	[Reserved] .....	26
Section 4.09.	[Reserved] .....	26
Section 4.10.	Assignments to Trustee .....	26
Section 4.11.	Trustee Fee .....	26
Section 4.12.	Usury .....	26
Section 4.13.	Payment of Fees .....	27
Section 4.14.	Right to Purchase Bonds in Lieu of Redemption .....	28
ARTICLE V	THE PROJECT	29
Section 5.01.	Payment of Project Costs .....	29
Section 5.02.	Permits and Licenses .....	29
Section 5.03.	Payment for Extraordinary Services .....	29
Section 5.04.	Damage or Destruction or Condemnation .....	29
Section 5.05.	Financial Monitor .....	30
Section 5.06.	Management of Project .....	30
Section 5.07.	Draws on Project Fund .....	30
Section 5.08.	Application of Project Revenues .....	30

Section 5.09.	Reporting Requirements .....	31
Section 5.10.	Operating Budget .....	32
Section 5.11.	[Reserved] .....	33
Section 5.12.	[Reserved] .....	33
Section 5.13.	Taxes, Assessments and Other Charges.....	33
Section 5.14.	Project Insurance.....	33
Section 5.15.	Successor Servicer .....	36
Section 5.16.	Project Condition Report; Alterations to Project .....	36
ARTICLE VI	INDEMNIFICATION .....	36
Section 6.01.	Indemnification by Borrower.....	37
ARTICLE VII	EVENTS OF DEFAULTS AND REMEDIES .....	38
Section 7.01.	Events of Default Defined .....	39
Section 7.02.	Remedies on Default.....	41
Section 7.03.	Entry Upon Premises .....	42
Section 7.04.	Power of Attorney.....	42
Section 7.05.	Direct Disbursements Following Default .....	43
Section 7.06.	No Remedy Exclusive.....	44
Section 7.07.	Agreement to Pay Fees and Expenses of Counsel .....	44
Section 7.08.	Waiver; No Additional Waiver Implied by One Waiver; Consents to Waivers .....	45
Section 7.09.	Remedies Subject to Applicable Law .....	45
Section 7.10.	Cure by Investor Limited Partner .....	45
Section 7.11.	Significant Bondholder's Right To Perform the Obligations .....	45
ARTICLE VIII	MISCELLANEOUS .....	46
Section 8.01.	Amounts Remaining in Funds and Accounts.....	46
Section 8.02.	Non-Liability of Issuer; Issuer May Rely .....	46
Section 8.03.	Amendment of Agreement.....	48
Section 8.04.	Security Advice Waiver .....	48
Section 8.05.	Payment.....	48
Section 8.06.	Counterparts.....	48
Section 8.07.	Severability .....	48
Section 8.08.	Term of Agreement; Time of the Essence .....	48
Section 8.09.	Notice of Changes in Fact.....	49
Section 8.10.	Notices .....	49
Section 8.11.	Debtor-Creditor Relationship.....	49
Section 8.12.	Nonrecourse, Limited Recourse and Recourse Provisions of Loan .....	49
Section 8.13.	Applicable Law .....	51
Section 8.14.	Further Assurances and Corrective Instruments .....	51
Section 8.15.	Electronic Transactions.....	52
Section 8.16.	USA Patriot Act .....	52
Section 8.17.	No Trial by Jury .....	52
Section 8.18.	California Judicial Reference Agreement.....	52
Section 8.19.	Waiver of Personal Liability.....	53

EXHIBIT A-1 FORM OF SERIES E-1 NOTE  
EXHIBIT A-2 FORM OF SERIES E-2 NOTE

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “Agreement” or this “Loan Agreement”) is made and entered into as of September 1, 2016, by and between the **GOLDEN STATE FINANCE AUTHORITY**, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “Issuer”), and **HARMONY BAKERSFIELD AR, L.P.**, a California limited partnership (together with its permitted successors and assigns the “Borrower”).

### RECITALS

**WHEREAS**, the Borrower has requested the assistance of the Issuer to finance the acquisition, rehabilitation, improvement, and equipping of a senior housing facility known as Harmony Court Apartments (as more particularly described herein, the “Project”), located in the City of Bakersfield, County of Kern, California; and

**WHEREAS**, the Issuer is authorized by the provisions of Chapter 5 of Division 7 of Title 1 of the California Government Code together with the provisions of Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended (the “Act”) to issue one or more series of its revenue bonds and to loan the proceeds thereof to finance the acquisition, rehabilitation, improvement, and equipping of a multifamily housing facility for use as rental housing; and

**WHEREAS**, the Borrower has requested the Issuer to issue revenue bonds designated as Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 in the principal amount of \$3,730,000 (the “Series E-1 Bonds”) and Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 in the principal amount of \$1,997,000 (the “Series E-2 Bonds,” and together with the Series E-1 Bonds, the “Bonds”); and

**WHEREAS**, the Bonds are being issued and delivered simultaneously to the Initial Purchaser on the Closing Date, but the Series E-2 Bonds (the “Subordinate Bonds”) will be issued on a subordinate lien basis to the Series E-1 Bonds (the “Senior Bonds”); and

**WHEREAS**, the Issuer has agreed to issue the Bonds and to use the proceeds thereof to make a loan (the “Loan”) to the Borrower and the Borrower has agreed to (a) apply the proceeds of the Loan to fund a portion of the costs of the acquisition, rehabilitation, improvement and equipping of the Project and certain other permitted uses, (b) make payments of principal and interest on the Notes (hereinafter defined) which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when due (whether at maturity, by redemption, acceleration, upon tender for purchase or otherwise), and (c) observe the other covenants and agreements and make the other payments set forth herein); and

**WHEREAS**, as evidence of its repayment obligations under this Loan Agreement, the Borrower will execute and deliver its promissory notes for the Series E-1 Bonds (the “Series E-1 Note”) and the Series E-2 Bonds (the “Series E-2 Note”), and together with the Series E-1 Note, the “Notes”); and

**WHEREAS**, the Series E-1 Bonds issued under the Indenture will be secured by an assignment and pledge of all right, title and interest of the Issuer in and to this Agreement and the Series E-1 Note and the Senior Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of September 1, 2016 from the Borrower to the Issuer (the “Senior Deed of Trust”) and delivered on the Closing Date, such assignment and pledge being on a senior lien basis to the Series E-2 Bonds, the Series E-2 Note and the Subordinate Deed of Trust (defined herein); and

**WHEREAS**, the Series E-2 Bonds issued under the Indenture will be secured by an assignment and pledge of all right, title and interest of the Issuer in and to this Agreement, the Series E-2 Note and the Subordinate Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of September 1, 2016 from the Borrower to the Issuer (the “Subordinate Deed of Trust”) and delivered on the Closing Date, such assignment and pledge being on a subordinate lien basis on the Closing Date to the Series E-1 Bonds, the Series E-1 Note, and the Senior Deed of Trust; and

**WHEREAS**, the Issuer and the Borrower desire to enter into this Agreement to evidence the Loan when made pursuant to the Act; and

**NOW, THEREFORE**, the Issuer and the Borrower, each in consideration of the representations, covenants and agreements of the other as set forth herein, mutually represent, covenant and agree as follows, to wit:

## **ARTICLE I DEFINITION OF TERMS**

**Section 1.01. Defined Terms.** The following are defined terms under this Agreement and shall for all purposes hereof have the meanings herein specified, unless the context clearly otherwise requires. In addition, terms used herein and not otherwise defined herein shall have the meaning specified in the Indenture.

“*Administrative General Partner*” means HCHP Affordable Multi-Family, LLC, a California limited liability company.

“*Authorized Representative*” means initially Michael A. Costa or Robert W. Tetrault on behalf of the Administrative General Partner and Graham Espley-Jones on behalf of the Managing General Partner, or any other person at the time designated to act on behalf of the Borrower by a written certificate furnished to the Issuer, the Trustee, the Servicer and the Financial Monitor containing the specimen signature of such person, which certificate may designate an alternate or alternates and may designate different Authorized Representatives to act for the Borrower with respect to different sections of this Agreement and the Indenture.

“*Bond Documents*” has the meaning assigned to such term in the Indenture.

“*Borrower Related Persons*” shall have the meaning given to such term in Section 8.11.

“*Certificate of Completion*” means the certificate delivered by the Borrower to the Trustee, the Servicer, the Financial Monitor, and the Issuer pursuant to Section 2.04, indicating the Project Completion Date.

“*City*” means the City of Bakersfield, California.

“*Counsel to the Trustee*” means an attorney at law or firm of attorneys at law selected by the Trustee as its counsel.

“*County*” means Kern County, California.

“*Event of Default*” means the occurrence of any of the events described in Section 7.01.

“*Financing Statements*” means the UCC-1 or equivalent statements to be filed with the appropriate offices for the perfection of a security interest in the Project.

“*Fiscal Year*” means the Fiscal Year of the Borrower from time to time, initially January 1 through December 31.

“*General Partner*” means, collectively, Administrative General Partner and Managing General Partner.

“*Guaranty*” means the Guaranty of Completion and Repayment Obligations entered into by the Guarantor.

“*Guarantor(s)*” means Highridge Costa Housing Partners, LLC, a Delaware limited liability company.

“*Investor Limited Partner*” means TCP II EP, L.P., a California limited partnership.

“*Issuer’s Agents*,” “*Issuer’s agents*” and words of similar import and meaning means the Issuer and any elected or appointed official, director, member, employee, representative or agent of the Issuer.

“*Limited Partnership Agreement*” and “*Partnership Agreement*” means that certain Amended and Restated Agreement of Limited Partnership of the Borrower dated as of September \_\_, 2016, among the General Partners and the Limited Partner, as may be amended, supplemented and restated from time to time.

“*Managing General Partner*” means WCH Affordable XXI, LLC, a California limited liability company.

“*Net Proceeds*” shall have the meaning set forth in the Tax Certificate.

“*Operating Budget*” means the operating budget for the Project prepared and delivered in accordance with Section 5.10.

“*Permitted Encumbrances*” means, as of any particular time: (a) liens for ad valorem taxes and special assessments not then delinquent; (b) the Mortgage and any security interests or

other liens created thereby; (c) utility, access and other easements and rights of way, mineral rights, restrictions and other exceptions that appear as exceptions in the Title Insurance that are granted pursuant to the terms of the Mortgage, or that are approved by the Significant Bondholder; (d) the Regulatory Agreement; (e) leases of the Project subject to and as contemplated by the Mortgage and complying with the Regulatory Agreement; (f) Seller Deed of Trust; (g) the Issuer Deed of Trust; and (h) claims being contested by the Borrower in good faith in accordance with terms of the Loan Documents.

“*Project Completion Date*” shall have the meaning given to such term in the Indenture.

“*Property Management Agreement*” means collectively, those agreements among the Borrower, Agent and Manager regarding the management of the Project.

“*Related Party*” means a related person within the meaning of Section 1.148-1(b) and 1.150-1(b) of the Regulations.

“*Seller*” means Bakersfield Affordable Senior Housing, L.P., a California limited partnership.

“*Seller Deed of Trust*” means the subordinate (third lien) deed of trust given by the Borrower for the benefit of the Seller in connection with the Seller Loan.

“*Seller Loan*” means the \$\_\_\_\_\_ subordinate loan made by the Seller to the Borrower in connection with the acquisition of the Project.

“*Seller Loan Documents*” means the Seller Loan Subordination Agreement, Seller Note, Seller Deed of Trust and all other documents and instruments evidencing the Seller Loan, all as from time to time amended, modified or supplemented.

“*Seller Loan Subordination Agreement*” means the Subordination Agreement among Borrower, Initial Purchaser and Seller with respect to the Seller Loan.

“*Seller Note*” means the promissory note evidencing Borrower’s repayment obligations in respect of the Seller Loan.

“*State*” means the State of California.

“*Stated Maturity*,” when used with respect to the Loan or the Bonds or any installment of interest thereon, shall mean any date specified in this Loan Agreement or the Bonds as a fixed date on which the principal of the Loan or the Bonds or a portion thereof or such installment of interest is due and payable.

“*Subordinate Lender(s)*” means, the Seller with respect to the Seller Loan, and the foregoing is a “Subordinate Lender.”

“*Subordinate Loan(s)*” means, collectively, the Seller Loan and any other subordinate loan incurred, assigned or assumed with the prior written consent of the Significant Bondholder, it being understood, acknowledged and agreed that Borrower shall not be permitted to incur,

assume or guaranty any parity or senior indebtedness of any nature or kind. Each of the foregoing is a “Subordinate Loan.”

“*Subordinate Loan Documents*” means, collectively, the Seller Loan Documents and any loan or grant documents to which the Borrower is a party or to which the Project or any portion thereof or any rent or revenues therefrom is subject, each as approved by and in form and substance satisfactory to Significant Bondholder and its counsel.

“*Substantial User*” means a “substantial user” within the meaning of Section 147(a) of the Code.

“*Title Insurance*” means a title insurance policy(s) or an acceptable marked-up commitment therefor issued by Fidelity National Title Insurance Company, in the aggregate amount of the Loan insuring (a) the Trustee (for the benefit of the Owners of the Series E-1 Bonds) as the holder of a valid first priority lien in regard to the Senior Bonds and (b) the Trustee (for the proportionate benefit of the Owners of the Series E-2 Bonds) a valid subordinate second lien in regard to the Subordinate Bonds, each covering the Project as created under the Mortgage, and reflecting that the Borrower holds fee simple title to the Project.

“*Trustee*” means Wilmington Trust, National Association.

“*Unassigned Issuer Rights*” shall mean the following:

- (a) All of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification rights of the Issuer;
- (b) All rights of the Issuer to receive the Issuer’s fees and any rebate amount;
- (c) All rights of the Issuer to receive notices, reports and other statements and to make any determination and to grant any approval or consent to anything in the Indenture, the Loan Agreement, and the Regulatory Agreement requiring the determination, consent or approval of the Issuer;
- (d) All rights of the Issuer of access and to enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Regulatory Agreement and the Tax Certificate;
- (e) Any and all rights, remedies and limitations of liability of the Issuer set forth in the Indenture, the Loan Agreement, the Regulatory Agreement and the Tax Certificate regarding (i) the negotiability, registration and transfer of the Bonds, (ii) the loss or destruction of the Bonds, (iii) the limited liability of the Issuer as provided in the Act, the Indenture, the Loan Agreement, the Regulatory Agreement and the Tax Certificate, (iv) the maintenance of insurance by the Borrower, (v) no liability of the Issuer to third parties, and (vi) no warranties of suitability or merchantability by the Issuer;

(f) All rights of the Issuer in connection with any amendment to or modification of the Indenture, this Loan Agreement, the Regulatory Agreement and the Tax Certificate; and

(g) Any and all limitations of the Issuer's liability and the Issuer's disclaimers of warranties set forth in the Indenture, the Regulatory Agreement, the Tax Certificate or this Loan Agreement, and the Issuer's right to inspect and audit the books, records and permits of the Borrower and the Project.

## **ARTICLE II REPRESENTATIONS, WARRANTIES AND SPECIAL TAX COVENANTS**

### **Section 2.01. Express Warranties of the Issuer; Exclusion of Other Warranties.**

The Issuer makes the following representations and warranties as the basis for the undertakings on the part of the Borrower herein contained:

(a) The Issuer is a joint exercise of powers agency duly organized and validly existing under the laws of the State of California;

(b) Pursuant to a resolution adopted by the governing body of the Issuer, the Issuer has authorized the execution and delivery of the Bonds, the Indenture and the other Bond Documents to which it is a party, and the performance by the Issuer of all of its obligations hereunder and under the other Bond Documents to which it is a party;

(c) The Issuer has the power under the Act to execute and deliver the Indenture, the Regulatory Agreement, the Tax Certificate and this Agreement, to enter into the transactions contemplated hereby and thereby including, without limitation, to authorize the issuance, delivery and sale of the Bonds and to carry out its obligations hereunder and thereunder, and by proper action has duly authorized the issuance, delivery and sale of the Bonds, the execution and delivery of the Indenture, the Regulatory Agreement, the Tax Certificate and this Agreement and the performance of all of the covenants and agreements of the Issuer contained in this Agreement, the Indenture, the Regulatory Agreement, the Tax Certificate and all other documents and agreements executed by the Issuer in connection with the issuance of the Bonds;

(d) The issuance of the Bonds will further the public purposes of the Act;

(e) The Issuer, to the extent within its power or control, will not take or permit, or omit to take or cause to be taken, any action which if taken or omitted, respectively, would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(f) To the best knowledge of the Issuer, there are no actions, suits or proceedings pending before any court of competent jurisdiction or any governmental authority for which the Issuer has received service of process or, to the knowledge of the Issuer, threatened against the Issuer with respect to, or affecting the ability of the Issuer to authorize, the issuance of the Bonds, or involving the validity or enforceability of the Bonds, this Agreement, the Indenture, or any of the Bond Documents, except actions

which, if adversely determined, would not materially impair the ability of the Issuer to perform its obligations under this Agreement, or of any of the other Bond Documents;

(g) THE ISSUER AND THE ISSUER'S AGENTS MAKE NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, THE HABITABILITY THEREOF, THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSES, THE DESIGN OR CONDITION THEREOF, THE WORKMANSHIP, QUALITY, OR CAPACITY THEREOF, LATENT DEFECTS THEREIN, THE VALUE THEREOF, FUTURE PERFORMANCE OR THE COMPLIANCE THEREOF WITH ANY LEGAL REQUIREMENTS;

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

(i) The Borrower recognizes that, because the components of the Project have been and are to be designated and selected by it, THE ISSUER AND THE ISSUER'S AGENTS HAVE NOT MADE AN INSPECTION OF THE PROJECT OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, AND THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE, WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, CAPACITY, OPERATION, MERCHANTABILITY, FITNESS OR SUITABILITY FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE BORROWER. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER PATENT OR LATENT, THE ISSUER AND THE ISSUER'S AGENTS SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROJECT OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT.

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

The Borrower hereby represents, warrants and agrees as follows, as to itself and the Project that:

(a) The Borrower is a limited partnership in good standing under the laws of the State of California, has full legal right, power and authority to enter into this Loan

Agreement and the Loan Documents, and to carry out and consummate all transactions contemplated hereby and by the Loan Documents, and by proper corporate action has duly authorized the execution, delivery and performance of this Loan Agreement and the Loan Documents;

(b) The persons executing this Loan Agreement and the Loan Documents on behalf of the Borrower are duly and properly in office and fully authorized to execute the same;

(c) This Loan Agreement and the Loan Documents have been duly authorized, executed and delivered by the Borrower;

(d) This Loan Agreement and the Loan Documents will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy;

(e) To the best of Borrower's knowledge, Project is of the type authorized and permitted by the Act;

(f) Once recorded, the Senior Deed of Trust creates a valid prior and senior lien for the Series E-1 Bonds, senior to the lien for the Series E-2 Bonds enforceable against the Mortgaged Property described and defined therein;

(g) Once recorded, the Subordinate Deed of Trust creates a valid subordinate and inferior second lien for the Series E-2 Bonds enforceable against the Mortgaged Property described and defined therein;

(h) There is no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other governmental authority, to the knowledge of the Borrower, after reasonable investigation, pending or threatened, against or affecting the Borrower or the assets, properties or operations of the Borrower which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, this Loan Agreement or the Loan Documents, or upon the financial condition, assets, properties or operations of the Borrower, and the Borrower is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the Loan Documents, or the financial condition, assets, properties or operations of the Borrower. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in

good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities;

(i) The Borrower will not take or permit to be taken any action which would have the effect, directly or indirectly, of subjecting interest on any of the Bonds to federal income taxation;

(j) The Borrower will use due diligence to cause the Project to be acquired, rehabilitated, equipped, and operated in accordance with the laws, rulings, regulations and ordinances of the State and the departments, agencies and political subdivisions thereof. The Borrower has obtained or will cause to be obtained all requisite approvals of the State and of other federal, State, regional and local governmental bodies for the acquisition, improvement, equipping and operation of the Project. The Borrower has acquired fee title to the Project;

(k) The execution and delivery of this Loan Agreement and the Loan Documents, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Certificate of Limited Partnership and Limited Partnership Agreement of the Borrower or, to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the Loan Documents, or the financial condition, assets, properties or operations of the Borrower;

(l) It has made no verbal or written contract or arrangement of any kind, the performance of which by any other party thereto would give rise to a lien on the Project of equal or greater priority than the liens created under the Mortgage;

(m) Any certificate signed by an Authorized Representative and delivered pursuant to the Indenture, this Agreement or any of the other Loan Documents shall be deemed a representation and warranty by the Borrower as to the statements made therein;

(n) Any financial statement of the Borrower which has been furnished by it to the Issuer or its agents, counsel or independent contractors, is complete and accurate in all material respects and presents fairly its financial condition as of its date in accordance with consistently applied accounting principles, and, since the date of such financial statement to the Closing Date, there has not been any material adverse change, financial

or otherwise, in its condition, and as of the Closing Date there has not been any material adverse transaction entered into by it other than transactions in the ordinary course of business as of the Closing Date, and it has no material contingent obligations which are not otherwise disclosed in its financial statement;

(o) To its knowledge, no condition exists with respect to it that would constitute an “Event of Default” under this Agreement or which, with the lapse of time, if not cured, or with the giving of notice or both, would become an “Event of Default” under this Agreement;

(p) It has obtained (or will timely obtain as required) such licenses, permits and approvals necessary for the ownership or conduct of its business, including the transactions contemplated by the Indenture, this Agreement and each of the other Loan Documents;

(q) No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except with respect to any state securities or “blue sky” laws) is necessary in connection with the execution and delivery of this Loan Agreement or the Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect;

(r) It shall notify the Trustee, the Significant Bondholder, the Servicer, the Financial Monitor and the Issuer immediately in writing of an Event of Default in the performance or observance of any covenant, agreement, representation, warranty or obligation of the Borrower set forth in this Agreement and any of the other Loan Documents to which it is a party;

(s) No information, statement or report furnished in writing to the Issuer or its agent, counsel or independent contractors, the Trustee, the Significant Bondholder, the Servicer and the Financial Monitor by it, the Borrower and the Borrower Related Persons in connection with this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby (including, without limitation, any information furnished by or on behalf of it in connection with the preparation of any limited offering memorandum or other offering memorandum) contains any material misstatement of fact or to the best of its knowledge after reasonable investigation omits to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading and the representations and warranties of it and the statements, information and descriptions contained in its closing certificates, as of the date of delivery of the Bonds, will be true, correct and complete in all material respects, will not contain any untrue statement of a material fact, and will not, to the best of its knowledge after reasonable investigation, omit to state a material fact necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in light of the circumstances under which they were made, not misleading, and the estimates and the assumptions contained in its closing

certificates, as of the date of delivery of the Bonds, will be reasonable and based on the best information available to it;

(t) It hereby covenants to comply with all requirements governing the Project as set forth in this Agreement, the Regulatory Agreement, the Tax Certificate, the Act and the Code, as may be amended from time to time and applicable to the Bonds;

(u) It (i) understands the nature and structure of the transactions relating to the financing of the Project, (ii) is familiar with the provisions of all of the Loan Documents and the Subordinate Loan Documents and any of the documents and instruments relating to such financing to which it is a party or of which it is a beneficiary, (iii) understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project and (iv) has not relied on the Issuer or the Issuer's agents for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Loan Agreement or any of the other Loan Documents or otherwise relied on the Issuer or the Issuer's agents in any manner (except as to the representations and covenants of the Issuer expressly set forth in this Loan Agreement). No counterclaim, offset, defense or right of rescission currently exists that can be asserted and maintained by it against the Issuer or the Issuer's agents;

(v) It will comply with all requirements of the Regulatory Agreement, and the representations set forth in the Regulatory Agreement pertaining to the Borrower and the Project are true and accurate. It will cause the dwelling units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases which comply with all applicable laws and the Regulatory Agreement;

(w) It has examined the Indenture and approves the form and substance of, and agrees to be bound by, to the extent therein provided, its terms. It shall, for the benefit of the Issuer, each Bondholder and the Trustee, do and perform all acts and things required or contemplated in the Indenture to be done or performed by it, including, without limitation, its obligations to make the payments to the Trustee required to be made by the Borrower pursuant to the Indenture;

(x) To the best of its knowledge, without any investigation or inquiry, no member, officer, agent or employee of the Issuer is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Bonds, the Loan Documents, or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Loan Documents;

(y) On the Closing Date, it will file and refile (or will cause such filing or re-filing) all Financing Statements necessary to maintain a perfected security interest in the Project on behalf of the Issuer or its assigns;

(z) It will maintain adequate levels of insurance for the Project in accordance with the requirements of Section 5.14;

(aa) It will deposit, and cause to be held in accordance with State law, all security deposits of Project tenants;

(bb) It represents, covenants and warrants that the proceeds of the Bonds shall be used or deemed used exclusively to pay costs which (i) are (a) capital expenditures (as defined in Section 1.150-1(a) of the Regulations) and (b) not made for the acquisition of existing property to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a “qualified residential rental project” within the meaning of Section 142(d) of the Code and that the proceeds of the Bonds shall be deemed allocated on a pro rata basis to the building in the Project and the land on which it is located so that the building and the land on which it is located will have been financed 50% or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code;

(cc) The Borrower (i) has no knowledge of any material liability that has been incurred or is expected to be incurred by the Borrower that is or remains unsatisfied for any taxes or penalties with respect to any employee benefit plan, within the meaning of Section 3(3) of ERISA, or any “plan,” within the meaning of Section 4975(e)(1) of the Internal Revenue Code or any other benefit plan (other than a multiemployer plan) maintained, contributed to, or required to be contributed to by the Borrower or by any entity that is under common control with the Borrower within the meaning of ERISA Section 4001(a)(14) (a “Plan”) or any plan that would be a Plan but for the fact that it is a multiemployer plan within the meaning of ERISA Section 3(37); and (ii) has made and shall continue to make when due all required contributions to all such Plans, if any. Each such Plan has been and will be administered in compliance with its terms and the applicable action shall be taken or fail to be taken that would result in the disqualification of loss of tax-exempt status of any such Plan intended to be qualified and/or tax-exempt;

(dd) The Borrower is not (1) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; (2) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (3) subject to any other federal or state law or regulation that purports to restrict or regulate its ability to borrow money;

(ee) All utilities, including, but not limited to, water, sewer treatment, gas, electricity, and telephone service, that are necessary for operation of the Project are available for the use of the Project as a senior housing facility;

(ff) It has examined and is familiar with all covenants, conditions, reservations, and other restrictions pertaining to the improvement, rehabilitation and use of the Project its intended purposes. All such restrictions have been complied with;

(gg) All roads necessary for the full use of the Project for its intended purposes have been completed and are available for use by Project tenants;

(hh) It shall promptly give notice in writing to the Servicer, the Financial Monitor and the Trustee of any litigation pending or threatened against it with a claim in excess of \$50,000;

(ii) It shall not create, incur, guaranty, assume or permit to exist any indebtedness or liabilities resulting from borrowings, loans or advances, whether secured or unsecured, matured or unmatured, liquidated or unliquidated, joint or several, except its liabilities under this Loan Agreement and the other Loan Documents, the Subordinate Loan Documents and the Partnership Agreement and agreements related thereto;

(jj) Except as otherwise permitted in the Loan Documents, until payment in full of the Loan, it will not, without the prior written consent of the Trustee, the Significant Bondholder, the Financial Monitor, and the Servicer:

(i) Change or alter in any material respect, except as specifically required by the terms of this Agreement, any document furnished to the Financial Monitor;

(ii) Execute any contract or become a party to any arrangement for the performance of work on the Project except with the subcontractors, or materialmen or contracts related to the operation or management of the Project; or

(iii) Except for contracts related to the operation or management of the Project, create, assume, incur, or suffer to exist any mortgage, pledge, lien, or encumbrance not now existing on its property, including the Project, except liens for taxes not delinquent or being contested in good faith, liens in connection with workers' compensation, unemployment insurance or social security obligations, mechanic's liens, workers' liens, other such liens arising in the ordinary course of business for obligations that are not discharged within thirty (30) days after it first receives notice of such lien or which are being contested in good faith in accordance with the Mortgage, and the security interest created or contemplated hereunder;

(kk) It shall, at its sole cost and expense: (i) execute and deliver to the Servicer, the Financial Monitor, and the Significant Bondholder such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Bonds, as the Servicer, the Financial Monitor, and the Significant Bondholder may reasonably require from time to time; (ii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Loan Documents and the Subordinate Loan Documents, as the Servicer, the Financial Monitor, or the Significant Bondholder shall reasonably require from time to time; and (iii) upon the Servicer's, Financial Monitor's, or Significant Bondholder's request therefor given from time to time after the occurrence of any Loan Agreement default for so long as such Loan Agreement default is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to

the Project, each such search to be conducted by search firms reasonably designated by the Servicer, the Financial Monitor, or the Significant Bondholder in each of the locations reasonably designated by the Servicer, the Financial Monitor, or the Significant Bondholder;

(ll) It shall pay over, redirect, assign or otherwise cause to be paid to the Trustee the proceeds of the Subordinate Loan(s) as and when received pursuant to the Subordinate Loan Documents;

(mm) It shall not, without the prior written consent of the Significant Bondholder (which consent shall not be unreasonably withheld, conditioned, or delayed by the Significant Bondholder), permit the change of any of the Borrower's general or limited partners or the sale or transfer (including the admission of new partners) of the Borrower's general or limited partnership interests, whether voluntarily, involuntarily, or otherwise, or the sale, conveyance, transfer, disposition, charging or encumbrance of the Borrower's general or limited partner's interest; provided, however, the following are permitted without the prior written consent of the Significant Bondholder: (1) transfers of the Borrower's limited partnership interests to any entity of which an affiliate of Highridge Costa Housing Partners, LLC (or its successor in interest) is the general partner, or managing member, or controlling shareholder, (2) subject to and provided that Borrower is in compliance with all terms, covenants, conditions and provisions under this Section 2.02(mm), transfers of the ownership interests of any entity which, directly or indirectly, owns or holds a partnership, membership, manager, shareholder, or other ownership interest in Borrower's limited partner or the partners, members, managers, shareholders or owners of Borrower's limited partner, (3) transfers of the Administrative General Partner's partnership interest in the Borrower to any entity which is an affiliate of Highridge Costa Housing Partners, LLC (or its successor in interest), or (4) removal and replacement of the Managing General Partner as permitted under the Limited Partnership Agreement; provided that, in all instances, the Borrower shall provide the Significant Bondholder at least ten (10) days written notice prior to admitting the so-called "upper tier" investor pursuant to an amendment to the Limited Partnership Agreement or otherwise and, in connection with any such transfer, the Borrower shall have caused the parties to be in full compliance with Section 2.02(nn)(6)(i) and/or (ii) below. Notwithstanding anything to the contrary contained herein, in connection with any transfer permitted under subparts (1), (2), (3) or (4) of this Section 2.02(mm) without the consent of Significant Bondholder and provided Borrower shall have provided Significant Bondholder with such documentation, in form and substance acceptable to Significant Bondholder, evidencing the transfer qualifies under such subparts (1), (2), (3) or (4), as applicable, and the parties are in compliance with Section 2.02(nn)(6)(i) and (ii) below, no transfer fees, processing fees, or other associated costs shall be due and payable by Borrower in connection therewith;

(nn) It shall not, without the prior written consent of the Significant Bondholder and Financial Monitor (which consent shall not be unreasonably withheld, conditioned or delayed), amend, supplement or restate, whether in whole or in part, the Limited Partnership Agreement other than amendments which (1) correct scrivener's errors; (2) make such agreement consistent with other provisions of the Loan Documents

as such may be modified; (3) bring such agreement into compliance with the requirements of the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee or any successor agency or Section 42 of the Internal Revenue Code of 1986, as amended and the provisions of Sections 103 and 142 of the Internal Revenue Code and the regulations promulgated thereunder; (4) comply with the decision of any court of competent jurisdiction; (5) vary the allocation of items of profit, loss, credit and deduction, the distribution of available cash or net cash flow; (6) effect changes in the Borrower's partners; provided that (i) with respect to general partners, such changes shall be the result of either (a) for cause removal in accordance with the Limited Partnership Agreement or (b) changes permitted without the consent of Significant Bondholder pursuant to (3) or (4) of Section 2.02(mm) immediately above, and be subject to the requirement that the replacement general partner(s) shall enter into such collateral assignments and grant such security interests (in form substantially similar as those originally entered into by the general partner being removed) as are requested by the Significant Bondholder so that the Significant Bondholder is able to maintain an equivalent secured position, and (ii) with respect to an Investor Limited Partner, notwithstanding any such changes, the initial Investor Limited Partner shall remain primarily obligated to make all capital contributions to the Borrower in accordance with and subject to the Borrower's Limited Partnership Agreement; provided further that any admission of a new general partner as described in (6)(i) of this paragraph shall not be unreasonably delayed as a result of the Significant Bondholder's efforts to obtain the documentation required thereby; and (7) make other changes which do not affect the enforceability of the Loan Documents, the liability of the signatories thereto or otherwise violate any provision of the Loan Documents;

(oo) It shall, no later than [October 1, 2017], provide to the Significant Bondholder, Financial Monitor and Servicer, evidence that it has obtained a real property tax exemption for the Project pursuant to Section 214(g) of the California Taxation and Revenue Code, or any successor statute thereto; and

(pp) It shall not, without the prior written consent of the Significant Bondholder and Financial Monitor (which consent shall not be unreasonably withheld, conditioned or delayed), amend, supplement or restate any of the Subordinate Loan Documents.

**Section 2.03. Acquisition, Improvement and Rehabilitation of Project.** The Borrower hereby represents, warrants, and agrees as follows:

(a) That it shall commence rehabilitation no later than thirty (30) days after the Closing Date and shall diligently and continuously proceed with such rehabilitation until completion and shall comply with all provisions of the Loan Documents and the Indenture regarding disbursements from the Project Fund;

(b) That it shall submit to the Trustee, the Significant Bondholder, and the Financial Monitor, not later than the first day of the month in which the disbursement is requested, a requisition in the form attached to the Indenture as *Exhibit D*, along with accompanying invoices, lien waivers and other documentation required by the Financial

Monitoring Agreement, which shall be reviewed by the Financial Monitor for confirmation that the requisitioned work is completed and in place;

(c) That all of the buildings constituting the Project will be rehabilitated as provided in the Financial Monitoring Agreement, and, at the time of rehabilitation, it will have complied and will continue to comply with its obligations under the documents executed by it in connection with the issuance of the Bonds, in each case unless waived in accordance with the terms of such documents;

(d) That if amounts on deposit in the Project Fund designated for the Project and available to be disbursed to it are not sufficient to pay the costs of such acquisition, rehabilitation and equipping, it shall pay such additional costs from its own funds or such other legal sources as are available to it;

(e) That it shall not be entitled to any reimbursement from the Issuer, the Trustee, the Servicer, the Financial Monitor, the Significant Bondholder or any Owner in respect of any such costs or to any diminution or abatement in the repayment of the Loan;

(f) That all directions of it as to investment of Bond proceeds will be in accordance with State law, the Indenture and the Tax Certificate, as applicable;

(g) Based on information available to it as of the date hereof, that the estimated costs of the Project have been determined in accordance with sound engineering and accounting principles and the estimated Project Completion Date and the period of usefulness of the Project supplied by it to the Issuer for approval and issuance of the Bonds were made in good faith and in its opinion, are fair, reasonable and realistic;

(h) That the cost of the acquisition, improvement, rehabilitation and equipping of the Project is greater than the amount of the Loan;

(i) That the Borrower will have fee simple title to the Project, subject to the Permitted Encumbrances, sufficient to carry out the purpose of this Agreement;

(j) That the Project will be rehabilitated and improved in such manner as to cause no violations of currently applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction of the Project, and all necessary utilities are available to the Project;

(k) That the Project is located entirely within the boundaries of Kern County, California;

(l) An ALTA Loan Policy, issued by Fidelity National Title Insurance Company (hereinafter referred to as the "Title Company") in a face amount not less than the principal amount of the Bonds (hereinafter referred to as the "Title Insurance Policy") shall be evidenced by a commitment or pro forma policy of insurance on or before the Closing Date. The Title Insurance Policy shall insure fee simple title in the aggregate to be in the Borrower and the Mortgage to be a valid, first lien on the Project with respect to the Senior Bonds and a valid, subordinate second lien on the Project with respect to the

Subordinate Bonds, all of the foregoing to be subject only to the Permitted Encumbrances. The Title Insurance Policy shall contain such endorsements (including, without limitation and if available in the State, usury, zoning, pending disbursements, mechanic's liens and specific access) and such other coverage as the Financial Monitor may require;

(m) All building permits and any special permits or licenses necessary for improvement, rehabilitation of the Project, which permits shall be issued on the basis of the budget and specifications approved by the Servicer shall be furnished to and collaterally assigned to the Trustee.

**Section 2.04. Completion of Project.** The Borrower shall complete the Project no later than the Project Completion Date. As soon as practicable after the Project Completion Date the Borrower shall furnish to the Issuer, the Servicer, the Financial Monitor, and the Trustee a Certificate of Completion containing the following:

(a) The Borrower's statement that all material terms and conditions under the Financial Monitoring Agreement have been satisfied or waived in writing by the Financial Monitor and all documents required thereunder have been delivered;

(b) The Borrower's statement that the Project has been completed and is ready and available for occupancy as of a specified date and the evidence of completion required pursuant to the Financial Monitoring Agreement;

(c) The Borrower's statement of the aggregate amount disbursed from the Project Fund upon the Project Completion Date and the additional amount, if any, expected to be required from the Project Fund to pay the remaining Project Costs;

(d) The Borrower's certification that all of the amounts disbursed from the Project Fund will be or have been applied to pay or reimburse Project Costs and that none of the amounts disbursed from the Project Fund for the Bonds will be applied to pay or reimburse costs or expenses other than Project Costs; and

(e) The Borrower's certification that 97% of the Net Proceeds of the Bonds were applied to pay or reimburse Qualified Project Costs; that not more than 3% of the Net Proceeds of the Bonds were applied to pay or reimburse Project Costs other than Qualified Project Costs; and that no more than 2% of the proceeds of the Bonds (face amount of the Bonds, less original issue discount, if any) were used to pay Costs of Issuance.

**Section 2.05. Compliance With Regulatory Agreement and Tax Certificate.** The Borrower covenants to comply at all times with the requirements of the Regulatory Agreement and the Tax Certificate.

**Section 2.06. Maintenance of Project.**

(a) After completion of the Project, the Borrower will keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other

improvements of any kind now or hereafter erected as part of the Project in good condition and repair (normal wear and tear excepted), will not commit or suffer any waste, and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Project or any part thereof (other than regular and normal operations) or which would or could result in the cancellation of any insurance policy carried with respect to the Project.

(b) The Borrower will not remove, demolish or alter the structural character of any improvement (other than as part of the initial improvement and rehabilitation of the Project or any repair or restoration following a fire or other casualty) located on the Project without the written consent of the Significant Bondholder, if any, and the Financial Monitor.

(c) If the Project or any part thereof incurs any loss or damage in excess of \$50,000 by fire, condemnation or other cause, the Borrower will give immediate written notice thereof to the Issuer (if requested), the Financial Monitor, the Trustee and the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative, which notice shall describe the damage or loss, estimated time to restore or repair the Project, the estimated cost of such repair or replacement and the source of amounts needed to repair or replace the Project.

(d) The Issuer, the Servicer, the Financial Monitor, and the Significant Bondholder or their representatives are hereby authorized to enter upon and inspect the Project at any time during normal business hours upon reasonable prior written notice and subject to the occupancy rights of tenants and without unreasonably interfering in the rehabilitation of the Project; provided that, no notice shall be required during any period while an uncured Event of Default shall exist.

(e) The Borrower will promptly and materially comply with all valid and binding present and future laws, ordinances, rules and regulations of any governmental authority binding upon the Project or any part thereof.

(f) The Borrower will make the repairs, if any, described in the Project Condition Report within a reasonable time after the delivery of the Property Condition Report.

**Section 2.07. Covenants Regarding the Tax-Exempt Status of the Bonds.** The Borrower covenants that it will comply with the requirements and conditions of the Tax Certificate and the Regulatory Agreement. Without limiting the foregoing and notwithstanding anything to the contrary in this Agreement, the Borrower will not take, or permit to be taken on its behalf, any action which would cause interest on the Bonds to be included in gross income for federal income tax purposes and will take such reasonable action as may be necessary to continue such exclusion from gross income, including, without limitation, the following:

(a) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, but not limited to, the filing of all reports and certifications required by the Regulatory Agreement);

(b) the timely payment to the United States of America of any rebate amount required to be paid by the Issuer or the Borrower pursuant to Section 148(f) of the Code and the U.S. Treasury regulations under Section 148; and

(c) the use of the proceeds of the Bonds as provided in the Tax Certificate.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Loan Agreement and made a part hereof.

The Borrower irrevocably authorizes and directs the Issuer, the Trustee and any other agent designated by the Issuer to make payment of such amounts from funds of the Borrower, if any, held by the Issuer, the Trustee, or any agent of the Issuer or the Trustee. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148.1(b), it (or any related person contemplated by such regulations) will not purchase Bonds in an amount related to the amount of the Loan.

**Section 2.08. Variations Between Agreements.** Variations between requirements imposed on the Borrower by this Agreement and the Indenture and requirements imposed on the Borrower by the Regulatory Agreement, the Tax Certificate or the Mortgage shall not excuse or relieve the Borrower from full performance of this Agreement, the Indenture, the Mortgage, the Regulatory Agreement and the Tax Certificate. To the extent there are inconsistencies among said documents, the Regulatory Agreement and the Tax Certificate, as applicable, shall control with respect to maintaining the exclusion from gross income of interest on the Bonds, and the Indenture shall control with respect to all other matters.

**Section 2.09. Additional Financing.** The Borrower hereby covenants and agrees that, except for Permitted Encumbrances and except as otherwise contemplated in the Mortgage, without the prior written consent of the Significant Bondholder, if any, it shall not create, incur, assume or guaranty any financing secured by the Project or other financings except (i) the transactions contemplated in the Subordinate Loan Documents, (ii) the Permitted Encumbrances and as otherwise contemplated in the Mortgage, and (iii) unsecured loans or advances by the Borrower's partners as contemplated or permitted by the Partnership Agreement.

**Section 2.10. Modification of Tax Covenants.**

(a) Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Agreement may not be amended, changed, modified, altered or terminated except as permitted herein and by the Indenture and with the written consent of the Issuer. Anything contained in this Agreement or the Indenture to the contrary notwithstanding, the Issuer and the Borrower hereby agree to amend this Agreement and, if appropriate, the Indenture, the Regulatory Agreement and the Tax Certificate, to the extent required, in the opinion of Bond Counsel, in order for interest on

the Bonds to remain excludable from gross income for federal income tax purposes. The party requesting such amendment shall notify the other parties to this Agreement of the proposed amendment and send a copy of such requested amendment to Bond Counsel. After review of such proposed amendment, Bond Counsel shall render to the Issuer and the Trustee an opinion as to the effect of such proposed amendment upon the includability of interest on the Bonds in gross income for federal income tax purposes. The Borrower shall pay all reasonable and necessary fees and expenses incurred with respect to such amendment. The Borrower, the Issuer and where applicable, the Trustee per written instructions from the Issuer shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including, without limitation, an amendment to the Regulatory Agreement or the Tax Certificate, necessary to effectuate the intent of this Section, and the Borrower and the Issuer hereby appoint the Trustee as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Issuer, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Bond Counsel) if the Borrower or the Issuer defaults in the performance of its obligation under this Section; provided, however, that the Trustee shall take no action under this Section without first notifying the Borrower or the Issuer, as is applicable, of its intention to take such action and providing the Borrower or the Issuer, as is applicable, a reasonable opportunity to comply with the requirements of this Section.

(b) The Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Loan Agreement and made a part of this Loan Agreement as if set forth in this Loan Agreement in full, and by its acceptance of this Loan Agreement the Trustee acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Loan Agreement by this reference.

**Section 2.11. [Reserved].**

### **ARTICLE III THE BONDS; BOND PROCEEDS; THE INDENTURE**

**Section 3.01. Issuance of Bonds.** Subject to the satisfaction of and compliance with all of the provisions, covenants and requirements of this Agreement, in order to provide funds for the payment of the Project Costs, the Issuer has authorized the issuance and delivery of the Bonds to the Initial Purchaser in accordance with the Indenture.

**Section 3.02. Bond Proceeds; Investments.** The Borrower hereby covenants and agrees that the proceeds of the Bonds and any earnings from any investments thereof have been deposited, and will be held, invested and reinvested, solely for the purposes and expended subject to the limitations contained in the Indenture, this Agreement, the Regulatory Agreement and the Tax Certificate.

**Section 3.03. [Reserved].**

**Section 3.04. Indenture Approval and Requirements.**

(a) The execution of this Agreement shall constitute conclusive evidence of approval of the Indenture by the Borrower. Additionally, the Borrower agrees that whenever the Indenture is executed and by its terms imposes a duty or obligation upon the Borrower to the same extent as if the Borrower was an express party to the Indenture, the Borrower hereby agrees to carry out and perform all of its obligations thereunder, and any default by the Borrower not cured within the applicable cure period thereunder shall constitute a default under this Agreement.

(b) In addition to other requirements of this Agreement and without limitation, the Borrower shall provide, or cause to be provided, to the Trustee on or before the Closing Date:

(i) Original executed counterparts of the instruments and signed legal opinions described in Section 3.03 of the Indenture and an opinion of counsel to the Borrower in form and substance satisfactory to the Significant Bondholder and the Financial Monitor;

(ii) Copies of the fully executed counterparts of the Subordinate Loan Documents and the funds to be made available under and pursuant to the Subordinate Loan Documents shall have been fully funded and available to the Borrower;

(iii) A copy of the Limited Partnership Agreement, together with all exhibits, schedules, addenda and documents supplements thereto;

(iv) The fully executed Collateral Assignments (as defined in the Indenture) shall have been delivered in form and substance satisfactory to the Significant Bondholder and the Financial Monitor;

(v) The Replacement Reserve Fund shall have been funded as described in Section 5.11(a) of the Indenture;

(vi) Moneys required for payment of Costs of Issuance; and

(vii) The Borrower Contribution.

## **ARTICLE IV THE LOAN, PREPAYMENTS, ASSIGNMENTS**

### **Section 4.01. Loan by the Issuer.**

(a) The Issuer, pursuant to the terms of this Agreement, agrees to loan to the Borrower the proceeds in the aggregate principal amount of \$5,727,000 received by the Issuer from the sale of the Bonds consisting of \$3,730,000 of the Series E-1 Bonds, and \$1,997,000 of the Series E-2 Bonds, which shall be deposited under the Indenture and shall be disbursed as provided in the Indenture and the Financial Monitoring Agreement. No amounts deposited with the Trustee by the Borrower in the Administrative Expenses Account for Costs of Issuance shall be deemed to satisfy any portion of the Borrower's

obligation to repay the Loan unless applied thereto or to the redemption of Bonds. The repayment obligations of the Borrower under this Agreement shall be evidenced by the Notes in the aggregate principal amount equal to the aggregate principal amount of the Bonds, executed by the Borrower concurrently with the issuance of the Bonds, made payable to the Issuer and endorsed by the Issuer, without recourse, to the Trustee. It is expressly agreed that the Borrower will cause to be carried out and performed all of its obligations under the Notes, the Indenture, the Mortgage, the Regulatory Agreement, the Tax Certificate, and the other Loan Documents.

(b) Concurrently with the execution and delivery of this Agreement and prior to any disbursement from the Project Fund, the Borrower has (i) executed and delivered the Notes to the Issuer, and the Issuer has assigned the Notes, without recourse, to the Trustee, (ii) caused the Mortgage to be executed and delivered to the Issuer and assigned to the Trustee and recorded in the Official Records of the County or other appropriate offices, (iii) caused the Regulatory Agreement and any applicable Financing Statements to be recorded in the Real Property Records of the County or other appropriate office, (iv) delivered to the Trustee the Title Insurance and (v) paid to the Trustee all Costs of Issuance.

(c) The Borrower acknowledges and agrees that it intends to make, and the Borrower agrees to make, payments required under this Agreement and the Notes in such amounts, and at such times, sufficient to pay, after applying all amounts otherwise available for making such payments, (i) all amounts required to pay the principal of, premium, if any, interest and any other amount due on the Bonds prior to the date when and as due and payable, whether by stated maturity date, by optional or mandatory or sinking fund redemption or by acceleration or otherwise, (ii) all amounts required to be paid under the Notes, including, but not limited to, all amounts due to the Replacement Reserve Fund and the Escrow Fund, and (iii) all fees, expenses and indemnification (including reasonable counsel fees on any and all tribunal levels), without duplication, of the Issuer, the Servicer, the Financial Monitor, the Rebate Analyst, the Financial Advisor, Bond Counsel, counsel for the Issuer, the Trustee and Counsel to the Trustee (including extraordinary expenses of the Trustee) provided for in this Agreement or in the Indenture, including the Issuer Fee and the Trustee Fee.

(d) Subject to Section 8.12, the obligation of the Borrower to make any payments required to be made under this Agreement (including, but not limited to, payments due by reason of acceleration of the Borrower's obligations hereunder pursuant to ARTICLE VII and obligations of the Borrower under ARTICLE VI) and under the Notes shall be absolute and unconditional and shall not be subject to offset, abatement, diminution, postponement or deduction, or to any defense other than payment, or to any right of setoff, counterclaim or recoupment arising out of any breach under the Loan Documents or the Indenture or otherwise by the Issuer, the Trustee, any Owner of Bonds or any other person, or out of any obligation or liability at any time owing to the Borrower by any of the foregoing. Nothing herein contained, however, shall be interpreted to abridge the right of the Borrower to seek judicial remedy for any breach of covenant of contract in a separate legal proceeding.

## **Section 4.02. Loan and Other Payments.**

(a) The Borrower shall pay hereunder to the Trustee for deposit into the appropriate funds and accounts under the Indenture the amounts at the times required by the Notes and this Agreement. Amounts so paid to the Trustee by the Borrower shall be in immediately available funds, provided, however, that the Borrower shall not be responsible for any costs associated with any securitization of the Bonds including, without limitation, any costs associated with receiving a rating on the Bonds. In furtherance of the foregoing, the Borrower shall pay to the Trustee on the fifteenth day of each month the following amounts:

(i) Commencing [October 15, 2016], and on the 15<sup>th</sup> day of each month thereafter, the interest due on the next succeeding Interest Payment Date, plus any interest due on the Bonds which was not previously paid because insufficient moneys were held under the Indenture; and

(ii) Commencing on [October 15, 2018], and on the 15<sup>th</sup> day of each month thereafter, the principal due on the Series E-1 Bonds on the next succeeding Interest Payment Date through redemption under Section 4.01 of the Indenture or at maturity, net of allowance for any additional amounts on deposit in the Principal Account of the Bond Fund or the Redemption Fund which are available for the payment of principal on the Bonds plus any principal due on the Bonds which was not previously paid because insufficient moneys were held under the Indenture.

(b) In addition to other amounts due under this Agreement, the Borrower shall pay on the fifteenth day of each month to the Trustee the following amounts:

(i) Commencing on [October 15, 2016], one-twelfth of the Replacement Reserve Fund Requirement;

(ii) Commencing on [October 15, 2016], (a) 1/12th of the Administrative Expenses (taking into account the annual amount of such Administrative Expenses if payable on a semiannual basis), applying amounts on deposit in the Administrative Expense Account for this purpose as a credit toward each monthly payment, and (b) to the extent incurred in accordance with the Indenture and this Agreement, any expenses of the Trustee or the Issuer for extraordinary services, including, but not limited to, the payment obligations of the Borrower pursuant to Section 4.13 and Section 5.03; and

(iii) Commencing on [October 15, 2016], (a) an amount equal to a portion of the premiums for required insurance due determined as of the first monthly payment of such payment period by multiplying such insurance premium by a fraction, the numerator of which is one and the denominator of which is the number of monthly payments due prior to the next payment date of such insurance premium less any amounts on deposit in the Escrow Fund and available for such purpose; provided, however, that the last monthly payment of such

payment period shall be adjusted to reflect the actual insurance premium due and (b) an amount equal to a portion of the annual non-exempt real estate taxes for the Project to come due in each year determined as of the first monthly payment of such payment period by multiplying the prior year's tax bills by a fraction, the numerator of which is one and the denominator of which is the number of monthly payments due prior to the next payment date (assuming payment by January 15 of each year) of the annual real estate taxes for the Property less any amounts on deposit in the Escrow Fund and available for such purpose; provided, however, that the last monthly payment of each payment period shall be adjusted to reflect the actual real estate taxes due.

Such monthly payments shall be appropriately adjusted for a short or long first payment period so that each monthly payment is equal. In all cases the last such monthly payment before a payment date shall be sufficient to pay the amount due and payable on such payment date. The Borrower shall provide to the Trustee by January 1 of each year the tax bills for the prior year's real estate taxes on the Property and shall provide to the Trustee and the Financial Monitor at least one week prior to the last monthly payment of each payment period, the invoices for the insurance premium to be paid on the next payment date.

(c) In addition to the foregoing required payments, the Borrower shall pay an amount equal to the Cash Flow Deficiency in immediately available funds within three Business Days of receipt by the Borrower of notice from the Trustee, all as provided in Section 5.02(a)(i)(A) of the Indenture.

(d) Any amount payable under this Section 4.02 and not paid within five days of the stated due date shall bear interest at the Default Rate.

(e) Unless the terms of Section 7.05 and Section 5.02(b) of the Indenture shall be in effect, the Borrower may first pay Operating Expenses before making payments due under this Section.

All payments made by the Borrower hereunder or by the Borrower under the other Loan Documents shall be made irrespective of, and without any deduction for, any setoffs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

**Section 4.03. [Reserved].**

**Section 4.04. Prepayment Generally.**

(a) No prepayment of the Loan, in whole or in part, may be made except as provided in Section 4.05 and Section 4.06; and

(b) Upon receipt of written notice that a deposit is being made for the purpose of prepaying the Loan and thereby effecting the redemption of the Bonds, the Trustee shall take such steps as may be required under the Indenture to accomplish the redemption of the Bonds under the redemption provisions of the Indenture.

#### **Section 4.05. Optional Prepayment of Loan; Concurrent Bond Redemption.**

(a) The portion of the Loan made from proceeds of the Series E-1 Bonds is subject to prepayment on or after [October 1, 2030], and the portion of the Loan made from proceeds of the Series E-2 Bonds is subject to prepayment without premium or penalty at any time on or after [January 1, 2017], in order to effect the redemption of the related Series of Bonds, as applicable, under Section 4.02 of the Indenture at the option of the Borrower, in whole or in part at the times and at the redemption prices as set forth in Section 4.02 of the Indenture plus interest accrued and unpaid to the redemption date of the Bonds. The consent of the Significant Bondholder is required only with respect to a redemption, in whole or in part, of the Series E-1 Bonds, and shall be given so long as the Borrower has complied with the applicable provisions of the Notes with respect to such prepayment. The consent of the Significant Bondholder is not required for the prepayment of the portion of the Loan funded with the Series E-1 Bonds on or after [October 1, 2030], and the consent of the Significant Bondholder is not required for the redemption in whole of the Series E-2 Bonds on or after [January 1, 2017], provided in either case, Borrower shall have provided Trustee and Significant Bondholder at least ten (10) days prior written notice of the prepayment and redemption of the Series E-2 Bonds. The Loan is not otherwise subject to optional prepayment by the Borrower.

(b) To effect optional prepayment of the Loan and redemption of the Bonds as contemplated in subparagraph (a) above, the Borrower shall deliver to the Trustee, at least five days prior to the date on which notice of prepayment of the Bonds is required to be sent to Owners specifying the date on which Bonds are subject to redemption under said Section, a written certificate of the Borrower stating that the Borrower is prepaying the Loan pursuant to this Section 4.05, which notice may state that such prepayment may be conditioned upon the Trustee's receipt of moneys sufficient to effect such prepayment. The certificate from the Borrower shall certify the following: (i) the principal amount of the Loan to be prepaid, (ii) that the amount to be prepaid on the Loan shall be credited to redemption of the Bonds by the Trustee pursuant to Section 4.02 of the Indenture, and (iii) the date for redemption of the Bonds.

**Section 4.06. Mandatory Prepayment of Loan.** The Loan shall be prepaid in whole or in part to the extent necessary to effect the mandatory redemption of the Bonds at the times and in the amounts specified in Sections 4.01, 4.03, 4.04, and 4.05 of the Indenture.

#### **Section 4.07. Amounts Required for Prepayment.**

(a) The amount payable by the Borrower hereunder upon the exercise of the option granted to the Borrower in Section 4.05, or mandatory prepayment as provided in Section 4.06, shall be, to the extent applicable and except as otherwise provided, as follows:

(i) The amount of money necessary to pay the redemption price of the Bonds to be redeemed specified in Section 4.02 of the Indenture in the case of optional redemption and Sections 4.03, 4.04 and 4.05 of the Indenture in the case

of mandatory redemption, together with all interest specified therein payable up to and including said redemption date and all expenses of the redemption; plus

(ii) In the event of a redemption in whole, an amount of money, without duplication, equal to the Trustee Fee, the Issuer Fee, the Servicer Fee, the Financial Monitor Fee, Administrative Expenses and other expenses under the Indenture accrued and to accrue until the final payment and redemption of the Bonds; less

(iii) A credit for amounts otherwise available under the Indenture for payment of the principal of, or premium, if any, or interest on, the Bonds to be redeemed.

(b) Any prepayment made pursuant to Section 4.05 or Section 4.06 shall be deposited into the Redemption Fund.

**Section 4.08. [Reserved].**

**Section 4.09. [Reserved].**

**Section 4.10. Assignments to Trustee.** It is understood and agreed that all right, title and interest of the Issuer in and to this Agreement (except for the Unassigned Issuer Rights), the Notes and the Mortgage are to be pledged and assigned by the Issuer to the Trustee as security for the Bonds under and pursuant to the Indenture. The Borrower consents to such pledge and assignment. The Issuer hereby directs the Borrower, and the Borrower agrees, to pay or cause to be paid to the Trustee at its designated corporate trust office all payments on the Loan pursuant to this Agreement and the Notes.

**Section 4.11. Trustee Fee.** The Borrower hereby agrees to pay to the Trustee, in addition to the amounts payable hereunder, the Trustee Fee required to be paid pursuant to the Indenture, as provided in Section 4.01(c).

**Section 4.12. Usury.**

(a) Notwithstanding any provision of this Agreement or the Notes to the contrary, it is hereby agreed by and between the Issuer and the Borrower that in no event shall the interest contracted for, charged or received in connection with the Loan made hereunder (including any other costs or considerations that constitute interest under the laws of the State which are contracted for, charged or received pursuant to this Agreement or the Notes) exceed the maximum rate of interest allowed under the laws of the State as presently in effect and to the extent an increase is allowable by such laws, but in no event shall any amount ever be paid or payable by the Borrower greater than the amount contracted for herein; and in the event the maturity of the Loan is accelerated pursuant to ARTICLE VII, or prepaid in accordance with the provisions hereof requiring mandatory prepayment, then such amounts that constitute payments of interest on the Loan, together with any costs or considerations which constitute interest under the laws of the State, may never exceed an amount which would result in payment of interest at a rate in excess of the maximum interest allowed by the laws of the State or the United

States to the extent applicable, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, provided for in this Agreement or the Notes, or otherwise, shall be canceled automatically as of the date of such acceleration or, if theretofore paid, shall be credited as payment of principal on the Loan.

(b) To the extent permitted by law, interest contracted for, charged or received on the Loan shall be allocated over the entire term of the Loan to the end that interest paid on the Loan does not exceed the maximum amount permitted to be paid thereon by law.

**Section 4.13. Payment of Fees.** Borrower covenants to pay all third-party fees of the financing, including but not limited to the following:

(a) All taxes and assessments of any type or character charged to the Issuer or to the Trustee affecting the amount available to the Issuer or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental Issuer of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer or the Trustee, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer or the Trustee;

(b) All reasonable fees, charges and expenses of the Trustee for services rendered under the Indenture, as and when the same become due and payable;

(c) The annual fee of the Issuer, payable as set forth in Section 20 of the Regulatory Agreement, and the reasonable fees and expenses of the Issuer or any agents, attorneys, accountants, consultants selected by the Issuer to act on its behalf in connection with this Loan Agreement, the Regulatory Agreement, the Loan Documents, the Bonds or the Indenture, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds or in connection with any litigation which may at any time be instituted involving this Loan Agreement, the Regulatory Agreement, the Loan Agreement, the Loan Documents, the Bonds or the Indenture or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing, or any compliance services fees.

(d) These obligations and those in Section 6.01 shall remain valid and in effect notwithstanding repayment of the Loan hereunder or termination of this Loan Agreement or the Indenture.

#### **Section 4.14. Right to Purchase Bonds in Lieu of Redemption.**

(a) If the Bonds are called for optional redemption in whole pursuant to Section 4.02 of the Indenture or mandatory redemption in whole pursuant to Section 4.04(a) of the Indenture (other than redemptions pursuant to Section 4.04(a)(iv)), or mandatory redemption in whole pursuant to Section 4.05 of the Indenture, the Borrower may elect in writing to cause the purchase of Bonds in lieu of redemption, pursuant to Section 4.09 of the Indenture. If the Borrower so elects, the Borrower shall send a notice of such election to purchase in lieu of redemption of the Bonds to the Trustee no later than 10 days prior to the date scheduled for redemption accompanied by a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee. Upon the exercise by the Borrower to purchase the Bonds so called for redemption (the “Borrower’s Purchase Option”) such Bonds shall be purchased in lieu of redemption as provided in Section 4.09 of the Indenture from moneys to be made available by the Borrower and accompanied by written instructions from the Borrower as to the source and application of such moneys. The Borrower’s Purchase Option shall be exercised by:

(i) The Borrower causing the deposit with the Trustee, prior to 10:00 p.m. New York, New York time, on the Bond Payment Date set forth in the notice of redemption sent by the Trustee for redemption of the Bonds (the “Purchase Date”), an amount (the “Purchase Amount”) equal to the sum of:

- (A) The full Outstanding principal amount of the Purchased Bonds,
- (B) Interest on such principal amount to the Purchase Date, and
- (C) Redemption premium, if any; and

(ii) The Borrower certifying to the Trustee that the funds deposited with the Trustee pursuant to Section 4.09 of the Indenture are to be applied to the purchase of the Purchased Bonds in lieu of their redemption as provided in Section 4.09 of the Indenture.

Prior to disbursement to pay the Purchase Amount, the Purchase Amount may be invested by the Trustee in Eligible Investments at the direction and for the benefit of the Borrower. Any Bond that is not surrendered to the Trustee for purchase on or before the Purchase Date (an “Undelivered Bond”) shall be deemed to have been purchased on such date. Owners of Undelivered Bonds shall have no rights or benefits under the Indenture with respect to such Bonds other than to receive the Purchase Amount for such Bonds upon surrender of such Bonds to the Trustee. Such undelivered Bonds shall cease to accrue interest from and after the Purchase Date.

(b) The purchase of Bonds pursuant to Section 4.09 of the Indenture shall not constitute a merger or extinguishment of the indebtedness of the Borrower represented by the Loan or the Bonds so purchased and such Bonds and the Loan shall for all purposes be regarded as Outstanding hereunder and under the Indenture, except that (i) during the period such Purchased Bonds are held by the Borrower, payments of principal and

interest on Purchased Bonds shall be subordinate to payments of principal and interest on Bonds which are not Purchased Bonds, (ii) in determining whether the Owners of a requisite aggregate principal amount of Outstanding Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Indenture, Purchased Bonds shall be disregarded and deemed not to be Outstanding under the Indenture for the purpose of any such determination unless all Bonds are Purchased Bonds, and (iii) as may otherwise be expressly provided in the Indenture.

## **ARTICLE V THE PROJECT**

**Section 5.01. Payment of Project Costs.** If the moneys available from the proceeds of the sale of the Bonds and investment income thereon shall not be sufficient to pay the Project Costs in full, the Borrower shall pay from the Subordinate Loans, the Borrower Contribution and, to the extent necessary, its own funds all of that portion of the Project Costs in excess of the moneys available therefor from the sale of the Bonds and investment income thereon. The Issuer does not make any warranty, either express or implied, that the moneys from the proceeds of the Bonds will be sufficient to pay the Project Costs. In the event the Borrower shall pay from its own funds any portion of the Project Costs pursuant to the provisions of this Section 5.01, it shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Owners of any of the Bonds, nor shall it be entitled to any diminution in or postponement of the payments required to be paid by the Borrower under this Agreement.

**Section 5.02. Permits and Licenses.** The Borrower covenants and agrees that in the operation of the Project it will comply with all currently applicable federal, State and local statutes, laws, lawful ordinances, building codes, and regulations applicable to the Project.

### **Section 5.03. Payment for Extraordinary Services.**

(a) The Borrower hereby covenants and agrees to pay all extraordinary costs, fees and expenses of the Financial Monitor and the Servicer incurred in connection with the Bonds.

(b) If, upon or after the occurrence of any default hereunder that remains uncured past the time provided for cure herein, the Issuer, the Trustee or the Owners (but only to the extent permitted under Article VIII of the Indenture) shall employ attorneys or incur other fees or expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will within 10 days of receiving written demand therefor pay or reimburse the Issuer, the Trustee or the Owners, as the case may be, for the reasonable fees of such attorneys and such other expenses so incurred.

**Section 5.04. Damage or Destruction or Condemnation.** If the Project shall be damaged or destroyed or is taken by condemnation (in whole or in part) at any time subsequent to the Project Completion Date while any of the Bonds are Outstanding, the Borrower shall, subject to the terms of the Mortgage, reconstruct the Project to its condition prior to such loss or damage, provided the net proceeds of the insurance or of the award received as a consequence of

such damage or destruction or condemnation, together with any other money available for such purpose (including money contributed by Borrower), are sufficient to pay the cost of such reconstruction. Proceeds that exceed \$10,000 shall be deposited in the Insurance and Condemnation Proceeds Fund and expended as provided in Sections 6.04 or 4.04, as applicable, of the Indenture. If the net proceeds of the insurance or of the award received as a consequence of such damage destruction, or condemnation, together with other available money for such purpose (including money contributed by Borrower), are insufficient to repair and restore the Project, the Borrower shall immediately notify in writing the Financial Monitor and the Trustee.

**Section 5.05. Financial Monitor.** In the event the Financial Monitor is removed or has resigned, the Trustee shall appoint a successor Financial Monitor at the direction of the Significant Bondholder and in the absence of such direction, an entity experienced in affordable multifamily financial monitoring selected by the Owners of a majority in principal amount of Outstanding Bonds shall be so appointed. The Issuer does not employ and is not responsible for any actions or non-actions of the Financial Monitor.

**Section 5.06. Management of Project.** The Borrower will at all times cause the Project to be managed and operated by the Agent, Manager or another independent property manager and it will give written notice to the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative and the Servicer prior to changing the Agent or Manager and prior to making any material changes or modifications to the Property Management Agreement. The Borrower shall obtain the written approval of the Significant Bondholder, if any, and the Servicer prior to the employment of a new Agent or Manager which approval shall not be unreasonably withheld, conditioned or delayed. The Significant Bondholder and the Servicer shall have the right to remove the Agent or cause removal of the Manager in the event an uncured event of default by the Agent or Manager has occurred under the Property Management Agreement and the Borrower has failed to remove the defaulting Agent, or cause to be removed the defaulting Manager, as applicable, in a reasonable time after the occurrence of the uncured event of default. The Issuer does not employ and is not responsible for any actions or non-actions of the Agent or Manager.

**Section 5.07. Draws on Project Fund.** The Borrower acknowledges that the Trustee, pursuant to Section 6.02(d) of the Indenture, will not disburse moneys from the Project Fund unless the Financial Monitor has approved a disbursement request, which approval may not be unreasonably withheld, conditioned or delayed.

**Section 5.08. Application of Project Revenues.**

(a) Project Revenues. The Borrower understands, acknowledges and agrees that the Project Revenues shall be deposited and applied as provided for herein and in the Indenture, including without limitation, Section 5.02 thereof with respect to amounts required to be deposited in the Bond Fund. For purposes of clarifying (and without limiting) the foregoing, Project Revenues shall be deposited and applied so as to achieve payments in the following order of priority:

- (i) Payment of Operating Expenses;

- (ii) Payment of Administrative Expenses;
- (iii) [reserved];
- (iv) Payment of interest and scheduled mandatory sinking fund installments on the Senior Bonds; and
- (v) Payment of interest and scheduled mandatory sinking fund installments on the Series E-2 Bonds.

**Section 5.09. Reporting Requirements.** The Borrower shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the Borrower in accordance with generally accepted accounting principles consistently applied, and will furnish to the Trustee (as to (a) and (c) only), the Issuer (upon its written request), the Financial Monitor, the Significant Bondholder and each Owner requesting the same (at the address supplied to the Trustee by such Owner or its authorized representative):

(a) *Annual Financial Statements and Tax Returns.* As soon as available, and in any event within 120 days after the close of each Fiscal Year (with respect to (i) through (iii)), (i) the complete audited financial statements of the Borrower including the balance sheet as of the end of such Fiscal Year and the related statements of revenues and expenses and changes in financial position for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the preceding Fiscal Year, all in reasonable detail, certified by an independent certified public accountant as having been prepared in accordance with generally accepted accounting principles, consistently applied; (ii) [reserved]; (iii) a statement by the accountants certifying the financial statements that such accountant has no knowledge insofar as it relates to accounting matters, except as specifically stated, of any Event of Default; and (iv) the Borrower's federal tax returns for the Fiscal Year within 30 days of filing of the federal tax returns. The annual financial statements shall be prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior years (except as otherwise specified in such report).

(b) [Reserved].

(c) *Certificate of Compliance.* Simultaneously with the delivery of each set of financial statements referred to in (a) above, a certificate of the Borrower signed by the Authorized Representative stating that (i) the Borrower has made a review of its activities during the preceding annual or quarterly period, as the case may be, for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of the Loan Documents and (ii) to the best knowledge of the Authorized Representative, the Borrower is not in default in the performance or observance of any of the terms, covenants, provisions or conditions of any of the Loan Documents, or if the Borrower shall be in default, such certificate shall specify each such default, the nature and status thereof and any remedial steps taken or proposed to correct each such default.

(d) [Reserved].

(e) *Other Information.* Such other information respecting the business, properties or the condition or operations, financial or otherwise, of the Borrower as the Financial Monitor, the Issuer or any Owner of more than 5% of Bonds Outstanding may from time to time reasonably request.

(f) *Litigation.* Annually, written notice of all actions, suits and proceedings before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, against the Borrower or the Project.

Notwithstanding the foregoing provisions of this Section 5.09, the Borrower shall comply with the reporting requirements set forth in the Regulatory Agreement and Section 2.07.

### **Section 5.10. Operating Budget.**

(a) Commencing [January 1, 2017], not later than the beginning of each Fiscal Year the Borrower shall prepare or cause to be prepared an annual Operating Budget with respect to the Project for the ensuing Fiscal Year. Such Operating Budget shall set forth in reasonable detail the estimated Project Revenues, Operating Expenses, and Capital Expenditures from the Replacement Reserve Fund for the Project for such Fiscal Year and the estimated investment income and estimated amounts to be deposited in and withdrawn from (and the purposes for such withdrawals) the Escrow Fund, Replacement Reserve Fund and Administrative Expense Account under the Indenture. The Borrower may at any time adopt an amended Operating Budget for the remainder of the then current Fiscal Year. Copies of the Operating Budget and of any amended Operating Budget shall be filed no later than June 15<sup>th</sup> of the year preceding such Fiscal Year with the Trustee, the Issuer (at its written request), the Financial Monitor, the Significant Bondholder, if any, and each Owner requesting the same (at the address supplied to the Trustee by such Owner or its authorized representative).

(b) The Operating Budget or amended Operating Budget to be adopted by the Borrower shall provide for monthly deposits into the funds and accounts in the amounts required under Section 5.02(a) or (b) of the Indenture, as applicable. The Operating Budget shall contain an estimate of the taxes (if any), assessments (if any) and insurance premiums next coming due with respect to the Project, and such estimate shall not be less than the respective amounts most recently having come due with respect to such taxes, assessments and insurance premiums, unless the Borrower shall have competent evidence that there is to be a decrease in such taxes, assessments and insurance premiums.

(c) If for any reason the Borrower shall not have adopted the Operating Budget for a Fiscal Year before the first day of such Fiscal Year, the Operating Budget for the preceding year, with each line item thereof increased by 3%, shall be deemed to have been adopted and be in effect for such Fiscal Year until the Operating Budget for such Fiscal Year is adopted and a copy thereof filed with the Trustee and the Financial Monitor.

(d) [Reserved].

(e) [Reserved].

**Section 5.11. [Reserved].**

**Section 5.12. [Reserved].**

**Section 5.13. Taxes, Assessments and Other Charges.** The Borrower shall pay or cause to be paid all taxes, assessments and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project (including ad valorem, sales and excise taxes, assessments and charges upon the Borrower's interest in the Project), all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project. Notwithstanding the provisions of this Section 5.13, if no Event of Default exists, the Borrower at its own expense may contest in good faith any such tax, assessment or charge, provided that, during the period of such contest or appeal therefrom, the failure to have paid such tax, assessment or charge does not adversely affect the lien of the Mortgage, adversely affect the excludability of interest on the Bonds for federal income tax purposes, cause any event of default under the Indenture or any of the Loan Documents, endanger such lien on the Project or any portion thereof or subject the Project to loss or forfeiture, in which event the Borrower shall promptly take such action with respect thereto as shall be necessary and satisfactory to the Significant Bondholder, if any.

**Section 5.14. Project Insurance.**

(a) The Borrower covenants that it will carry and maintain or cause to be carried and maintained, and pay, or cause to be paid, the premiums for at least the following insurance with respect to the Project and such other insurance as the Significant Bondholder and the Financial Monitor may reasonably request covering risks as are customarily insured against in connection with the operation of facilities comparable in size and scope of services to the Project at the time plus law and ordinance insurance in an amount of at least \$250,000 (or property insurance covering increased cost due to law and ordinance):

(i) Insurance against loss or damage from fire, lightning, windstorm, hurricane, hail, seismic event, explosion (but not including "Act of War"), terrorism, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism and malicious mischief insurance in an amount not less than the full replacement cost of the Project;

(ii) Insurance coverage of boilers, pressure vessels, auxiliary piping and selected machinery objects (pumps and compressors), in an amount not less than the replacement value of such property;

(iii) Commercial general liability insurance, in the minimum amounts of \$1,000,000 for each occurrence with a general aggregate limit of \$2,000,000;

(iv) Comprehensive automobile liability insurance in the minimum amount of \$1,000,000 for each accident for bodily injury and property damage combined if the Borrower shall own or operate any automobiles or other vehicles;

(v) Workers' compensation coverage and any other similar type of insurance required by the laws of the State;

(vi) Fidelity bonds in a minimum amount of \$100,000 (or crime and employee dishonesty coverage in the amount of \$100,000) on the Manager and all officers, employees, agents and contractors of the Manager who have access to or custody of revenues, receipts or income from the Project or any funds of the Borrower;

(vii) Business income including extra expense insurance, covering loss of revenues by reason of the total or partial suspension of, or interruption in, the operation of the Project caused by the damage to or destruction of any part of the Project, with such exceptions as are customarily imposed by insurers covering a period of suspension or interruption and in such amount as will provide revenues equal to the Maximum Annual Debt Service for the Bonds together with the amount required to pay necessary Operating Expenses for the ensuing 12 months;

(viii) Commercial umbrella liability insurance with minimum annual limits of \$10,000,000; and

(ix) Flood insurance, for the applicable portion of the Project if the Borrower shall not have provided a certification that each portion of the Project is not located in a 100-year flood plain. Such insurance shall at a minimum comply with Federal Emergency Management Agency coverage requirements and provide coverage in an amount equal to the lesser of the outstanding Loan amount or the maximum coverage available under the National Flood Insurance Program ("NFIP"). Although none of the Project may not now be included in a special flood hazard area or the governing municipality may not participate in the NFIP, Borrower acknowledges and agrees that it will provide such insurance within 45 days following notice from the Servicer that any portion of the Project has been included in a special flood hazard area or the governing municipality does then participate in the NFIP. The Servicer may obtain flood insurance and the Borrower acknowledges that such insurance will be much more expensive than that obtainable by the Borrower and may not provide certain protections for the Borrower, such as contents or liability coverages.

(b) All insurance policies (other than flood insurance) issued or renewed after the initial issuance and delivery of the Bonds shall be taken out and maintained with companies that have a financial strength rating of "A-" or higher from A.M. Best. If the financial strength rating of any insurance provider falls below "A-," the Borrower shall promptly obtain a replacement policy with a provider meeting the rating requirements herein contained. All policies of insurance required by the terms of this Agreement shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of the Borrower, which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim or deductions against the Borrower. All such policies (other than workers' compensation) shall name the

Issuer, the Trustee and the Significant Bondholder (initially America First Multifamily Investors, L.P.) as additional insureds, as their respective interests may appear, and shall have attached thereto a lender's loss payable endorsement for the benefit of the Trustee, which endorsement indicates that all insurance proceeds are payable directly to the Trustee.

(c) The Borrower shall furnish the Trustee and the Servicer with certifications of all policies of required insurance. The Borrower shall file with the Trustee annually on or about the anniversary date of such policy or policies, a certificate of the Borrower to the effect that all insurance coverages required to be maintained hereunder are in effect and of full force and effect. The Trustee shall be entitled to rely upon said Borrower certificate as to the Borrower's compliance with the insurance requirements without further inquiry. The Trustee makes no representation as to and shall have no responsibility for the sufficiency or adequacy of the insurance or the issuing insurer. All policies shall require at least 30 days' prior written notification to the Borrower and the Trustee of modification, cancellation or termination in coverage and shall provide that no property claims shall be paid thereunder without at least 10 days' prior written notice to the Trustee. Within 30 days prior to the expiration or cancellation of any policy, the Borrower will furnish or cause to be furnished to the Servicer satisfactory evidence of the continuance or replacement of such coverage under the requirements of this Agreement. The Borrower shall immediately give written notice to the Trustee and the Servicer and the Financial Monitor of any notice received by the Borrower of any expiration, cancellation or modification of, or material reduction of coverage under, any such policy.

(d) The Borrower may take out separate insurance concurrent in form or contributing in the event of loss with that required in this Section; provided that the Borrower shall immediately notify the Trustee whenever any such separate insurance is taken out. No such separate or additional policies of insurance shall reduce the insurance coverage required hereunder to be maintained.

(e) In the event the Borrower fails to take out or maintain the full insurance coverage required under this Section, the Trustee, after first notifying the Borrower, may (but shall not be obligated to) take out the required policies of insurance and pay the premiums on the same and the costs thereof so advanced shall be paid promptly by the Borrower from any available moneys upon the Trustee's presentation to the Borrower of statements or invoices evidencing same, together with interest thereon to the date of payment as provided herein.

(f) The risk of loss or of decrease in the enjoyment and beneficial use of the Project in consequence of the damage or destruction thereof by fire, the elements, casualties, thefts, terrorism, riots, civil strife, war, nuclear explosion, or otherwise, or in consequence of foreclosures, attachments, levies or executions, is expressly assumed by the Borrower, and the Borrower agrees that the Issuer and the Trustee shall in no event be answerable, accountable or liable therefor, nor shall any of the foregoing events entitle the Borrower to any abatement or diminution of its obligations hereunder.

**Section 5.15. Successor Servicer.** In the event the Servicer is removed or has resigned, the Trustee shall appoint a successor Servicer at the direction of the Significant Bondholder and in the absence of such direction, an entity selected by the Owners of a majority in principal amount of Outstanding Bonds shall be so appointed.

**Section 5.16. Project Condition Report; Alterations to Project.**

(a) Beginning on [September 1, 2026], and continuing every tenth year anniversary thereafter, the Borrower covenants and agrees to provide a Project Condition Report to the Financial Monitor, the Servicer, the Issuer and the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative. The Servicer shall review the Project Condition Report, and, based on the Project Condition Report, shall determine the adequacy of the then current Replacement Reserve Requirement and specify an increase or decrease as necessary in the Replacement Reserve Requirement to commence on the fifteenth (15th) of the month next following such Project Condition Report, provided that in no case shall the Replacement Reserve Requirement be less than \$300 per year, per unit. The Servicer shall send written notice after each Project Condition Report to the Financial Monitor, the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative, setting forth the Servicer's determination as to the adequacy of the then current Replacement Reserve Requirement. Unless the Significant Bondholder, if any, objects to the determination of the Replacement Reserve Requirement within 14 Business Days of receipt of such notice, the Servicer shall notify the Trustee of the Replacement Reserve Requirement. In the event that the Significant Bondholder, if any, objects to such determination, it shall provide to the Servicer in writing, within 14 Business Days of receipt of the Servicer's notice, its objection and its determination of the Replacement Reserve Requirement (subject to the above limitations) based on such Project Condition Report and the Servicer shall immediately notify the Trustee of the revised Replacement Reserve Requirement in accordance with such determination of the Significant Bondholder.

(b) The Borrower shall be entitled to withdraw or to direct the application of funds held by the Trustee in the Replacement Reserve Fund under the Indenture to pay for or reimburse the Borrower for (i) costs of capital improvements and replacements for the Project, and (ii) for costs of capital improvements, replacements and maintenance for the Project, as recommended in the Project Condition Report, provided that, Borrower shall submit a requisition therefor to the Trustee, with the approval of the Servicer, accompanied by invoices, bills or purchase orders relating thereto.

(c) If the Borrower fails to maintain the Project, or make repairs in accordance with the Project Condition Report, the Servicer shall be entitled but not obligated to withdraw or direct the application of funds held by the Trustee in the Replacement Reserve Fund.

## **ARTICLE VI INDEMNIFICATION**

### **Section 6.01. Indemnification by Borrower.**

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Issuer, the program participants of the Issuer, the Trustee, Bondholders, Servicer, and Financial Monitor, and each of their respective officers, governing members, directors, officials, employees, attorneys and agents (collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Bonds, the Indenture, the Loan Agreement, the Regulatory Agreement, the Loan Documents or the Tax Certificate or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Bonds;

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

(iii) any lien or charge upon payments by the Borrower to the Issuer and the Trustee, Bondholders, Servicer, and Financial Monitor hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer or the Trustee, Bondholders, Servicer, and Financial Monitor in respect of any portion of the Project;

(iv) any violation of any environmental regulations with respect to, or the release of any hazardous substances from, the Project or any part thereof;

(v) the defeasance and/or redemption, in whole or in part, of the Bonds;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in

order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vii) any declaration of taxability of interest on the Bonds, or allegations (or regulatory inquiry) that interest on the Bonds is taxable, for federal tax purposes;

(viii) the Subordinate Loan Documents and/or the Partnership Agreement; and

(ix) the Trustee's, Bondholders', Servicer's, and Financial Monitor's acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party;

except (a) in the case of the foregoing indemnification of the Trustee, Bondholders, Servicer, and Financial Monitor or any of its respective officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party; or (b) in the case of the foregoing indemnification of the Issuer or the program participants of the Issuer or any of their officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Trustee, Bondholders, Servicer, and Financial Monitor and/or the Issuer in enforcing the provisions hereof, as more fully set forth in the Loan Agreement.

(b) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant this Loan Agreement shall survive the final payment or defeasance of the Bonds and in the case of the Trustee, Bondholders, Servicer, and Financial Monitor any resignation or removal. The provisions of this Section shall survive the termination of this Loan Agreement.

## **ARTICLE VII EVENTS OF DEFAULTS AND REMEDIES**

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

(a) The failure of the Borrower to fully make (i) any payment of principal, interest or premium on the Loan when due under the Notes or this Agreement, or (ii) any payment of any amount or charge under Section 4.02 (not otherwise specified in the foregoing clause (i)) when due;

(b) Any material breach by the Borrower of any representation or warranty made in this Agreement or any of the other Loan Documents or any requisition for disbursements of the Loan, or any failure by the Borrower to observe and perform any material covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in any other subsections of this Section 7.01, and the continuation of such breach or failure for a period of 30 days after written notice specifying such breach or failure and requesting that it be remedied, given to the Borrower by the Trustee; provided, however, that in the event such breach or failure be such that it can be corrected but not within said 30-day period, the same shall not constitute an Event of Default hereunder if corrective action is instituted by the Borrower or on behalf of the Borrower within said 30-day period and is being diligently pursued, and such breach or failure is corrected or cured within 90 days after such written notice specifying such breach or failure and requesting that it be remedied;

(c) Refusal to permit the Issuer, its representatives, the Trustee, the Significant Bondholder, the Servicer, the Financial Monitor, or any rehabilitation consultant to enter upon the premises at all reasonable times (but subject to the rights of tenants), and after notice, to inspect the Project, the rehabilitation thereof and all materials, fixtures and articles used or to be used and to examine all detailed plans, shop drawings and specifications which relate to the Project, and/or failure to furnish to the Issuer, its representatives or any rehabilitation consultant copies of such plans, drawings and specifications within a reasonable period of time after request;

(d) The failure of the Borrower to fully make any payment of any amount or charge (other than those amounts or charges specified in Section 7.01(a)) when due under the Notes, this Agreement, the Mortgage, the Tax Certificate, the Indenture or any other Loan Document within 10 days after written demand therefor;

(e) Execution by the Borrower of any security instrument other than the Mortgage or Project leases covering any materials, fixtures, furnishings or equipment intended to be incorporated or placed in the Project, or the filing of a financing statement or publishing notice of any such security instrument, or failure to purchase any of such materials, fixtures, furnishings or equipment so that the ownership thereof will vest unconditionally in the Borrower free from encumbrances on delivery at the premises, except for the Permitted Encumbrances;

(f) The failure of the Borrower to meet the requirement of Section 2.02(oo) hereof;

(g) Refusal or inability of the Borrower to diligently undertake to satisfy any condition to the receipt of proceeds of the Bonds pursuant to the Indenture for a period in excess of 30 days after notice that the condition has not been satisfied;

(h) Failure to satisfy or bond a lien for the performance of work or the supply of materials filed against a Project for a period of 30 days after the receipt by the Borrower of notice that such lien has been filed;

(i) The appointment of a receiver, trustee, conservator or liquidator of the Borrower, or the Project or any other property of the Borrower, and the same is not vacated or dismissed within 90 days of such appointment;

(j) A filing by the Borrower of a voluntary petition in bankruptcy, seeking reorganization or rearrangement or taking advantage of any debtor relief laws, or a petition filed against the Borrower or an affiliate thereof, as the case may be, in any bankruptcy, reorganization, insolvency, conservatorship or similar proceeding, or an admission in writing by the Borrower of any inability to pay its or its debts as they become due; or the making by the Borrower or an affiliate thereof of a general assignment for the benefit of creditors; or the entry of an order, judgment or decree by any court of competent jurisdiction adjudicating the Borrower or an affiliate thereof as bankrupt or insolvent, or approving a petition seeking reorganization of the Borrower or an affiliate thereof or an arrangement of its debts, and the same is not vacated or dismissed within 60 days thereafter;

(k) The liquidation, termination or dissolution of the Borrower or an affiliate thereof (excluding failures to make ministerial filings which are cured within 60 days after Borrower's receipt of notice thereof);

(l) Any substantial damage to or destruction of the Project if the applicable insurance proceeds, plus any sums deposited by the Borrower with the Trustee shall not, in the opinion of the Significant Bondholder and the Financial Monitor, be sufficient to repair and restore the Project, or if the insurance proceeds shall not be paid within a reasonable time as a result of the Borrower's failure to pursue such insurance claim, and the Borrower fails or refuses to deliver funds to the Trustee in an amount equal to such excess improvement or rehabilitation costs as provided herein;

(m) Any "Event of Default" shall have occurred under the Indenture, the Regulatory Agreement, the Tax Certificate, the Notes, the Mortgage or any other Loan Documents, the Bond Documents or the Subordinate Loan Documents (or any of them) and shall continue beyond any applicable curative period provided in such instrument or agreement;

(n) Judgment for the payment of money in excess of \$500,000 (which is not covered by insurance) is rendered by any court or other governmental body against the Borrower, and the Borrower does not discharge the same or provide for its discharge in

accordance with its terms, or procure a stay of execution thereof within 60 days from the date of entry thereof, and within said 60-day period or such longer period during which execution of such judgment shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal while providing such reserves therefor as may be required under generally accepted accounting principles;

(o) [Reserved];

(p) The Borrower shall fail to deposit, or fail to cause to be deposited, moneys into the Borrower Contribution Subaccount of the Project Fund held under the Indenture in the amounts and at the times the capital contributions are to be received pursuant to the Limited Partnership Agreement;

(q) In addition to subparagraph (p) above, the Borrower shall fail to provide, or fail to cause to be provided, such capital contributions in the amounts and at the times required to keep the construction budget in balance;

(r) A failure to complete the Project by the Project Completion Date;

(s) [Reserved]; and

(t) A Determination of Taxability shall have occurred.

#### **Section 7.02. Remedies on Default.**

(a) Whenever any Event of Default referred to in Section 7.01 shall have occurred and be continuing, the Trustee, as assignee of the Issuer, may, and, in the case of an Event of Default under Section 7.01(i), (j) or (k) or at the direction of the Significant Bondholder, shall:

(i) By notice in writing to the Borrower declare the unpaid indebtedness on the Loan and under this Agreement and the Notes to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable; and

(ii) Take whatever action at law or in equity or under any of the Loan Documents and/or any Bond Document as may appear necessary or desirable to collect the payments and other amounts then due and thereafter to become due hereunder or thereunder or under the Notes, or to exercise any right or remedy or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Notes or any other Loan Document and/or any Bond Document.

(b) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Borrower, the Trustee (irrespective of whether the principal and interest of the Loan shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any

demand on the Borrower for the payment of overdue principal or interest) shall be entitled and empowered, and shall, at the written direction of the Significant Bondholder, if any, by intervention of such proceeding or otherwise,

(i) To file and prove a claim for the whole amount of principal and interest owing and unpaid on the Loan and all other amounts owed by the Borrower in accordance with this Agreement and the other Loan Documents and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Owners allowed in such judicial proceeding; and

(ii) To collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same.

Any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Owner to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Owners, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agent and counsel.

(c) Any amounts collected pursuant to action taken under this Section 7.02 shall, after the payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Issuer or the Trustee on behalf of the Issuer and their respective counsel, be paid into the Redemption Fund (unless otherwise provided in this Agreement) and applied in accordance with the provisions of the Indenture. No action taken pursuant to this Section 7.02 shall relieve the Borrower from the Borrower's obligations pursuant to Section 4.01, Section 4.02, Section 4.13, Section 5.03 and Section 6.01.

**Section 7.03. Entry Upon Premises.** After the occurrence and during the continuation of any Event of Default of which the Borrower has received notice and failed to cure within any applicable grace or cure period, which in the Significant Bondholder's, the Financial Monitor's, and the Servicer's judgment may interfere with completion of any improvement or rehabilitation of the Project, the Servicer or any rehabilitation consultant or other independent contractor of the Significant Bondholder's, Financial Monitor's, and the Servicer's selection shall have the right and is hereby given a license, in addition to and without limiting any other rights or remedies afforded by the Notes, Mortgage or the other provisions hereof, or other documents executed in connection with the Loan to enter the premises and perform any and all work and labor necessary to complete any improvement or rehabilitation of the Project, subject to the rights of tenants. All sums advanced hereunder and any other amounts expended by the Significant Bondholder, the Financial Monitor, and the Servicer (none of which parties shall be under or have any obligation whatsoever to advance or expend any amounts whether available hereunder or otherwise) to complete any improvement or rehabilitation of the Project shall be deemed to have been advanced to the Borrower and shall be secured by the Mortgage, as applicable.

**Section 7.04. Power of Attorney.** For purposes of Section 7.03 only, effective upon an uncured Event of Default by the Borrower, the Borrower hereby constitutes and appoints each of the Servicer and Financial Monitor its true and lawful attorney-in-fact with full power of substitution to complete any improvement or rehabilitation of the Project in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the following:

(a) To use any completion deposit furnished by the Borrower which shall consist of a deposit in escrow with the Trustee of cash, certificates of deposit, letters of credit or marketable securities by the Borrower in an amount to pay the costs of completion of any improvement or rehabilitation of the Project, any Project proceeds, and any other funds of the Borrower in the possession of the Trustee, including any funds which may remain unadvanced hereunder for the purpose of completing any improvement or rehabilitation of the Project;

(b) To make such additions, changes and corrections as shall be necessary or desirable to complete any improvement or rehabilitation of the Project in substantially the manner contemplated by the budget and specifications;

(c) To employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

(d) To employ attorneys to defend against attempts to interfere with the exercise of the powers granted hereby;

(e) To pay, settle or compromise all existing bills and claims which are or may be liens against the Project as may be necessary or desirable for the completion of any improvement or rehabilitation of the Project or the clearance of title;

(f) To execute all applications and certificates in the name of Borrower which may be required by any improvement or rehabilitation contract; and/or

(g) To prosecute and defend all actions or proceedings in connection with any improvement or rehabilitation of the Project and to take such action, require such performance and do any and every other act as is deemed reasonably necessary with respect to the completion of any improvement or rehabilitation of the Project which Borrower might do on its own behalf.

The power of attorney given in this Section 7.04 shall be a power coupled with an interest which, together with the license given in Section 7.03, cannot be revoked until completion of any improvement or rehabilitation of the Project in accordance with this Agreement. Notwithstanding the foregoing, the Servicer and the Financial Monitor, if acting on behalf of the Issuer, shall have no liability for failure to act under such power of attorney, if in its sole discretion the exercise of such powers would expose the Servicer and/or the Financial Monitor to personal liability.

**Section 7.05. Direct Disbursements Following Default.** After any default by the Borrower hereunder and passage of any cure or grace period permitted hereunder without cure being effected, the Borrower irrevocably permits and authorizes the Financial Monitor to

disburse any remaining proceeds of the Loan directly to the subcontractors for the Project but Financial Monitor is not under any obligation so to do. No further direction or authorization from Borrower shall be necessary to warrant such direct disbursements and all such disbursements shall satisfy pro tanto the obligations of the Borrower hereunder and shall be secured by the Mortgage as fully as if made to the Borrower regardless of the disposition thereof by any major subcontractor or such other persons. The Financial Monitor shall impose reasonable conditions for such direct payment including, but not limited to, receipt of estoppel certificates, waivers of lien, releases and the like. The Financial Monitor shall account to the Borrower for all sums so paid. The Financial Monitor shall be under no obligation to disburse funds to complete improvement or rehabilitation of the Project unless sufficient funds are available and on deposit with the Trustee to complete improvement or rehabilitation of the Project and to pay the fees and expenses of the Financial Monitor in connection with such activities. Notwithstanding the foregoing, in the event the Financial Monitor exercises the authority under this Section 7.05, the Financial Monitor shall complete requisitions as required by Section 6.02 of the Indenture pursuant to the authority given to the Financial Monitor under Section 7.04.

**Section 7.06. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Mortgage or any other Loan Document or now or hereafter existing at law, under contract, or in equity; provided, however, each right and remedy of the Issuer, whether granted in this Agreement, or any other Loan Document, at law or in equity is subject to the provisions of Section 8.11. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required or required by any other Loan Document. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee and the Trustee, subject to the provisions of Section 8.11 and of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained.

**Section 7.07. Agreement to Pay Fees and Expenses of Counsel.** If the Borrower should default under any of the provisions of this Agreement and prior to the commencement of litigation or other dispute resolution processes, the Issuer, Servicer, Financial Monitor, Significant Bondholder or the Trustee should employ counsel or incur other expenses for the collection of the indebtedness hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agree that they will on demand therefor pay to the Trustee, the Issuer, the Servicer, the Financial Monitor or the Significant Bondholder, if any, or, if so directed by the Issuer, the Trustee, the Servicer, the Financial Monitor or the Significant Bondholder, to their counsel, the reasonable fees of such counsel and all other out-of-pocket expenses incurred by or on behalf of the Issuer, the Trustee, the Servicer, the Financial Monitor or the Significant Bondholder with respect to the period prior to the commencement of litigation or other dispute resolution process. In all litigation or other dispute resolution process and all appeals therefrom the prevailing party in such litigation or

other dispute resolution process shall be entitled to recover, in addition to any other relief, its reasonable attorneys' fees and costs.

**Section 7.08. Waiver; No Additional Waiver Implied by One Waiver; Consents to Waivers.** The Owners of a majority of the aggregate principal amount of Bonds Outstanding may waive any Event of Default hereunder and upon such waiver the occurrence of such event shall not be deemed an Event of Default hereunder. No waiver shall be effective unless in writing and signed by the party making the waiver. In the event any agreement contained in this Agreement should be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 7.09. Remedies Subject to Applicable Law.** All rights, remedies, and powers provided by this ARTICLE VII may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law in the premises and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

**Section 7.10. Cure by Investor Limited Partner.** The Issuer hereby agrees that any cure of any Event of Default or default hereunder made or tendered by the Investor 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. Notices of default hereunder shall be given to the Investor Limited Partner in the same manner and at the same times as given to the Borrower. Notices to the Investor Limited Partner shall be sent to: TCP II EP, L.P., c/o Victoria Capital, LLC, 330 West Victoria Street Gardena, CA 90248-3527 Attention: Michael A. Costa Fax: (424) 258-2801; Email: michael.costa@housingpartners.com.

**Section 7.11. Significant Bondholder's Right To Perform the Obligations.** If the Borrower shall fail, refuse or neglect to make any payment or perform any act required by the Loan Documents and/or the Bond Documents, then while any default exists, and without notice to or demand upon the Borrower and without waiving or releasing any other right, remedy or recourse the Trustee or the Significant Bondholder may have because of such default, the Significant Bondholder may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of the Borrower, and shall have the right to enter upon the Project for such purpose and to take all such action thereon and with respect to the Project as it may deem necessary or appropriate. If the Significant Bondholder shall elect to pay any sum due with reference to the Project, the Significant Bondholder may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Loan Documents and/or the Bond Documents, the Significant Bondholder shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same. All sums paid by the Significant Bondholder pursuant to this Section 7.11, and all other sums expended by the Significant Bondholder, to which it shall be entitled to be indemnified, together with interest thereon at the Default Rate from the date of such payment or expenditure until paid, shall constitute additions

to all amounts payable with respect to the Bonds, shall be secured by the Loan Documents and/or the Bond Documents and shall be paid by the Borrower to the Significant Bondholder upon demand.

## **ARTICLE VIII MISCELLANEOUS**

**Section 8.01. Amounts Remaining in Funds and Accounts.** Any amounts remaining in any Fund or Account established under the Indenture after payment of the Bonds in full including interest and premium, if any, thereon in accordance with their terms, or provision for payment thereof having been made in accordance with the provisions of the Indenture, and payment of all sums otherwise due hereunder shall be paid to the Borrower as provided in the Indenture.

**Section 8.02. Non-Liability of Issuer; Issuer May Rely.**

(a) The Issuer shall not be obligated to pay the principal (or redemption price) of or interest on the Bonds, except from Project Revenues and other moneys and assets received by the Trustee on behalf of the Issuer pursuant to this Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of the Issuer or any member is pledged to the payment of the principal (or redemption price) or interest on the Bonds. The Issuer shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Loan Agreement, the Bonds or the Indenture except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement.

The Borrower hereby acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by payments made by the Borrower pursuant to this Loan Agreement and the receipt of other Project Revenues, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or redemption price) and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or redemption price) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

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

(i) The Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the

Trustee, any Bondholder or the Borrower as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer;

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

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

(c) No provision, representation, covenant or agreement contained in this Loan Agreement or in the Indenture, the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability (except to the extent of any Loan repayments, revenues and receipts derived by the Issuer pursuant to this Loan Agreement and other moneys held pursuant to the Indenture, other than in the Rebate Fund). No provision hereof shall be construed to impose a charge against the general credit of the Issuer, the State, the County or any political subdivision of the State or the taxing powers of the State, the County or any political subdivision of the State, within the meaning of any constitutional provision or statutory limitation, or any personal or pecuniary liability upon any board member, director, officer, agent or employee of the Issuer.

(d) All covenants, obligations and agreements of the Issuer contained in this Loan Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future board member, director, officer, agent or employee of the Issuer in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Loan Agreement or in the Indenture. No provision, covenant or agreement contained in this Loan Agreement, the Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Loan Agreement or in any Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project or the issuance and sale of the Bonds, against any member of the governing board of the Issuer, its officers, counsel, financial advisor, or agents, as such, in his or her individual capacity, past, present, or future, or of any successor thereto, whether by virtue of any Constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal

liability whatsoever shall attach to, or be incurred by, any member of the governing board, officers, counsel, financial advisors, or agents, as such, in his or her individual capacity, past, present, or future, of the Issuer or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Trustee or the Borrower to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such director, officer, counsel, financial advisor, or agent, is, by the execution of the Bonds, this Loan Agreement, and the Indenture, and as a condition of, and as part of the consideration for, the execution of the Bonds, this Loan Agreement, and the Indenture, expressly waived and released.

**Section 8.03. Amendment of Agreement.** This Agreement may be amended only by written agreement of the parties hereto, and subject to the requirements for and limitations on such amendments set forth herein and in the Indenture; provided, however, modification or the waiver of any provisions of this Agreement, the Notes or the Mortgage, or consent to any departure by the Borrower therefrom shall in no event be effective unless the same shall be in writing approved by the parties hereto.

**Section 8.04. Security Advice Waiver.** The Borrower and Issuer acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Borrower and Issuer the right to receive brokerage confirmations for certain security transactions as they occur, the Borrower and Issuer specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Borrower and Issuer periodic cash transaction statements that include detail for all investment transactions made by the Trustee.

**Section 8.05. Payment.** At such time as the principal of, premium, if any, and interest on all Bonds Outstanding under the Indenture shall have been paid in accordance with their terms, or shall be deemed to be paid in accordance with the Indenture, and all other sums payable by the Borrower under this Agreement shall have been paid, the Loan shall be deemed to be fully paid and the Borrower, upon request, will be entitled to receive acknowledgment of such payment in full from Trustee.

**Section 8.06. Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 8.07. Severability.** If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the invalidity of such provisions or sections shall not affect any other provisions or sections hereof, and this Agreement shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced, as if such illegal or invalid clause, provision or section had not been contained herein.

**Section 8.08. Term of Agreement; Time of the Essence.** This Agreement shall be in full force and effect from the date hereof and shall continue in effect for the later of (a) so long as any Bonds are Outstanding, or (b) for a period of 91 days after the Borrower makes any payments under this Agreement during which no “filing” by or against the Borrower (as described in Section 7.01(j)) occurs, or (c) so long as Trustee holds any moneys under the Indenture other than upon or after a defeasance pursuant to Article XII of the Indenture; provided, however, this Agreement shall not terminate unless and until (i) all of the Borrower’s obligations under the Loan Documents (including the Regulatory Agreement and the Tax Certificate) have been satisfied, and (ii) all of the Borrower’s obligations with respect to the Issuer Fee and any arbitrage rebate obligation has been satisfied and the Borrower has so certified to the Issuer and the Trustee. Notwithstanding the foregoing, all representations and certifications by the Borrower set forth in ARTICLE II and all provisions relating to the payment of any amounts due hereunder to the Trustee, the Servicer, the Financial Monitor, the Significant Bondholder, if any, and the Issuer (including amounts due under Section 4.13, Section 5.03 and ARTICLE VI) shall survive any termination, payment, or satisfaction of the indebtedness and the termination of this Agreement, and any foreclosure or any other transfer of any kind of the Project and shall continue and survive ad infinitum. The parties hereto agree that time is of the essence with respect to this Agreement and each of the other Loan Documents and the bond Documents.

**Section 8.09. Notice of Changes in Fact.** Promptly after the Borrower becomes aware of the same, the Borrower will notify the Issuer, the Trustee, the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative of (a) any change in any material fact or circumstance represented or warranted by the Borrower in this Agreement or in connection with the issuance of the Bonds, and (b) any Event of Default or event which, with the giving of notice or lapse of time or both, could become an Event of Default under this Agreement or the Indenture, specifying in each case the nature thereof and what action the Borrower has taken, is taking, and/or proposes to take with respect thereto.

**Section 8.10. Notices.** Any notices or other communication required or permitted hereunder shall be sufficiently given if delivered, by registered or certified mail, postage prepaid or overnight delivery service or dispatched by telegraphic or electronic means, to the Borrower, the Issuer, the Servicer, the Significant Bondholder, the Trustee and the Owners at their respective Notice Address or at such other address or telephone numbers as shall be furnished in writing by any party to the other, and shall be deemed to have been given as of the date of the signed receipt.

**Section 8.11. Debtor-Creditor Relationship.** It is expressly understood and agreed that the relationship between the Issuer and the Borrower established by the transaction contemplated by this Agreement and by all of the other Loan Documents is exclusively that of creditor or lender, on the part of the Issuer, and debtor or borrower, on the part of the Borrower, and is in no way to be construed as a partnership or joint venture of any kind. It is further understood that all payments by the Borrower under the Loan Documents shall be exclusively on account of the said debtor/creditor relationship.

**Section 8.12. Nonrecourse, Limited Recourse and Recourse Provisions of Loan.**

(a) Notwithstanding anything to the contrary in this Agreement or in the Notes or Mortgage, commencing on the Project Completion Date, the personal liability of the Borrower and each person who holds a direct or indirect ownership interest in the Borrower, and the respective officers, directors, managers, trustees, agents, employees and affiliates of Borrower and such owners (collectively, “Borrower Related Persons”) shall be strictly and absolutely limited to the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof and any other collateral securing the Loan, except as provided in paragraph (b) herein below. No one may seek any judgment, whether for a deficiency or otherwise, against the Borrower or the Borrower Related Persons in any action to foreclose, to exercise a power of sale, to confirm any foreclosure or sale under power of sale, or to exercise any other rights or power under or by reason of the Mortgage or any other Loan Documents; provided, however, that nothing herein shall prohibit to the extent necessary judicial proceedings to foreclose the Mortgage or other Loan Documents or to the extent necessary a judgment or decree of specific performance of agreements and covenants hereunder (or the exercise of any remedy available under the Regulatory Agreement, other than a remedy for the payment of principal and interest on the Notes, if any), other than Loan payment covenants. In the event any suit is brought on this Agreement, or concerning the Loan or any amount secured by the Mortgage or other Loan Documents as part of judicial proceedings to foreclose the liens of the Mortgage and/or security interest, or to confirm any foreclosure or sale pursuant to power of sale thereunder, or to exercise any other rights or power under or by reason of the Mortgage or other Loan Documents, any judgment obtained in such suit shall constitute a lien on and will be and can be enforced only against, the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof, and not against any other asset of the Borrower or the Borrower Related Persons, and the terms of such judgment shall expressly so provide.

(b) Notwithstanding paragraph (a) above, or anything to the contrary in this Agreement or any other Loan Documents, the Borrower shall be personally liable for, and the Issuer and the Trustee shall have the right to seek a judgment for money damages (including a deficiency judgment) to enforce, payment of:

(i) The Issuer Fee, the Trustee Fee, the Financial Monitor’s Fee and the Servicer Fee and reasonable extraordinary costs and expenses, including, but not limited to, the payment obligations of the Borrower under Section 4.13 and Section 5.03 and legal fees and reasonable out-of-pocket costs and expenses of Bond Counsel, counsel to the Issuer and counsel to the Trustee incurred in connection with the interpretation or enforcement of the Indenture, this Agreement or the other Loan Documents;

(ii) Indemnification under ARTICLE VI; provided, however, said indemnification provisions shall not be deemed to create any personal liability of

the Borrower or the Borrower Related Person for the payment of principal, premium, if any, and interest on the Loan;

(iii) [Reserved];

(iv) Intentional misapplication of Project rents, profits and issues following any payment default in payment of principal or interest on the Loan (without regard to the expiration of any cure period, if any) to the extent misapplied;

(v) Liability for intentional waste (provided however, it shall not be waste if the Borrower fails to restore or repair the Project or any part thereof after any damage, destruction, or partial condemnation notwithstanding the availability of insurance or condemnation proceeds), destruction or damage to the Project or any part thereof on the part of the Borrower, the Borrower Related Person, the Agent or the Manager;

(vi) Tenant security deposits, to the extent not properly accounted for, or prepaid rent, to the extent misapplied;

(vii) Misapplication of any Condemnation Award or Insurance Proceeds;

(viii) Fraud, intentional misrepresentation, willful misconduct, or criminal activity;

(ix) Any obligation to pay a premium on the Bonds in the event of a redemption resulting from a Determination of Taxability due to actions or inactions of the Borrower as provided in the Indenture;

(x) Any damages suffered by the Issuer, the Trustee or the Bondholders (or any of them) because of a transfer of the Project in whole or in part in contravention of the Loan Documents, or the occurrence of a Determination of Taxability because of the action or inaction of the Borrower or any party within its control; and

(xi) Any brokerage commissions or finders' fees claimed by any party in connection with the Bonds, the Loan or the Project.

In any action commenced against the Borrower with respect to the foregoing provisions (b)(i) through (xi), no action shall be maintained against the Borrower's Managing General Partner.

All of the foregoing obligations shall bear interest at the Default Rate from the due date thereof (or, in the case of liability and indemnification for removal or cleanup of environmental hazards, from the date demand for payment thereof is made) until the date paid in full.

**Section 8.13. Applicable Law.** The laws of the State, without resort to conflicts of laws principles, shall govern the interpretation of this Agreement.

**Section 8.14. Further Assurances and Corrective Instruments.** The Issuer and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the performance of this Agreement.

**Section 8.15. Electronic Transactions.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22.

**Section 8.16. USA Patriot Act.** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit or other financial services product. When the Borrower opens an account, if the Borrower is an individual, the Trustee may ask for the Borrower's name, taxpayer identification number, residential address, date of birth and other information that will allow the Trustee to identify the Borrower, and if the Borrower is not an individual, the Trustee will ask for the Borrower's name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Borrower. The Trustee may also ask, if the Borrower is an individual, to see the Borrower's driver's license or other identifying documents, and if the Borrower is not an individual, to see the Borrower's legal organizational documents or other identifying documents.

**Section 8.17. No Trial by Jury.** To the fullest extent permitted by applicable law, the Parties hereto hereby agree not to elect a trial by jury of any issue triable of right by jury, and waive any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to the Loan Documents and/or the Bond Documents, or any claim, counterclaim or other action arising in connection therewith. This waiver of right to trial by jury is given knowingly and voluntarily by the Parties hereto, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue in each instance, to the fullest extent permitted by applicable law. The Servicer, the Trustee or Significant Bondholder is hereby authorized to file a copy of this paragraph in any proceeding as conclusive evidence of this waiver by the Parties hereto.

**Section 8.18. California Judicial Reference Agreement.**

(a) Any disputes, claims and controversies arising out of the Loan Documents or the transactions contemplated thereby (each referred to herein as a "Dispute" and collectively, "Disputes") that are brought before a forum in which pre-dispute waivers of the right to trial by jury are invalid under applicable law shall be subject to the terms of this Section 8.18 in lieu of the jury trial waiver provided in Section 8.17 hereof.

(b) Any and all Disputes shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638 *et seq.* The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years' experience practicing commercial law. The parties shall not seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 and 641.2 without the prior written consent of all parties. If the parties are unable to agree upon a referee within ten (10) calendar days after one party serves a written notice of intent for judicial reference upon the other party or parties, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b). The referee shall render a written statement of decision and shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court, and the California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee. The referee's statement of decision shall set forth findings of fact and conclusions of law. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

(c) If a Dispute includes multiple claims, some of which are found not subject to this Agreement, the parties shall stay the proceedings of the Disputes or part or parts thereof not subject to this Agreement until all other Disputes or parts thereof are resolved in accordance with this Agreement. If there are Disputes by or against multiple parties, some of which are not subject to this Agreement, the parties shall sever the Disputes subject to this Agreement and resolve them in accordance with this Agreement.

(d) During the pendency of any Dispute which is submitted to judicial reference in accordance with this Agreement, the Borrower and the Trustee shall share the fees charged and costs incurred by the referee in performing the services described in this Agreement. The compensation of the referee shall not exceed the prevailing rate for like services.

**(e) THIS SECTION 8.18 CONSTITUTES A "REFERENCE AGREEMENT" BETWEEN OR AMONG THE PARTIES WITHIN THE MEANING OF AND FOR PURPOSES OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638. THE PROVISIONS OF THIS SECTION 8.18 SHALL BE APPLICABLE ONLY TO THE EXTENT CALIFORNIA LAW IS APPLIED IN A FORUM IN WHICH A DISPUTE IS BROUGHT AND IF THE JURY TRIAL WAIVER DESCRIBED IN Section 8.18 IS UNENFORCEABLE.**

**Section 8.19. Waiver of Personal Liability.** No member, officer, agent or employee of the Issuer or any of its program participants or any director, officer, agent or employee of the Borrower shall be individually or personally liable for the payment of any principal (or redemption price) or interest on the Bonds or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent

or employee from the performance of any official duty provided by law or by this Loan Agreement.

[Execution page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be duly executed as of the day and year first above written.

GOLDEN STATE FINANCE AUTHORITY

By: \_\_\_\_\_  
Name: Craig Ferguson  
Title: Vice President

[Issuer's Signature Page to Loan Agreement – Harmony Court Bakersfield Apartments]

**HARMONY BAKERSFIELD AR, L.P.,**  
a California limited partnership

By: WCH Affordable XXI, LLC,  
a California limited liability company,  
Its Managing General Partner

By: Western Community Housing Inc.  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: Graham Espley-Jones  
Title: President

By: HCHP Affordable Multi-Family, LLC,  
a California limited liability company,  
Its Administrative General Partner

By: \_\_\_\_\_  
Name: Robert W. Tetrault  
Title: Senior Vice President

[Borrower Signature Page to Loan Agreement – Harmony Court Bakersfield Apartments]

**EXHIBIT A-1  
FORM OF NOTE**

**PROMISSORY NOTE**

**SERIES E-1 NOTE  
(Harmony Court Bakersfield Apartments Project)**

\$3,730,000

As of September 1, 2016

FOR VALUE RECEIVED, Harmony Bakersfield AR, L.P., a California limited partnership (the “Borrower”), promises to pay, in lawful money of the United States of America, to the order of the Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (together with any of its successors or assigns, the “Issuer”), the principal sum of THREE MILLION SEVEN HUNDRED THIRTY THOUSAND DOLLARS AND NO CENTS (\$3,730,000) with interest thereon on the outstanding principal balance of this Note from time to time, at the rates per annum as provided in the Indenture and the Loan Agreement (each as hereinafter defined). Terms not otherwise defined in this Note shall have the respective meanings as set forth in the Indenture or the Loan Agreement.

Amounts due under this Note shall be payable in installments at the times and in the amounts determined as provided in the Loan Agreement dated as of September 1, 2016, between the Borrower and the Issuer, the terms of which are incorporated herein by reference (the “Loan Agreement”), with the final payment of all outstanding principal and interest on this Note to be paid on [October 1, 2033], unless the Bonds are required to be redeemed or this Note is earlier paid by the Borrower in accordance with the terms hereof, the Loan Agreement or the Indenture; however, the obligation of the Borrower to make any payment hereunder shall be deemed satisfied and discharged to the extent of any amounts held in the funds and accounts under the Indenture, including earnings thereon, to the extent such amounts are used to make payments of principal and interest on the Bonds. Both principal and interest under this Note shall be payable at the Notice Address of the Trustee. The Borrower may make prepayments upon this Note as provided in the Loan Agreement, with such prepayments being first applied to interest and next to principal.

This Note is made pursuant to the Loan Agreement wherein, among other things, the Issuer has agreed to loan to the Borrower and the Borrower has agreed to take a loan in the principal amount above, being the proceeds from the sale of the Issuer’s Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 in the aggregate principal amount of \$3,730,000 (the “Series E-1 Bonds”), said proceeds to be disbursed to the Borrower from time to time in accordance with the provisions of the Trust Indenture dated as of September 1, 2016 (the “Indenture”), between the Issuer and the Trustee, pursuant to which the Bonds are being issued. Simultaneously with the issuance of the Series E-1 Bonds, the Issuer will issue its Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 in the aggregate principal amount of \$1,997,000 (the “Series E-2 Bonds,” and together with the Series E-1 Bonds, the “Bonds”) as more fully set forth in the Indenture, which Series E-2 Bonds are subordinate to the Series E-1

Bonds. The loan of the proceeds of the Series E-2 Bonds to the Borrower is evidenced by a separate note (the "Series E-2 Note").

Upon the occurrence of any Event of Default as defined in the Loan Agreement, all unpaid principal of and interest on this Note may be declared to be forthwith due and payable in the manner and with the effect provided in the Loan Agreement. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent occurrence of such an Event of Default. If this Note shall be placed in the hands of an attorney or attorneys for collection, the Borrower agrees to pay, in addition to the amount due hereon, the reasonable costs and expenses of collection, including reasonable legal fees and expenses.

The indebtedness evidenced by this Note is secured by, among other things, the Senior Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of September 1, 2016 (the "Mortgage"), from the Borrower to the deed of trust trustee named therein for the benefit of the Trustee.

Interest payable on this Note shall not exceed the maximum amount that may be lawfully charged. Interest on this Note shall be calculated, from time to time, on the same basis as interest on the Bonds.

At the option of the Trustee, exercised in accordance with the Indenture, the entire principal balance and accrued interest owing hereon shall at once become due and payable without notice or demand upon the occurrence at any time of any of the events of default (collectively, the "Events of Default") set forth in the Loan Agreement or the Mortgage, after the passage of any applicable grace or cure period provided therein.

The Trustee's failure to exercise the option to accelerate the maturity of this Note upon the happening of any one or more of the Events of Default shall not constitute a waiver of the right of the Trustee to exercise the same or any other option at that time with respect to such Event of Default or any other default under this Note or under any instrument securing, governing, guaranteeing or evidencing the loan evidenced by this Note (the "Loan"). The remedies provided in this Note, in the Mortgage, the Loan Agreement, the Indenture and in any other instrument securing, governing, guaranteeing or evidencing the Loan (collectively, the "Security Documents"), shall be cumulative and concurrent and may be pursued separately, successively or together as often as occasion therefor shall arise, at the sole discretion of the Trustee. The acceptance by the holder hereof of any payment under this Note which is less than the payment in full of all amounts due and payable at the time of such payment shall not (a) constitute a waiver of or impair, reduce, release or extinguish any remedy or right to exercise the foregoing option or any other option granted to the holder or any other party in this Note, or under any other instrument securing, governing, guaranteeing or evidencing the loan evidenced hereby, at that time or at any subsequent time, or nullify any prior exercise of any such option, or (b) impair, reduce, release, extinguish or adversely affect the obligations of any party liable under such documents as originally provided therein.

The Borrower waives demand, presentment, notice of dishonor, notice of intention to accelerate the indebtedness evidenced hereby, notice of the acceleration of the maturity hereof, diligence in collecting, grace, notice (except as set forth in the Loan Agreement or Mortgage)

and protest, and agrees to one or more extensions for any period or periods of time and to partial payments, as permitted by the Trustee in its sole discretion, before or after maturity, without prejudice to the holder of this Note.

If this Note is not paid when due, whether at maturity or by acceleration, or if, after the occurrence of an Event of Default, this Note is placed with an attorney for collection, whether before or after maturity, the Borrower agrees to pay all reasonable costs of collection, including, but not limited to, reasonable legal fees and expenses incurred by or on behalf of the holder hereof.

All payments on the indebtedness evidenced by this Note shall be applied first to pay certain costs incurred by or on behalf of the holder hereof and next to pay interest hereon and next to pay any and all remaining costs incurred by or on behalf of the holder hereof and finally to pay principal, all as described in the Indenture.

The proceeds of this Note are to be used for business, commercial, investment or other similar purposes, and no portion thereof will be applied for personal, family or household use.

All agreements between the Borrower and the holder hereof, whether now existing or hereafter arising, and whether written or oral, are hereby limited so that in no event shall the interest payable hereunder (whether contracted for, charged or received by the holder hereof) exceed the maximum amount permissible under applicable law. If, from any circumstances whatsoever, interest would otherwise be payable to the holder hereof in excess of the maximum lawful amount, the interest payable to the holder hereof shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the holder hereof shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any such excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to the holder hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Borrower and the holder hereof.

Notwithstanding anything to the contrary in this Note or in the Loan Agreement or the Mortgage, from and after the Project Completion Date, the personal liability of the Borrower and each person who holds a direct or indirect ownership interest in the Borrower, and the respective officers, directors, managers, partners, trustees, agents, employees and affiliates of Borrower and such owners (collectively, "Borrower Related Persons") shall be strictly and absolutely limited to the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof and any other collateral securing the Loan, except as provided in paragraph (b) herein below. No one may seek any judgment, whether for a deficiency or otherwise, against the Borrower or the Borrower Related Persons in any action to foreclose, to exercise a power of sale, to confirm any foreclosure or sale under power of sale, or to exercise any other rights or power under or by reason of the Mortgage or any other Loan Documents; provided, however, that nothing herein shall prohibit to the extent necessary judicial proceedings

to foreclose the Mortgage or other Loan Documents or to the extent necessary a judgment or decree of specific performance of agreements and covenants under this Note or the Loan Agreement (or the exercise of any remedy available under the Regulatory Agreement, other than a remedy for the payment of principal and interest on this Note, if any), other than Loan payment covenants. In the event any suit is brought on this Note or the Loan Agreement, or concerning the Loan or any amount secured by the Mortgage or other Loan Documents as part of judicial proceedings to foreclose the Mortgage liens and/or security interest, or to confirm any foreclosure or sale pursuant to power of sale thereunder, or to exercise any other rights or power under or by reason of the Mortgage or other Loan Documents, any judgment obtained in such suit shall constitute a lien on and will be and can be enforced only against, the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof, and not against any other asset of the Borrower or the Borrower Related Persons, and the terms of such judgment shall expressly so provide.

Notwithstanding the preceding paragraph, or anything to the contrary in the Loan Agreement or any other Loan Documents, the Borrower, shall be personally liable for, and the Issuer and the Trustee shall have the right to seek a judgment for money damages (including a deficiency judgment) to enforce, payment of:

(a) The Issuer Fee, the Trustee Fee, the Financial Monitor Fee and the Servicer Fee and reasonable extraordinary costs and expenses, including, but not limited to, the payment obligations of the Borrower under Section 4.13 and Section 5.03 of the Loan Agreement and reasonable legal fees and out-of-pocket costs and expenses of Bond Counsel, counsel to the Issuer and Counsel to the Trustee incurred in connection with the interpretation or enforcement of the Indenture, the Loan Agreement or the other Loan Documents;

(b) Indemnification under ARTICLE VI of the Loan Agreement; provided, however, said indemnification provisions shall not be deemed to create any personal liability of the Borrower or the Borrower Related Person for the payment of principal, premium, if any, and interest on the Loan;

(c) [Reserved];

(d) Intentional misapplication of Project rents, profits and issues following any payment default in payment of principal or interest on the Loan (without regard to the expiration of any cure period, if any) to the extent misapplied;

(e) Liability for intentional waste (provided however, it shall not be waste if the Borrower fails to restore or repair the Project or any part thereof after any damage, destruction, or partial condemnation notwithstanding the availability of insurance or condemnation proceeds), destruction or damage to the Project or any part thereof on the part of the Borrower, the Borrower Related Person, the Agent or the Manager;

(f) Tenant security deposits, to the extent not properly accounted for, or prepaid rent, to the extent misapplied;

(g) Misapplication of any Condemnation Award or Insurance Proceeds;

(h) Fraud, intentional misrepresentation, willful misconduct, or criminal activity;

(i) Any obligation to pay a premium on the Bonds in the event of a redemption resulting from a Determination of Taxability due to the actions or inaction of the Borrower, as provided in the Indenture;

(j) Any damages suffered by the Issuer, the Trustee or the Bondholders (or any of them) because of a transfer of the Project in whole or in part in contravention of the Loan Documents, or the occurrence of a Determination of Taxability because of the action or inaction of the Borrower or any party within its control; and

(k) Any brokerage commissions or finders' fees claimed by any party in connection with the Bonds, the Loan or the Project.

All of the foregoing obligations shall bear interest at the Default Rate from the due date thereof (or, in the case of liability and indemnification for removal or cleanup of environmental hazards, from the date demand for payment thereof is made) until the date paid in full.

In any action commenced against the Borrower with respect to the foregoing provisions (a) through (k), no action shall be maintained against the Borrower's Managing General Partner.

**THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CHOICE OF LAW PRINCIPLES THEREOF.**

[Signature page to follow]

**SIGNATURE PAGE OF BORROWER FOR PROMISSORY NOTE**

**(Harmony Court Bakersfield Apartments Project)**

**HARMONY BAKERSFIELD AR, L.P.,**  
a California limited partnership

By: WCH Affordable XXI, LLC,  
a California limited liability company,  
its Managing General Partner

By: Western Community Housing Inc.  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: Graham Espley-Jones  
Title: President

By: HCHP Affordable Multi-Family, LLC,  
a California limited liability company,  
Its Administrative General Partner

By: \_\_\_\_\_  
Name: Robert W. Tetrault  
Title: Senior Vice President

**ASSIGNMENT OF PROMISSORY NOTE  
(Harmony Court Bakersfield Apartments Project)**

The Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the "Issuer"), hereby assigns to Wilmington Trust, National Association, as trustee under the Trust Indenture dated as of September 1, 2016, by and between the Issuer and said trustee, without recourse or warranty, all of its right, title and interest in and to the attached Promissory Note dated as of September 1, 2016, in the principal amount of \$3,730,000, made by Harmony Bakersfield AR, L.P., a California limited partnership, payable to the order of the Issuer.

**GOLDEN STATE FINANCE AUTHORITY, as  
Issuer**

By: \_\_\_\_\_  
Authorized Signatory

**EXHIBIT A-2  
FORM OF NOTE**

**PROMISSORY NOTE**

**SERIES E-2 NOTE  
(Harmony Court Bakersfield Apartments Project)**

\$1,997,000

As of September 1, 2016

FOR VALUE RECEIVED, Harmony Bakersfield AR, L.P., a California limited partnership (the “Borrower”), promises to pay, in lawful money of the United States of America, to the order of the Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (together with any of its successors or assigns, the “Issuer”), the principal sum of ONE MILLION NINE HUNDRED NINETY SEVEN THOUSAND DOLLARS AND NO CENTS (\$1,997,000) with interest thereon on the outstanding principal balance of this Note from time to time, at the rates per annum as provided in the Indenture and the Loan Agreement (each as hereinafter defined). Terms not otherwise defined in this Note shall have the respective meanings as set forth in the Indenture or the Loan Agreement.

Amounts due under this Note shall be payable in installments at the times and in the amounts determined as provided in the Loan Agreement dated as of September 1, 2016, between the Borrower and the Issuer, the terms of which are incorporated herein by reference (the “Loan Agreement”), with the final payment of all outstanding principal and interest on this Note to be paid on [October 1, 2018], unless the Bonds are required to be redeemed or this Note is earlier paid by the Borrower in accordance with the terms hereof, the Loan Agreement or the Indenture; however, the obligation of the Borrower to make any payment hereunder shall be deemed satisfied and discharged to the extent of any amounts held in the funds and accounts under the Indenture, including earnings thereon, to the extent such amounts are used to make payments of principal and interest on the Bonds. Both principal and interest under this Note shall be payable at the Notice Address of the Trustee. The Borrower may make prepayments upon this Note as provided in the Loan Agreement, with such prepayments being first applied to interest and next to principal.

This Note is made pursuant to the Loan Agreement wherein, among other things, the Issuer has agreed to loan to the Borrower and the Borrower has agreed to take a loan in the principal amount above, being the proceeds from the sale of the Issuer’s Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 in the aggregate principal amount of \$1,997,000 (the “Series E-2 Bonds”), said proceeds to be disbursed to the Borrower from time to time in accordance with the provisions of the Trust Indenture dated as of September 1, 2016 (the “Indenture”), between the Issuer and the Trustee, pursuant to which the Bonds are being issued. Simultaneously with the issuance of the Series E-2 Bonds, the Issuer is issuing its Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 in the aggregate principal amount of \$3,730,000 (the “Series E-1 Bonds,” and together with the Series E-2 Bonds, the “Bonds”) as more fully set forth in the Indenture, which Series E-1 Bonds are senior to the Series E-2 Bonds. The loan of the

proceeds of the Series E-1 Bonds to the Borrower is evidenced by a separate note (the “Series E-1 Note”).

Upon the occurrence of any Event of Default as defined in the Loan Agreement, all unpaid principal of and interest on this Note may be declared to be forthwith due and payable in the manner and with the effect provided in the Loan Agreement. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent occurrence of such an Event of Default. If this Note shall be placed in the hands of an attorney or attorneys for collection, the Borrower agrees to pay, in addition to the amount due hereon, the reasonable costs and expenses of collection, including reasonable legal fees and expenses.

The indebtedness evidenced by this Note is secured by, among other things, the Subordinate Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of September 1, 2016 (the “Mortgage”), from the Borrower to the deed of trust trustee named therein for the benefit of the Trustee.

Interest payable on this Note shall not exceed the maximum amount that may be lawfully charged. Interest on this Note shall be calculated, from time to time, on the same basis as interest on the Bonds.

At the option of the Trustee, exercised in accordance with the Indenture, the entire principal balance and accrued interest owing hereon shall at once become due and payable without notice or demand upon the occurrence at any time of any of the events of default (collectively, the “Events of Default”) set forth in the Loan Agreement or the Mortgage, after the passage of any applicable grace or cure period provided therein.

The Trustee’s failure to exercise the option to accelerate the maturity of this Note upon the happening of any one or more of the Events of Default shall not constitute a waiver of the right of the Trustee to exercise the same or any other option at that time with respect to such Event of Default or any other default under this Note or under any instrument securing, governing, guaranteeing or evidencing the loan evidenced by this Note (the “Loan”). The remedies provided in this Note, in the Mortgage, the Loan Agreement, the Indenture and in any other instrument securing, governing, guaranteeing or evidencing the Loan (collectively, the “Security Documents”), shall be cumulative and concurrent and may be pursued separately, successively or together as often as occasion therefor shall arise, at the sole discretion of the Trustee. The acceptance by the holder hereof of any payment under this Note which is less than the payment in full of all amounts due and payable at the time of such payment shall not

(a) constitute a waiver of or impair, reduce, release or extinguish any remedy or right to exercise the foregoing option or any other option granted to the holder or any other party in this Note, or under any other instrument securing, governing, guaranteeing or evidencing the loan evidenced hereby, at that time or at any subsequent time, or nullify any prior exercise of any such option, or

(b) impair, reduce, release, extinguish or adversely affect the obligations of any party liable under such documents as originally provided therein.

The Borrower waives demand, presentment, notice of dishonor, notice of intention to accelerate the indebtedness evidenced hereby, notice of the acceleration of the maturity hereof, diligence in collecting, grace, notice (except as set forth in the Loan Agreement or Mortgage) and protest, and agrees to one or more extensions for any period or periods of time and to partial payments, as permitted by the Trustee in its sole discretion, before or after maturity, without prejudice to the holder of this Note.

If this Note is not paid when due, whether at maturity or by acceleration, or if, after the occurrence of an Event of Default, this Note is placed with an attorney for collection, whether before or after maturity, the Borrower agrees to pay all reasonable costs of collection, including, but not limited to, reasonable legal fees and expenses incurred by or on behalf of the holder hereof.

All payments on the indebtedness evidenced by this Note shall be applied first to pay certain costs incurred by or on behalf of the holder hereof and next to pay interest hereon and next to pay any and all remaining costs incurred by or on behalf of the holder hereof and finally to pay principal, all as described in the Indenture.

The proceeds of this Note are to be used for business, commercial, investment or other similar purposes, and no portion thereof will be applied for personal, family or household use.

All agreements between the Borrower and the holder hereof, whether now existing or hereafter arising, and whether written or oral, are hereby limited so that in no event shall the interest payable hereunder (whether contracted for, charged or received by the holder hereof) exceed the maximum amount permissible under applicable law. If, from any circumstances whatsoever, interest would otherwise be payable to the holder hereof in excess of the maximum lawful amount, the interest payable to the holder hereof shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the holder hereof shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any such excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to the holder hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Borrower and the holder hereof.

Notwithstanding anything to the contrary in this Note or in the Loan Agreement or the Mortgage, from and after the Project Completion Date, the personal liability of the Borrower and each person who holds a direct or indirect ownership interest in the Borrower, and the respective officers, directors, managers, partners, trustees, agents, employees and affiliates of Borrower and such owners (collectively, "Borrower Related Persons") shall be strictly and absolutely limited to the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof and any other collateral securing the Loan, except as provided in paragraph (b) herein below. No one may seek any judgment, whether for a deficiency or otherwise, against the Borrower or the Borrower Related Persons in any action to foreclose, to

exercise a power of sale, to confirm any foreclosure or sale under power of sale, or to exercise any other rights or power under or by reason of the Mortgage or any other Loan Documents; provided, however, that nothing herein shall prohibit to the extent necessary judicial proceedings to foreclose the Mortgage or other Loan Documents or to the extent necessary a judgment or decree of specific performance of agreements and covenants under this Note or the Loan Agreement (or the exercise of any remedy available under the Regulatory Agreement, other than a remedy for the payment of principal and interest on this Note, if any), other than Loan payment covenants. In the event any suit is brought on this Note or the Loan Agreement, or concerning the Loan or any amount secured by the Mortgage or other Loan Documents as part of judicial proceedings to foreclose the Mortgage liens and/or security interest, or to confirm any foreclosure or sale pursuant to power of sale thereunder, or to exercise any other rights or power under or by reason of the Mortgage or other Loan Documents, any judgment obtained in such suit shall constitute a lien on and will be and can be enforced only against, the property encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof, and not against any other asset of the Borrower or the Borrower Related Persons, and the terms of such judgment shall expressly so provide.

Notwithstanding the preceding paragraph, or anything to the contrary in the Loan Agreement or any other Loan Documents, the Borrower, shall be personally liable for, and the Issuer and the Trustee shall have the right to seek a judgment for money damages (including a deficiency judgment) to enforce, payment of:

- (a) The Issuer Fee, the Trustee Fee, the Financial Monitor Fee and the Servicer Fee and reasonable extraordinary costs and expenses, including, but not limited to, the payment obligations of the Borrower under Section 4.13 and Section 5.03 of the Loan Agreement and reasonable legal fees and out-of-pocket costs and expenses of Bond Counsel, counsel to the Issuer and Counsel to the Trustee incurred in connection with the interpretation or enforcement of the Indenture, the Loan Agreement or the other Loan Documents;
- (b) Indemnification under ARTICLE VI of the Loan Agreement; provided, however, said indemnification provisions shall not be deemed to create any personal liability of the Borrower or the Borrower Related Person for the payment of principal, premium, if any, and interest on the Loan;
- (c) [Reserved];
- (d) Intentional misapplication of Project rents, profits and issues following any payment default in payment of principal or interest on the Loan (without regard to the expiration of any cure period, if any) to the extent misapplied;
- (e) Liability for intentional waste (provided however, it shall not be waste if the Borrower fails to restore or repair the Project or any part thereof after any damage, destruction, or partial condemnation notwithstanding the availability of insurance or condemnation proceeds), destruction or damage to the Project or any part thereof on the part of the Borrower, the Borrower Related Person, the Agent or the Manager;

- (f) Tenant security deposits, to the extent not properly accounted for, or prepaid rent, to the extent misapplied;
- (g) Misapplication of any Condemnation Award or Insurance Proceeds;
- (h) Fraud or intentional misrepresentation, willful misconduct, or criminal activity;
- (i) Any obligation to pay a premium on the Bonds in the event of a redemption resulting from a Determination of Taxability due to the actions or inaction of the Borrower, as provided in the Indenture;
- (j) Any damages suffered by the Issuer, the Trustee or the Bondholders (or any of them) because of a transfer of the Project in whole or in part in contravention of the Loan Documents, or the occurrence of a Determination of Taxability because of the action or inaction of the Borrower or any party within its control; and
- (k) Any brokerage commissions or finders' fees claimed by any party in connection with the Bonds, the Loan or the Project.

All of the foregoing obligations shall bear interest at the Default Rate from the due date thereof (or, in the case of liability and indemnification for removal or cleanup of environmental hazards, from the date demand for payment thereof is made) until the date paid in full.

**THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CHOICE OF LAW PRINCIPLES THEREOF.**

[Signature page to follow]

**SIGNATURE PAGE OF BORROWER FOR PROMISSORY NOTE  
(Harmony Court Bakersfield Apartments Project)**

**HARMONY BAKERSFIELD AR, L.P.,**

a California limited partnership

By: WCH Affordable XXI, LLC,  
a California limited liability company,  
its Managing General Partner

By: Western Community Housing Inc.  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_

Name: Graham Espley-Jones

Title: President

By: HCHP Affordable Multi-Family, LLC,  
a California limited liability company,  
Its Administrative General Partner

By: \_\_\_\_\_

Name: Robert W. Tetrault

Title: Senior Vice President

**ASSIGNMENT OF PROMISSORY NOTE  
(Harmony Court Bakersfield Apartments Project)**

The Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the "Issuer"), hereby assigns to Wilmington Trust, National Association, as trustee under the Trust Indenture dated as of September 1, 2016, by and between the Issuer and said trustee, without recourse or warranty, all of its right, title and interest in and to the attached Promissory Note dated as of September 1, 2016, in the principal amount of \$1,997,000, made by Harmony Bakersfield AR, L.P., a California limited partnership, payable to the order of the Issuer.

**GOLDEN STATE FINANCE AUTHORITY, as  
Issuer**

By: \_\_\_\_\_  
Authorized Signatory