REGULATORY AND OPERATING AGREEMENT

FOR

OBERY COURT PHASE I

ANNAPOLIS, MARYLAND

TABLE OF CONTENTS

RECITALS 4

ARTICLE I. DEFINITIONS **5**

ARTICLE II PUBLIC HOUSING UNITS **5**

Section 2.01 Operation of the Public Housing Units. 5
Section 2.02 Number and Description. 5
Section 2.03 Distribution 5
Section 2.04 Target Households 6
Section 2.05 Over-Income Tenants 6

ARTICLE III OPERATION OF PUBLIC HOUSING UNITS **6**

Section 3.01 General Duty to Operate In Accordance with Applicable Requirements. 6
Section 3.02 Management Plan Requirements 7
Section 3.03 Admissions and Occupancy Policies 7
Section 3.04 Site-Based Waiting List Policy 7
Section 3.05 Public Housing Unit Leases 7
Section 3.06 Grievance Procedures 8
Section 3.07 Access to Records and Tenant Information 8
Section 3.08 Management Standards 8
Section 3.09 Management Agent and Management Agreement. 8
Section 3.10 The Authority's Determinations Not to Adversely Affect the Owner. 10
Section 3.11 Waivers 11
Section 3.13 Due Adoption; Public Housing Agency Plan 11
Section 3.14 Reoccupancy. 12
Section 3.15 Revision to System for Administering Admissions. 12

ARTICLE IV OPERATING SUBSIDY **12**

Section 4.01 Amount of Subsidy 12
Section 4.02 Budgeting 14
Section 4.03 Operating Subsidy Payments 15
Section 4.04 Section 42 Compliance 16
Section 4.05 Future Changes 16
Section 4.06 Operating Account. 16

ARTICLE V AUTHORITY-RELATED RESERVES. **17**

Section 5.01 ACC Reserve 17
Section 5.02 Cash Flow 19
Section 5.03 Records 19
Section 5.04 Replacement Reserve 19

Section 5.05 Initial Operating Deficit Reserve 20
Section 5.06 Initial Operating Deficit Reserve 20
Section 5.06 Operating Reserve 20

ARTICLE VI PRESERVATION AND TRANSFORMATION OF PUBLIC HOUSING 21

Section 6.01 General 21
Section 6.03 Initial Adjustments to Income and Expenses 21
Section 6.08 Restoration of Units 25
Section 6.09 First Right of Return 25
Section 6.10 Audit and Remedy 25

ARTICLE VII FINANCIAL STATEMENTS AND REPORTS; ANNUAL RECONCILIATION. 25

Section 7.01 Accounting System. 25
Section 7.02 Monthly Reports 25
Section 7.03 Quarterly Report 25
Section 7.04 Annual Audited Financial Statements 26
Section 7.05 Supplemental Data. 26
Section 7.06 Annual Reconciliation. 26
Section 7.07 Maintenance of Records. 28
Section 7.08 Records for Audit Purposes 28

ARTICLE VIII. NON-DISCRIMINATION AND OTHER FEDERAL REQUIREMENTS 28

Section 8.01 Applicable Requirements. 28

ARTICLE IX. INSURANCE REQUIREMENTS; RESTORATION OF PROPERTY 29

Section 9.01 Insurance. 29
Section 9.02 Claims 29
Section 9.03 Restoration, Casualty, Condemnation. 29

ARTICLE X. DISPOSITION AND ENCUMBRANCE 30

Section 10.01 No Demolition or Disposition. 30
Section 10.02 No Encumbrances. 30
Section 10.03 Exclusions. 30
Section 10.04 Transfers of Interests. 31

ARTICLE XI DEFAULT AND REMEDIES 32

Section 11.01 Default 32
Section 11.02 Notice and Cure Period. 32
Section 11.03 Remedies. 33
Section 11.04 Rights of Others 33
Section 11.05 Exclusive Remedy 33

ARTICLE XII. DISCLAIMER OF HUD RELATIONSHIPS 34

ARTICLE XIII. MISCELLANEOUS 34

Section 13.01 Term of Agreement 34
Section 13.02 Decision Standards 34
Section 13.03 Notices 35
Section 13.04 Further Assurances 36
Section 13.05 No Assignment 36
Section 13.06 Counterparts 36
Section 13.07 Interpretation and Governing Law 36
Section 13.08 Severability 36
Section 13.09 No Personal Liability 36
Section 13.10 Modification of Agreement 36
Section 13.11 The Owner's Employees and Liabilities 36
Section 13.12 Neither Party an Agent 37
Section 13.13 Waivers 37
Section 13.14 Total Agreement 37
Section 13.15 Future Changes in Applicable Laws 37
Section 13.16 Calendar Days 37
Section 13.17 Temporary Interests 37
Section 13.18 Reasonableness 37
Section 13.19 Future Legislation 38
Section 13.20 Limited Owner Obligation 38
Section 13.21 Exhibits 38

EXHIBIT A SITE DESCRIPTION 42

EXHIBIT B HUD FORM 52723 42

EXHIBIT C FIRST YEAR OPERATING BUDGET 43

EXHIBIT D DEFINED TERMS 44

REGULATORY AND OPERATING AGREEMENT

This Regulatory and Operating Agreement (the "Agreement") is entered into as of the 6th day of March, 2009, by and between the Housing Authority of the City of Annapolis (together with its successors and assigns, the "Authority"), a public body corporate and politic organized under the laws of the State of Maryland and a "public housing agency" as defined in the United States Housing Act of 1937 (42 U.S.C. Section 1437 et seq., as amended), and Obery Court Phase I, LLC, a limited liability company organized and existing under the laws of the State of Maryland (together with its successors and assigns the "Owner").

RECITALS:

A. The Authority was the owner of certain real property in the City of Annapolis known as the Obery Court and College Creek Terrace public housing developments (the "Existing Site"). The Authority conducted a competitive selection procedure and selected Pennrose Properties, LLC to redevelop the Existing Site through multiple phases consisting of new construction and rehabilitation of the existing units (the "Revitalization").

B. The Revitalization will be implemented in phases. The phase that is the subject of this Agreement will be known as Obery Court Phase I and will consist of fifty (50) units of rental housing (the "Development").

C. The Owner and the Authority desire and intend that the Development be developed, operated and managed so as to create a stable, sustainable community and assure receipt by the Owner of all available economic and tax benefits to the fullest extent permitted by applicable law. All fifty (50) units in the Development will be operated and maintained as qualified low-income units under Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42"), for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42). Forty (40) units will be operated as "public housing units" as defined in Section 3(b) of the United States Housing Act of 1937, as amended (the "Act"). The Public Housing Units shall be eligible to receive the benefit of Operating Fund assistance provided to the Authority by HUD pursuant to Section 9 of the Act.

D. Pursuant to the requirements of the Act and the terms of this Agreement, the Owner is obligated to lease the Public Housing Units to families whose contribution toward rent is restricted and may be less than the operating costs of the Public Housing Units. The Authority has therefore agreed to subsidize the long-term operation and maintenance of the Public Housing Units through the provision of assistance provided to the Authority by HUD under and pursuant to the Annual Contributions Contract and the Act.

AGREEMENT

units will contain a total of eight-seven (87) bedrooms. The Owner will maintain and operate the Public Housing Units in accordance with Public Housing Requirements and this Agreement. Such units shall be eligible to receive Operating Subsidy Payments from the Authority as described below. The Public Housing Units shall initially comprise the following mixture of unit sizes and descriptions:

Type	Number	Bedrooms
1 bedroom	10	10
2 bedrooms	15	30
3 bedrooms	13	39
4 bedrooms	2	8
TOTAL	40	87

Section 2.03 Distribution. The Public Housing Units shall not be fixed units, but shall "float" and, to the extent feasible and as agreed to by the parties, the Public Housing Units shall be scattered throughout the Development, and within structures within the Development. Public Housing Units and Non Public Housing Units shall be maintained and operated without distinction, except for those differences such as admissions procedures, lease terms and other conditions as are mandated by law or intended by the Owner and the Authority to effectuate the law and/or benefit the Public Housing Units. The parties acknowledge that this Agreement

In consideration of the foregoing recitals and underlying promises, which both parties agree to be good and valuable consideration, the parties agree as follows:

ARTICLE I. DEFINITIONS

Exhibit D contains definitions of certain capitalized terms used throughout this Agreement. Certain other capitalized terms are defined when they first appear.

ARTICLE II. PUBLIC HOUSING UNITS.

Section 2.01 Operation of the Public Housing Units. During the term of this Agreement, Owner shall develop and operate the Public Housing Units for public housing-eligible households in accordance with Public Housing Requirements and Tax Credit Requirements, and the terms of this Agreement. Provided that the Owner continues operating the Public Housing Units in accordance with the applicable Public Housing Requirements, and in accordance with the terms of this Agreement, such units shall be eligible to receive the benefit of operating subsidy assistance to the extent such funds are appropriated by Congress and otherwise made available to the Authority pursuant to Section 9(e) of the Act, or pursuant to any successor legislation, as more specifically set forth in Article IV hereof.

Section 2.02 Number and Description. The Owner will continuously set aside forty (40) units in the Development as Public Housing Units during the term of this Agreement, which

primarily describes the Public Housing Units, but the Non Public Housing Units shall be subject to this Agreement to the extent that this Agreement makes explicit reference to such units or to the Development.

Section 2.04 Target Households. The Owner and the Authority intend to target those income levels for admissions as specified in the Management Plan.

Section 2.05 Over-Income Tenants. Consistent with the Public Housing Requirements, a unit shall not lose its status as a Public Housing Unit solely because the income of the tenant residing therein rises above the applicable public housing income limit; any such units shall be governed by rules generally applicable to units occupied by over-income tenants in the public housing program (subject to such modifications in lease and occupancy terms as are permitted hereunder) and further subject to Tax Credit Requirements.

Section 2.06 Changing Designation of Units. The Owner may change the Public Housing Units designated in accordance with the Management Plan (as defined below) provided that the number of bedrooms in the Public Housing Units shall remain within a 5% deviation of the total number of bedrooms specified in the first paragraph of Section 2.02 herein, and provided that:

(a.) if such change is to be made with respect to an occupied Public Housing Unit, the tenant of such Public Housing Unit shall have the same rights with respect to occupancy and rent as applied prior to removal of the Public Housing Unit's designation as a Public Housing Unit so long as such tenant shall remain eligible under applicable Public Housing Requirements and the terms of this Agreement; and

(b.) the Public Housing Units shall at all times, to the extent feasible, be scattered evenly throughout the Development, and the Public Housing Units shall not be concentrated in any particular area or areas within the Development or within the structures within the Development.

ARTICLE III. OPERATION OF PUBLIC HOUSING UNITS.

Section 3.01 General Duty to Operate In Accordance with Applicable Requirements. The Owner shall maintain and operate the Public Housing Units in accordance with the Public Housing Requirements, the Tax Credit Requirements, this Agreement, and any other Authority-approved operational agreements executed by the Owner for the Development. The Owner shall perform all acts necessary to enable the Authority to fulfill its obligations to HUD with respect to the Development and shall take all actions within its control necessary and appropriate to avoid a default by the Authority under the ACC with respect to the Development. The Owner shall operate and maintain the Development within the annual operating budget approved in writing by the Authority ("Operating Budget") pursuant to the requirements of Section 4.02 herein.

Section 3.02 Management Plan Requirements. The Owner shall operate the Development in accordance with the Management Plan that describes how the Owner will operate the Development. The initial Management Plan of even date herewith has been approved by the Authority. All changes to the Management Plan must be approved in writing by the Authority and the Investor prior to implementation.

Section 3.03 Admissions and Continuing Occupancy Policies. The Owner shall be responsible for selection of applicants for admission to occupancy of the Public Housing Units in the Development in accordance with Public Housing Requirements, the Tax Credit Requirements, the Management Agreement and the Management Plan. The Owner will be responsible for all aspects of application intake including, but not limited to, applicant interviews and screening, verification of application information, determinations of admissions eligibility and qualifications for preference, records maintenance, waiting list maintenance, unit assignment, lease execution, continued occupancy reviews, enforcement and termination of leases and all other functions relating to admissions and occupancy of the Development. With respect to any subject matter regarding maintenance or operation of public housing required by statute or by HUD regulations (including specifically, but without limitation, 24 CFR Part 960) to be addressed in written policies of the Authority, to the extent that such areas are addressed in this Agreement, the Management Agreement, the Management Plan, or the Authority-approved form of resident lease for residents of the Public Housing Units, the execution or approval of such documents by the Authority shall be deemed to constitute adoption of such policies by the Authority as applicable to the Public Housing Units. To the extent that such areas are not addressed in this Agreement, the Management Agreement, or Management Plan, or the resident lease, the Owner shall operate the Public Housing Units in accordance with the policies regarding such matters reflected in the Authority's Admissions and Continuing Occupancy Policy (the "Admissions and Continuing Occupancy Policy"). In the event of any conflict between the provisions of this Agreement, the Management Agreement, the Management Plan or the resident lease, and any provision of the Admissions and Continuing Occupancy Policy not required by statute or HUD regulation, the provisions of this Agreement, the Management Agreement, the Management Plan, or the resident lease (in that order) shall govern with respect to the Public Housing Units.

Section 3.04 Site-Based Waiting List Policy. The Owner is permitted to establish and maintain a site-based, sub-jurisdictional waiting list for the Development and must manage such list in accordance with Public Housing Requirements, the Admissions and Continuing Occupancy Policy and the Management Plan. The initial, site-based waiting list policy is described in the Admissions and Continuing Occupancy Policy.

Section 3.05 Public Housing Unit Leases. The leases for the Public Housing Units must comply with Tax Credit Requirements and Public Housing Requirements including, but not limited to, HUD's implementing regulations at 24 CFR Part 966, Subpart A, as may be amended from time to time. The Authority has approved the initial form of lease for the Public Housing Units. All material changes to the initial form of lease for the Public Housing Units must be approved by the Authority prior to implementation and after appropriate notice to residents as required by 24 CFR 966.3 (or successor provision). It shall be the responsibility of the Owner to

revise the tenant lease as required by changes in the applicable Public Housing Requirements and applicable state law.

Section 3.06 Grievance Procedures. The Owner will establish a grievance procedure for residents of the Public Housing Units, provided, that: (i) the Owner's grievance procedure complies with Public Housing Requirements including, but not limited to, HUD's implementing regulations at 24 CFR Part 966, Subpart B, as may be amended from time to time and (ii) the Authority has approved the Owner's grievance procedure in writing. Any grievance procedure developed by the Owner must provide for informal discussion and settlement of grievances by the Management Agent and a hearing before a hearing officer appointed in accordance with procedures to be detailed in the grievance procedure. Any changes to the grievance procedure shall conform to Public Housing Requirements and must be approved by the Authority prior to implementation and after appropriate notice to residents as required by 24 CFR 966.52 (or successor provision). If the Owner does not develop a grievance procedure, or the Owner's grievance procedure is determined to be invalid or not in compliance with Public Housing Requirements, the Authority's grievance procedures shall govern. The initial approved Owner's grievance procedure is included in the Management Plan.

Section 3.07 Access to Records and Tenant Information. The Owner must allow access by HUD, the Authority, and the Comptroller General of the United States and their authorized agents, upon reasonable notice to the Owner, to books and records maintained by the Owner and by any Management Agent and/or the Owner or Management Agent's agents relating to the Development, including the ability of the Authority to access electronically the current operating records of the Development or otherwise as necessary in connection with any allocation of the costs, expenses, or income connected with the Development in the event that the Authority has the technical capacity to undertake such electronic access. The Owner and Management Agent shall provide data relating to tenants in a format reasonably acceptable to the Authority so that the Authority can provide requested reports to HUD. Such books and records will be made available for review, excerpt, transcript, copying and audit at all reasonable times.

Section 3.08 Management Standards. The Owner shall use diligent efforts to operate the Development in a manner that will satisfy the Tax Credit Requirements and achieve "high performer" status under the Public Housing Assessment System (PHAS) at 24 C.F.R. Part 902 for the Development or equivalent designation under any successor regulation promulgated by HUD to assess public housing conditions.

Section 3.09 Management Agent and Management Agreement.

(a.) The Owner may appoint a Management Agent to perform day-to-day management functions for the Development.

(b.) The Authority must approve the Owner's selection of a Management Agent in writing before any entity (other than the Owner pursuant to subsection (c)(v) herein) performs any management duties with respect to the Development. Pennrose Management Company shall serve as the initial Management Agent.

(c.) The agreement between the Management Agent and the Owner must be in writing and must be approved by the Authority prior to any Management Agent performing any duties with respect to the Development. At a minimum, the Management Agreement must:

i. Require the Management Agent to operate and manage the Development in accordance with the terms of this Agreement, the Authority-approved Management Plan, the Public Housing Requirements, and Tax Credit Requirements;

ii. Require the Management Agent to provide access by HUD, the Authority, and the Comptroller General of the United States and their authorized agents, upon reasonable notice to the Owner, to books and records and accounts maintained by the Management Agent and/or Owner and their agents relating to the Development, including the ability of the Authority to access electronically the current operating records of the Development or otherwise as necessary in connection with any allocation of the costs, expenses, or income connected with the Development in the event that the Authority has the technical capacity to undertake such electronic access;

iii. Permit the Owner to terminate the Management Agreement if the Management Agent fails to comply, whether by act or omission, with the Public Housing Requirements, or the Management Agreement, or causes the Owner to be in default under this Agreement, or fails to meet the Performance Standards. Such termination provision must contain notice and opportunity to cure language for curable defaults, and must recognize the Authority as a third party beneficiary under the Management Agreement for the purpose of effectuating the termination and acknowledge that the Authority may require the Owner to terminate the Management Agreement for defaults under the Management Agreement after notice and opportunity to cure.

iv. The Authority has approved the initial Management Agreement entered into between the Owner and the Management Agent. The Management Agreement shall not be materially amended without the prior written approval of the Owner and the Authority (and HUD, to the extent required).

v. In the event the Authority or any successor Management Agent is terminated as Management Agent in accordance with this

Section, the Owner (with Investor's approval) shall propose a management agent in writing and the Authority may disapprove such proposed Management Agent in writing, for (i) insufficient prior experience in managing affordable multifamily rental or public housing, (ii) demonstrated poor performance in managing affordable multifamily rental or public housing, (iii) having been suspended, debarred, or otherwise held to have violated any law that materially reflects on the fitness of the Management Agent to manage the Development, or (iv) for other good cause related to a reasonable determination that the proposed Management Agent cannot carry out its duties under the Management Agreement. The Authority's approval of a successor Management Agent or Management Agreement shall not be unreasonably withheld or conditioned. Pending receipt by the Owner of the Authority's approval, written objections to or disapproval of a proposed Management Agent, and a reasonable time thereafter (no less than sixty (60) calendar days) to correct any conditions forming the basis of the Authority's objections or disapproval or to propose an approvable Management Agent, the Owner shall be entitled to manage the Development directly or through its chosen Management Agent so long as it shall do so in full compliance with the terms of this Agreement.

Section 3.10 The Authority's Determinations Not to Adversely Affect the Owner. It is the intention of the parties to operate the Development as agreed to by the parties. The following paragraphs are intended to implement this shared understanding, but nothing in this section shall limit the effect of the Authority's actions that are mandated by Public Housing Requirements. The Authority shall not voluntarily adopt particular policies, procedures or documents governing the Public Housing Units that would materially adversely affect the economic stability of the Development, without the written agreement of the Owner. If the Owner and Authority agree, in this Agreement or otherwise, that the Authority shall adopt or ratify particular policies, procedures or documents governing the Public Housing Units which are distinct from those governing residents of the Authority's conventional public housing, then the Authority shall adopt or ratify such policies, procedures or documents, provided, however, that the Authority shall seek HUD approval, if required. Such particular policies, procedures or documents may include, without restrictions, site-specific amendments to the Authority's Admissions and Continuing Occupancy Policy, the Waiting List, the form of Public Housing Unit Lease and the Grievance Procedures. The Authority shall take no action to amend any such distinct policy, procedure or document governing the Public Housing Units, once so adopted, without the written agreement of Owner unless required by Public Housing Requirements. To the extent that it may legally do so, upon request of the Owner, the Authority will exclude the Public Housing Units from the effect of any policy or procedure it voluntarily adopts for any or all of its public housing units, applicants or resident generally, if such policy or procedure would have a material and adverse effect on the Development or which would violate the Tax Credit Requirements. If any

policy or procedure which the Authority proposes to voluntarily adopt is of a type which is required (by law or by regulation or by notice which HUD declines to waive) to be applied consistently to every public housing unit and public housing applicant or resident under the jurisdiction of the Authority, then the Authority shall make reasonable efforts to consult with the Owner before adopting such policy or procedure and shall attempt to conform to all Tax Credit Requirements and to minimize adverse impact on the Owner.

Section 3.11 Waivers. If, at any time during the term of this Agreement, HUD shall, by regulation or other administrative rule applicable to the Development (which regulation or rule is not required by statute), modify the eligibility or suitability standards, including preferences, for occupancy of public housing units, the criteria or methods for calculation of applicant or resident income or contribution to rent, or any other factor bearing upon the charges for or occupancy or use of public housing units generally which, in the absence of waiver, would be applicable to the Public Housing Units and which, in the reasonable judgment of the Owner, would be materially adverse to the Development, the Authority shall, upon request by Owner (supported by Owner's demonstrated need for such a waiver which is acceptable to the Authority), promptly submit to HUD and diligently pursue a request for waiver excepting or exempting the Public Housing Units from the application of such regulation or administrative rule, which request shall be prepared by the Owner and reasonably acceptable to the Authority. The Owner shall cover the costs incurred by the Authority in pursuing any such waiver.

Section 3.12 Tax Credit Requirements. The Owner and Authority acknowledge and agree that all or some of the Public Housing Units will also be subject to, Tax Credit Requirements, and will be operated in accordance therewith. The Authority will not disapprove (with respect to the Public Housing Units) any policy of the Owner that is permitted under Public Housing Requirements and required for compliance with the Tax Credit Requirements, nor shall the Authority impose upon the Owner any policy or procedure with respect to the Public Housing Units that is not required under Public Housing Requirements and that would cause noncompliance with the Tax Credit Requirements. The Owner and the Authority will take such actions as are necessary to set rents (including "flat rents") for the Public Housing Units at a level not to exceed that permissible under applicable Tax Credit Requirements.

Section 3.13 Due Adoption; Public Housing Agency Plan. The Authority will ensure that the material elements of this Agreement and the Management Plan (including, but not restricted to, the Waiting List, site-based resident selection preferences, exception from deconcentration requirements, and any transformation remedies, etc.) are reflected in duly adopted policies of the Authority or duly adopted exceptions to such policies effective no later than the time that Public Housing Units are first available for occupancy. The Authority will ensure that its PHA Plan continually includes such references to and provisions for the Development and its operations as may be necessary or appropriate to ensure that the provisions of this Agreement and the operating policies of the Development (including, but not restricted to, the Waiting List, site-based resident selection preferences and transformation remedies, etc., and specifically including the possible use of Capital Funds as described in Section 6.03) are authorized by the Act and recognized by HUD. The Authority will provide to the Owner: (1) a copy of any proposed PHA Plan, or amendment thereto, at the time public notice is given

pursuant to Section 5A(f)(2) of the Act, and (2) a copy of its PHA Plan and all amendments thereto, as adopted, within thirty (30) days of its approval by HUD, and shall make good faith efforts to provide earlier notice of contemplated changes to the PHA Plan which would materially affect the Owner.

Section 3.14 Reoccupancy. Reoccupancy procedures for Prior Residents shall be as set forth in the Management Plan.

Section 3.15 Revision to System for Administering Admissions. The system for administering admissions to the Public Housing Units shall be revised as of twenty-eight years after the first Development Fiscal Year, subject to Public Housing Requirements, if and only to the extent necessary, such that by no later than thirty years after the first Development Fiscal Year, there shall be no need for the Authority to provide the Operating Subsidy Requirement to the Public Housing Units and Owner shall be able to demonstrate a reasonable likelihood of repaying all debt on the Development (including all debt owed to the Authority, if any) in accordance with its terms, provided, however, that prior to amending the system for preferences, Owner will avail itself of any alternative arrangements which are then available in order to demonstrate such reasonable likelihood, including utilizing requirements or waivers available to "operating-subsidy only" developments. Nothing herein is intended to authorize any deviation from the Public Housing Requirements or any preference for families that are not eligible for public housing.

ARTICLE IV. OPERATING SUBSIDY

Section 4.01 Amount of Subsidy.

(a.) It is the general intent of this Agreement that the Development receive the benefit of operating assistance that is properly attributable to and required by the Public Housing Units and that is provided by HUD to the Authority. The provisions herein are intended to effectuate this intent, and the parties agree to amend or refine these provisions as may be required to more closely effectuate this intent.

(b) The Authority shall pay to the Owner an operating subsidy that will equal (subject to the receipt of funds from HUD) the lower of the following, ("Operating Subsidy Requirement"), less excess amounts received by Owner (and not previously repaid to Authority) the prior year as identified in Section 7.06(a) herein:

(i) The Formula Operating Subsidy Amount, or

(ii) the difference between budgeted Public Housing Units Income and budgeted Public Housing Units Expenses.

Commencing on the Operating Subsidy Commencement Date for the first unit, the Authority agrees to provide the Owner any funds provided by HUD in accordance with the formula established in this section 4.01(b), for those Public Housing Units for which the Operating Subsidy Commencement Date has occurred.

(c) The remaining ten percent (10%) of the Funded Project Expense Level shall be retained by the Authority to cover frontline functions performed by the Authority ("Authority Fee"). Upon agreement of Owner and the Authority, the Authority may distribute all or a portion of the amount determined in this Section 4.01(c) to the Owner and charge the Owner for fee for service activities or other frontline functions that the Authority provides (but not in excess of that amount determined in accordance with this Section 4.01(c)).

(d) The Authority and the Owner will work diligently to ensure that Operating Subsidy assistance is paid by HUD, in the maximum amount available under Public Housing Requirements, for each applicable Public Housing Unit, as soon after the Operating Subsidy Commencement Date as possible.

(e) If, for any Subsidy Fiscal Year, HUD adjusts or supplements the amount of Operating Fund assistance the Authority receives for the Public Housing Units, an equivalent adjustment or supplement (on a per unit basis) shall be made to the Operating Subsidy Requirement for the same year (provided that any increased amounts are necessary in accordance with Section 4.01(b) herein), and the Authority shall pass through to the Owner any supplemental amounts received for the Public Housing Units or reduce future payments to the Owner in the amount of the reduction of Operating Fund assistance attributable to the Public Housing Units.

(f) At least 90 days prior to the end of the Subsidy Fiscal Year, or as otherwise requested by the Authority prior to a required HUD submission, the Owner shall provide to the Authority the information reasonably necessary to allow the Authority to complete all documentation required by HUD with respect to the Authority's request for Operating Funds. The Authority shall promptly submit such documentation to HUD and take any and all reasonable and necessary actions to obtain prompt HUD approval thereof and to ensure that there is no interruption in the Operating Subsidy Payments (as defined in Exhibit D).

Section 4.02 Budgeting

(a.) The Owner must use diligent efforts to operate the Development in accordance with the annual operating budget ("Operating Budget"), such budget to be approved by the Authority and the Investor. The initial approved Operating Budget (for the first year of operations) is attached hereto as Exhibit C.

(b.) Not later than one hundred twenty (120) calendar days prior to the beginning of each Development Fiscal Year, the Owner shall submit to the Authority its calculation of the Formula Operating Subsidy Amount and the Operating Subsidy Requirement projected for the following Development Fiscal Year, and the basis therefor. The Authority shall review such calculation and promptly notify the Owner of any error or inconsistency with this Agreement or HUD rules and regulations, and the parties shall make all good faith efforts necessary to agree on the projected Formula Operating Subsidy Amount and Operating Subsidy Requirement.

(c.) For each Development Fiscal Year, the Owner shall provide the Authority, not later than ninety (90) calendar days before the beginning of each Development Fiscal Year, a proposed Operating Budget for the Development for review and approval. Each Operating Budget shall include any proposed withdrawals from various reserves to meet capital and operating requirements that, upon approval of the Operating Budget, shall be deemed approved by the Authority. The Operating Budget shall also include any projected contributions from the Guarantor, pursuant to the Guarantor's Operating Deficit Guaranty or from the Authority pursuant to the Authority Operating Deficit Obligation, as defined in Section 6.03. The Operating Budget shall be subject to the Authority's written approval, which shall not be unreasonably withheld, conditioned or delayed. The Authority will respond to the proposed Operating Budget within 30 days. If the Authority fails to respond within 30 days, the Owner will provide the Authority with written notice, stating that the Authority has 15 additional days to respond. The parties agree to cooperate to resolve any differences regarding the proposed Operating Budget.

(d.) Except as provided below, the Owner shall only expend funds in accordance with the approved Operating Budget and may request an amendment to the Operating Budget should any material variances (defined as a variance exceeding two percent (2%)) be predicted. Actual expenditures may vary from the approved Operating Budget by

up to ten percent (10%) for any line item (on an annual basis) provided that the overall budget remains the materially same (defined as within two percent (2%) of the Operating Budget on an annual basis). Any variance in excess of such amount or any variance in the overall budget must be approved by the Authority prior to expenditure. The Owner shall provide monthly reports indicating actual expenses over such period and identify all variances from the approved Operating Budget. Any material variance that results in an increase to the Operating Budget not authorized under subpart (e) hereof without Authority consent will be subject to reconciliation procedures pursuant to Article VII. Notwithstanding the provisions herein, in the event the Authority is providing funds under the Authority Operating Deficit Obligation under Section 6.03 below, the Authority must approve, prior to expenditure by Management Agent, any non-budgeted or extraordinary expense.

(e.) No prior approval of the Authority shall be required for expenditures in emergency situations involving manifest danger to persons or property or required to avoid suspension of any necessary service, or to comply with applicable law, in which the Authority cannot be contacted, or does not respond within a reasonable period of time under the circumstances, provided that funds are immediately needed for such purpose. In such cases, the Owner shall promptly notify the Authority in writing of the situation and what actions were taken to abate the problem. In the event that Owner makes withdrawals from the ACC Reserve pursuant to this Section, and it is subsequently determined that such withdrawals were not permissible in accordance with this Agreement, then Owner shall reimburse the ACC Reserve with interest from the date of improper withdrawal or use at a rate of 2% above the "prime" rate as published in the Wall Street Journal on the date of improper withdrawal.

Section 4.03 Operating Subsidy Payments. No later than the 10th day of each month, the Authority shall pay one-twelfth (1/12) of the annual Operating Subsidy Requirement estimated for such Development Fiscal Year pursuant to Section 4.01(b) herein; *provided however,* that the Authority may provide, upon review of the Operating Budget, the Operating Subsidy Requirement and a cash flow analysis provided by the Owner, unequal monthly (or other periodic) payments for such year if such unequal payments are supported by such cash flow analysis. The Authority also may provide unequal payments if HUD fails to provide funds on a timely basis, provided that, in such event, the Owner shall be entitled to draw upon the ACC Reserve as provided in Article 5 below if such unequal payments cause a Public Housing Units Shortfall.

Section 4.04. Section 42 Compliance. In order to assure compliance with Section 42, notwithstanding anything to the contrary set forth in this Agreement, in any Development Fiscal Year all or part of which is included in the Tax Credit Compliance Period and in which Operating Subsidy Payments are made to the Owner, Operating Subsidy Payments will be made to and retained by Owner under this Agreement only to the extent they constitute "qualifying rental assistance payments" as defined in Section 1.42-16 of the Treasury Regulations. In the event that the annual financial statements required to be provided by Owner to the Authority pursuant to Section 7.06 below demonstrate that Operating Subsidy Payments for any year covered by the preceding sentence, after redeposit to the ACC Reserve of amounts withdrawn during the subject year, exceed the amount constituting qualifying rental assistance payments, the Owner shall promptly repay a sum equal to such coverage to the Authority for deposit into an Authority-owned subaccount of the ACC Reserve.

Section 4.05 Future Changes. The Authority and Owner acknowledge that HUD is implementing the final rule amending 24 C.F.R. Part 990 as published in the Federal Register on September 19, 2005 (the "Final Rule") to provide for a project-based subsidy formula as provided under Section 9(e) of the Act. At such time as the effects of the Final Rule upon the Development have been clarified by HUD, the parties agree to review and, if necessary, amend Section 4.01(a) and such other provisions of this Agreement as may be required. In considering or implementing such amendment(s), the parties shall work in good faith to achieve a result by which the Authority provides Operating Subsidy to the Owner up to the amount it receives from HUD for the Public Housing Units, reduced by a 10% retainage (or fee, if applicable) for the Authority; provided, however, the Authority will not be obligated to treat Owner any more favorably relative to the remaining housing portfolio of the Authority, except as may be provided for in Section 6.03 below. Any such amendment(s) shall require the consent of HUD and the Investor and shall be subject to the applicable Public Housing Requirements.

Section 4.06 Operating Account. Operating Subsidy Payments received from the Authority, together with all other operating receipts in respect of the Development including tenant rents and charges and other revenues (but exclusive of tenant security deposits), shall be deposited by the Owner in a Development-wide operating account maintained in a financial institution whose deposits are insured or otherwise collateralized by an agency of the Federal Government. Tenant security deposits shall be maintained in a separate account maintained in a financial institution whose deposits are insured by an agency of the Federal Government.

Section 4.07 PILOT. The Authority shall cooperate with the Owner's efforts to ensure that the Development is at all times subject to minimal taxation by the City of Annapolis and the County of Anne Arundel and that any taxes or payments in lieu thereof on behalf of the Public Housing Units are recognized by HUD as an "add-on" to the extent permitted. The Authority and the Owner agree that the Authority will pay directly to the taxing authority any payments as may be required on behalf of the Development and the Authority shall retain any subsidy received from HUD attributable to such payments for the Public Housing Units. Provided, however, that the Owner shall provide funds to the Authority for such payments on behalf of the Non Public Housing Units prior to payment to the taxing authority and in the event the subsidy received from HUD for such payments is less than the actual amount paid by the Authority to the

taxing authority on behalf of the Public Housing Units, the Owner shall immediately pay the amount of such shortfall to the Authority or the Authority shall offset such shortfall against any subsidy payable by the Authority with respect to the Public Housing Units under Article 4 hereof.

ARTICLE V. AUTHORITY-RELATED RESERVES

Section 5.01 ACC Reserve.

(a) Establishment and Ownership.

i. The Owner and the Authority shall establish a joint signature account designated as the ACC Reserve in a financial institution whose deposits are insured by an agency of the Federal government. The Owner shall make a deposit in the amount of the Initial Deposit into the ACC Reserve. Funds placed in the ACC Reserve (including interest thereon and including any additional amounts deposited therein from time to time pursuant to the terms hereof) shall be invested, at the direction of Owner, in Permitted Investments and shall constitute funds of the Owner (except as otherwise indicated) to be held and applied during the term of this Agreement solely for the benefit of the Public Housing Units in accordance with the terms and conditions hereof.

ii. Upon any sale or transfer of Owner's interest in the Development during the term of this Agreement, any portion of the ACC Reserve that is derived from public housing funds shall be the property of the Authority. Notwithstanding the above, if the Authority exercises its option or right of first refusal to purchase the Development, all reserves contemplated in this Agreement shall be considered part of the Development and shall become the property of the Authority.

(b) Deposits.

i. No later than the final equity investment of Investor pursuant to the Operating Agreement, Owner shall deposit into the ACC Reserve, from equity or other project funds, the Initial Deposit.

ii. In the event Owner makes a withdrawal from the ACC Reserve because the Authority has failed to make an Operating Subsidy Payment equal to the Operating Subsidy Requirement, and the Authority shall subsequently make such missed payment or any portion thereof, then the Owner shall deposit into the ACC Reserve (Replenishment Subaccount), as a **"Replenishment"**, an amount equal to the amount previously withdrawn (up to the amount of the Authority's late Operating Subsidy Payment). Funds in the Replenishment Subaccount shall be used before other funds of Owner in the ACC Reserve or

Permitted Reserve Withdrawals and shall be subject to Public Housing Requirements, if any, applicable to such funds.

iii. The Authority may, but is not required to, make additional deposits to the ACC Reserve as may be permitted by Public Housing Requirements.

(c) Withdrawals from the ACC Reserve may be made for the following reasons:

i. Initial Operating Period Deficit. Owner may withdraw funds to cover Public Housing Units Shortfalls prior to EIOP caused by delay or non-receipt of operating subsidy. Provided, however, that Owner may not withdraw funds if such withdrawal would reduce the ACC Reserve below the ACC Floor Level. Any funds received from the Authority after EIOP as a reimbursement for funds withdrawn from the ACC Reserve pursuant to the terms of this paragraph shall be deposited into the ACC Reserve as a Replenishment; or

ii. Non-Receipt of Operating Subsidy Requirement. Owner may withdraw funds, upon certification to the Authority, that by the tenth day of any month following EIOP, the Authority shall not have paid to Owner the full Operating Subsidy Requirement established for such month or from prior months. Owner may request a withdrawal from the ACC Reserve up to the difference between the Operating Subsidy Payment actually paid and the Operating Subsidy Requirement established for such month or prior months. The Authority shall approve such request by joining in such joint signature account withdrawal within ten (10) days of a written request from Owner demonstrating its entitlement in accordance with this paragraph, unless the Authority reasonably contests the entitlement; or

iii. Deficit Attributable to Public Housing Units. In the event that a Quarterly Report prepared in accordance with Section 7.03 demonstrates the existence of a Public Housing Units Shortfall in a prior quarter, then the Owner may request a withdrawal from the ACC Reserve in an amount up to the Public Housing Units Shortfall. The Authority shall approve such request, by joining in such joint signature account withdrawal within ten days of a written request from Owner demonstrating its entitlement in accordance with this paragraph, unless the Authority reasonably contests the entitlement; or

iv. By Consent. Owner may withdraw funds with the consent of the Authority. The Authority shall not unreasonably withhold, condition or delay its consent, and shall consent to a withdrawal (by joining such joint signature account withdrawal) where Owner requires funds for emergency conditions at the Development (including funds for the prompt reimbursement of emergency expenditures by Owner or the Management Agent, if any, provided that such funds shall only be utilized to pay these expenses attributable to the Public Housing Units). Any Authority consent in an emergency situation shall be

subject to post-emergency review, and the Owner will replace (with interest, as provided in section 4.02(e)) any withdrawal for which the Authority reasonably withdraws an emergency consent.

v. Annual Reconciliation. At the direction of the Authority, the Owner may withdraw funds for any required payment pursuant to Section 7.06.

vi. Order. Withdrawals shall be made first from the Replenishment Subaccount.

Section 5.02 Reserved.

Section 5.03 Records. The Owner will maintain accurate and complete records identifying the source, amount and use of all funds in the reserves and any income earned thereon, including any operating subsidy.

Section 5.04 Replacement Reserve.

a. *Establishment.* The Owner shall deposit a portion of Public Housing Units Income into the Replacement Reserve in the amount of up to $350 per Public Housing Unit per year, increased in each year after the first year of operations by three percent (3%).

b. *Restricted Funds.* Funds placed in the Replacement Reserve (including interest thereon and additional amounts deposited therein from time to time pursuant to the terms hereof) shall be invested in Permitted Investments. The portion of the Replacement Reserve attributed to the Public Housing Units (as determined by the Authority Percentage) and actually funded from Public Housing Units Income (and not by a Permitted Reserve Withdrawal) shall constitute restricted trust funds to be applied during the term of this Agreement solely for the benefit of the Public Housing Units in accordance with all applicable Public Housing Requirements.

c. *Disposition.* In the event of a disposition of the Development by sale, lease, assignment, foreclosure or otherwise, or upon the dissolution of the Owner, any funds remaining in the Replacement Reserve will be transferred to the new owner to be used in connection with the Development in accordance with the terms of this Agreement including, but not limited to, the requirements of this Section 5.04. Upon the occurrence of a casualty or condemnation (without restoration) of the Development, or in the event that any of the Public Housing Units cease to be treated as public housing units, all funds remaining in the Replacement Reserve attributable to the Public Housing Units, and actually funded from Public Housing Units Income (and not by a Permitted Reserve Withdrawal) or a pro-rata portion in the event that only some units cease to be Public Housing Units (including any income earned thereon) will be returned to the Authority for use in carrying out other low income housing activities.

d. *Use.* Funds in the Replacement Reserve that are attributable to the Public Housing Units (as determined by the Authority Percentage) may be used by the Owner for that portion of the Development's capital needs which is attributable to the Public Housing Units based on the Authority Percentage or as the parties otherwise agree is appropriate under the circumstances, but in any event in accordance with Public Housing Requirements and subject to the approval of the Authority. All other funds in the Replacement Reserve may be used by the Owner for the Development's capital needs.

e. *Public Housing Capital Fund.* If capital assistance is available to the Authority under Section 9(d) of the Act or any successor thereto that the Authority may discretionarily provide to the Development, then the Authority agrees to give reasonable consideration to any request by Owner for such assistance, consistent with the Authority's planning procedures and the needs of other properties of the Authority, and consistent with Public Housing Requirements.

Section 5.05 Capital Improvement Reserve. A Capital Improvement Reserve shall be established by Owner with an initial deposit of $282,000 from financing proceeds or tax credit equity. Such reserve shall be available each year in amounts set forth in the Operating Agreement for purposes set forth therein. Any funds remaining in the Capital Improvement Reserve at the end of the Tax Credit Compliance Period shall be distributed in accordance with the Operating Agreement.

Section 5.06 Lease Up Reserve. A Lease-Up Reserve shall be established by Owner with an initial deposit of $162,531 from financing proceeds or tax credit equity. Such reserve shall be available to the Owner to cover operating deficits of the Development prior to the achievement of 100% initial occupancy. Additionally, the Lease Up Reserve shall be available to cover Public Housing Unit Shortfalls prior to EIOP, in the event such shortfalls exceed the amount available under 5.01(c)(i) above. All amounts that have been withdrawn from the Lease-Up Reserve due to Public Housing Unit Shortfalls prior to EIOP shall be redeposited to the ACC Reserve after EIOP from Operating Fund Payments applicable to such period to the extent received by the Authority from HUD and provided to the Owner. Any funds remaining in the reserve after 100% initial occupancy shall be released to the Owner.

Section 5.07 Operating Reserve. An Operating Reserve shall be established by Owner in the amount of $600,000 from financing proceeds or tax credit equity. The Operating Reserve shall be available in the amounts set forth in the Operating Agreement to Owner to cover operating deficits for all units of the Development in accordance with the terms of this Agreement and the Operating Agreement. Any funds remaining in the Operating Reserve at the end of the Tax Credit Compliance Period shall be distributed in accordance with the Operating Agreement.

ARTICLE VI. PRESERVATION AND TRANSFORMATION OF PUBLIC HOUSING

Section 6.01 General.

(a) The parties recognize that they are structuring a long-term relationship premised on, among other things, the continuation without substantial change of the Act and the maintenance of sufficient federal appropriations to support the government's obligations under the Act. The purpose of this Article is to ensure that in the event there should be any legislative changes, diminished appropriations, uncontrollable cost increases, or other circumstances not the fault of the Owner, its agents or affiliates, which result in a Public Housing Units Shortfall, then the economic and physical viability of the Development can be maintained for the term identified in Section 13.01 herein without unnecessary hardship to low-income residents or excessive claim on resources of the Authority or financial harm to the Owner.

(b) In the event that the Authority does not provide sufficient Operating Subsidy Payments or other operating subsidy amounts to cover Public Housing Units Shortfalls in accordance with an approved Operating Budget, the parties intend that the ACC Reserve, the Capital Improvement Reserve and the Operating Reserve be available (as provided in Article V hereof and in accordance with the Operating Agreement) to provide substitute funding to the Owner to meet such Public Housing Unit Shortfall or other operating deficit. Disbursements from the reserves are intended to provide sufficient funding until such time as the Development reaches the end of the Tax Credit Compliance Period and to provide sufficient funding to carry out disposition or transformation remedies, if necessary. This Article VI is intended to ensure that sufficient remedies are available to the Owner in the event that there is a is an insufficiency of operating subsidies that risks the long-term viability of the Development.

Section 6.02 Initial Adjustments to Income and Expenses.

If at any time:

(a.)

(i) The Owner reasonably projects that the Permitted Reserve Withdrawals will be insufficient to eliminate negative Cash Flow plus Public Housing Unit Shortfalls in a Development Fiscal Year;

or:

(ii) The Owner and the Authority agree that changes are appropriate in order to avoid future Public Housing Units Shortfalls in light of operating forecasts and other circumstances;

then:

(b)

(i) Adjust Expenses. The Owner shall undertake in good faith to reduce such Public Housing Units Expenses that it reasonably believes can be reduced (but not to the physical or financial detriment of the Development). The Owner shall not be required to seek to reduce maintenance and other operating expenses below a prudent level.

(ii) Adjust Income Mix on Turnover. The Owner may take such steps as may be necessary and in accordance with applicable Public Housing Requirements and subject to the Tax Credit Requirements, to increase the income level of new tenants admitted to the Public Housing Units, including admitting public housing eligible families having higher income levels than would otherwise receive priority under the Management Plan.

The Owner may avail itself of the provisions of subparagraphs (iii), (iv) and (v) below, but only if it also implements the approaches in subparagraphs (i) and (ii) above:

(iii) Increase in Minimum Rents. Owner and Authority shall jointly determine whether it is advisable to increase minimum rents of the Public Housing Units to the maximum allowed by Public Housing Requirements; provided that Owner and Authority shall use best efforts to ensure that no such increase in rents shall create an undue hardship for extremely low income residents.

(iv) Cooperation of the Authority. In order to facilitate the rental of units in the Development to public housing eligible families having higher income levels as provided in the preceding paragraph, the Authority will, in accordance with Public Housing Requirements, offer other Authority-owned units or Section 8 vouchers to the extent available to the Authority, to a sufficient number of tenants in the Development so as to encourage lower-income tenants to vacate the Public Housing Units in favor of higher income public housing eligible families.

(v) Increase Subsidy; Other Discretionary Actions. Owner may request, and the Authority shall give good faith consideration to, providing additional assistance available to the Authority in addition to the operating subsidy contemplated herein, including waiving its Authority Fee. Additionally, Owner and the Authority will make good faith efforts to identify and adopt

any other operational changes or locate any available third party assistance in order to permit the continued operation of the Development without avoidable hardship to current residents.

Section 6.03 Authority's Operating Deficit Obligation. If the remedies in Section 6.02, together with any withdrawals from reserves permitted under the Operating Agreement and the Regulatory Agreement (as defined below), are insufficient to eliminate the operating deficits of the Development, then the Guarantor shall cover any operating deficits up to the Operating Deficit Guaranty Limit. If the Guarantor shall default in such obligation, the Investor will consent to the release of up to $100,000 from the Operating Reserve in excess of the Permitted Reserve Withdrawal levels. Once the Guarantor has provided funds equal to the Operating Deficit Guaranty Limit, or in the event the Guarantor defaults under its Operating Deficit Guaranty prior to reaching the Operating Deficit Guaranty Limit and the Owner has provided any balance of the Operating Deficit Guaranty Limit from the Operating Reserve or otherwise, then the Authority shall provide additional operating subsidy sufficient to eliminate all operating deficits in excess of Permitted Reserve Withdrawal levels, but not to exceed the Public Housing Unit Shortfall in the period addressed (the "Authority Operating Deficit Obligation"), and shall be considered a third-party beneficiary of the Operating Deficit Guaranty to the extent of any funds provided on behalf of the Guarantor. The Authority shall be obligated, if unable to meet this Authority Operating Deficit Obligation from other sources, to convert up to twenty percent (20%) of its Capital Funds to Operating Funds, as permitted by Section 9(g) of the Act and other Public Housing Requirements and utilize such funds to satisfy the Authority Operating Deficit Obligation with priority over the Authority's other public housing developments to the extent permitted by Public Housing Requirements. The PHA Plan shall be amended at the next scheduled revision date so as to recognize this possible use of Capital Funds. The Authority Operating Deficit Obligation shall continue through, but shall terminate upon the last of (a) receipt of HUD's written approval to discontinue the public housing usage of the Public Housing Units as contemplated in Section 6.04 below and (b) either relocation from the Development of, or the issuance of a Housing Choice Voucher to, the existing public housing tenants of the discontinued Public Housing Units, provided that in the event the Owner and Authority elect to discontinue the public housing usage pursuant to Section 6.04 below, funds made available from the Operating Reserve or Capital Improvement Reserve under Section 6.04 below shall be utilized prior to additional contributions from the Authority under this Section 6.03. Any funds provided to the Owner under this section shall be considered an operating loan to the Owner, as that term is used in that certain Regulatory Agreement executed on substantially even date herewith between the Owner and the Department of Housing and Community Development of the State of Maryland.

Section 6.04 Discontinuation of Public Housing Usage

(a) In the event the Authority should advise the Owner in writing at any time that it does not intend to or cannot meet the Authority Operating Deficit Obligation, or if it should fail to deliver to Owner any payment required under the Authority Operating Deficit Obligation and such failure shall continue for fifteen (15) days beyond receipt of written notice from Owner, or if the Authority should provide

written notice to the Owner and the Investor that it elects to have the Owner discontinue public housing use as provided herein; or

(b) if the Owner and the Authority agree, at any time, that more focused measures are necessary in order to preserve the Public Housing Units in light of operating forecasts, legislative actions and other circumstances; or

then:

(c) Owner, after consultation with the Authority and residents, but in its sole discretion with the consent of Investor, may elect to discontinue the public housing usage of the Public Housing Units (or any portion of the Public Housing Units for which the Authority cannot guaranty Operating Subsidy Payments sufficient to eliminate Public Housing Units Shortfalls, provided in no event shall such portion be less than ten (10) units) and the Authority shall assist the Owner to procure some or all of the Public Housing Units' disposition from the public housing program, in accordance with and as then may be provided in Public Housing Requirements applicable to "subsidy only" mixed-finance projects. The Authority's assistance shall include, without limitation, the submission to HUD in the name of the Authority, if appropriate, of any request or supporting information prepared by Owner that is consistent with Owner's rights hereunder. Upon the completion of discontinuance, this Agreement will terminate and be of no effect as to the discontinued Public Housing Units. Owner (with Investor consent) may in its discretion decline any Operating Subsidy Payments with respect to some or all of the Public Housing Units, and may continue not to receive such subsidy for such period as Public Housing Requirements may require before permitting disposition from the public housing program. Prior to initiating the discontinuance of public housing usage, the Owner will develop a plan in consultation with the Authority and residents that details the number of Public Housing Units to be discontinued so that operating income will equal necessary operating expenses and the process by which the tenants of the discontinued Public Housing Units will be relocated from the Development or provided with Housing Choice Vouchers in order to remain. The Authority may offer Housing Choice Vouchers for such purpose to the extent reasonably available. Should the Owner elect to discontinue public housing usage of some or all of the Public Housing Units, the Owner and Authority shall be permitted to utilize up to $50,000 from the Operating Reserve and any unused Permitted Reserve Withdrawal amounts from the Capital Improvement Reserve, as provided in the Operating Agreement, to cover the costs of transitioning the Development to tax-credit only units and relocating the existing public housing tenants.

or

(d) The Owner (in its sole discretion, but in consultation with the Authority and its residents and with Investor approval) may utilize remedies available under

Section 35(h) of the Act, and any regulations promulgated thereunder (as and when implemented by HUD), to the extent available.

Section 6.05 Restoration of Units. If, subsequent to institution of remedial steps described above, the Authority demonstrates to the satisfaction of the Investor in its sole and reasonable discretion that the resources committed by the Authority and/or Cash Flow are sufficient to operate the Development including all or a portion of the number of the Public Housing Units for the remainder of the tax credit compliance period, the Owner and the Authority may agree to reinstate the obligation of the Owner to operate such number of units as Public Housing Units in accordance with the terms hereof, subject to continuing rights of existing tenants. In the event the Owner and the Authority agree to such reinstatement, the Authority will, with Owner assistance, obtain requisite approval of HUD and any lender. At the point any units are restored to public housing use pursuant to this Section 6.05, the Authority shall restore to Owner any public housing funds attributable to the transformed units received by the Authority from the Owner under this Agreement as a result of the transformation of such units.

Section 6.06 First Right of Return. Households that vacate units in the Development because of the Owner's exercise of any of the remedies provided herein shall have a first right of return (i) if they otherwise qualify in accordance with the Management Plan to occupy Development units, and (ii) if the obligations of the Owner are reinstated pursuant to the foregoing Section 6.05 herein subject to such households' continuing eligibility for public housing and to Tax Credit Requirements.

Section 6.07 Audit and Remedy. The Authority shall have the right to audit the Owner's financial and program records annually, and in the event the Owner converted Public Housing Units to higher income levels to an extent greater than permitted under this Agreement, the Owner shall return such Public Housing Units back to such permitted levels subject to continuing rights of existing tenants and shall pay to the Authority any net income improperly obtained.

ARTICLE VII. FINANCIAL STATEMENTS AND REPORTS; ANNUAL RECONCILIATION

Section 7.01 Accounting System. The Owner will maintain a system of accounting established and administered in accordance with sound business practices and Public Housing Requirements.

Section 7.02 Monthly Reports. As soon as available, but not later than fifteen (15) days from the end of each calendar month, the Owner shall submit to the Authority a Monthly Report illustrating income and expenses for the Development and the Public Housing Units (separately) for the previous month.

Section 7.03 Quarterly Reports. As soon as available, but not later than thirty (30) days

from the end of each fiscal quarter, the Owner shall submit to the Authority a Quarterly Report, commencing on the first quarter in which any of the units are occupied; provided, however, that with respect to the final quarter of each fiscal year, a Quarterly Report shall not be required though the Owner may nonetheless elect to prepare and submit such a Quarterly Report. The Quarterly Report shall consist of all narratives, reports and statements provided to the members of the Owner and will include, at a minimum, a balance sheet, an income statement, a narrative summary describing any significant financial activity that is not captured in the balance sheet and income statement, and current balance in each account maintained by it pursuant to this Agreement, including without limitation the ACC Reserve, and any deposit to or withdrawal from such account. The Quarterly Report shall also include a current rent roll identifying all Public Housing Units, and the Quarterly Report will provide information separately with respect to the Public Housing Units and the Development as a whole.

Section 7.04 Annual Audited Financial Statements. Not later than 120 days following the end of each Development Fiscal Year, the Owner shall deliver to the Authority a copy of the audited financial statements of the Owner for such year prepared in accordance with accounting principles generally used for partnerships operating Section 42 housing developments and accompanied by the report of independent certified public accountants thereon, testing for compliance with this Agreement, together with a copy of any additional financial statements or reports delivered by the Owner to its members.

Section 7.05 Supplemental Data. The financial statements described in Section 7.04 shall be accompanied by supplemental data which shall show on an accrual basis for such period: (i) dwelling rent and other income (ii) the Operating Subsidy Payments received by the Owner, including from the ACC Reserve; (iii) any other operating revenues or assistance attributable to the Public Housing Units and attributed to the Non Public Housing Units; (iv) Public Housing Units Expenses; (v) net deposits to the Replacement Reserve; (vi) amounts withdrawn from each reserve account and (vii) the actual Cash Flow from the Non Public Housing Units. Such supplemental data shall also include (viii) the balance at the end of the period of the ACC Reserve, Replacement Reserve, and any other reserve or special account relating specifically to the Public Housing Units, and the Non Public Housing Units, and (ix) aggregate stated lease rents and the amounts thereof uncollected from Public Housing Units and the Non Public Housing Units for which no eviction actions have been commenced. If the Owner shall fail to deliver such financial data required by this section to the Authority, the Authority shall have the right to retain an independent auditor to compile the financial data of the Owner and to charge the reasonable cost thereof to the Owner, but the Authority shall notify the Owner in advance of incurring such costs.

Section 7.06 Annual Reconciliation.

(a) If the supplemental data provided pursuant to Sections 7.04 and 7.05 above shall show that the sum of: (i) Public Housing Units Rental Income, (ii) Operating Subsidy Payments, including from the ACC Reserve and (iii) any other operating revenues or assistance attributable to the Public Housing Units exceeds the sum of actual Public Housing Units Expenses and (iv) net deposits to the ACC Reserve,

then not later than thirty (30) business days following delivery of such supplemental data to the Authority, the Owner shall return such funds to the Authority not later than ninety (90) days after the end of the Development Fiscal Year, or set off such excess from the Operating Subsidy Requirement, for the following Development Fiscal Year.

(b) If the supplemental data provided pursuant to Section 7.04 above shall show that the sum of (i) Public Housing Units Rental Income, (ii) Operating Subsidy Payments, including withdrawals from the ACC Reserve, and (iii) any other operating revenues or assistance attributable to the Public Housing Units is less than actual Public Housing Units Expenses (in accordance with the approved Operating Budget) incurred after EIOP, the Authority shall pay such shortfall to the Owner not later than sixty (60) days after receiving an audited financial statement pursuant to Section 7.04 herein; provided, however that in no case shall the Authority be obligated to provide funds in excess of the amount established pursuant to Section 4.01(a) and (e) herein. If such shortfall payment is required pursuant to this Section and is not made by such date, then the Owner may obtain such shortfall from the ACC Reserve in accordance with Section 5.01.

(c) Separately and independently from the reconciliation provided for under subsections (a) and (b) above, the Owner shall reimburse to the Authority the amount, if any, of Operating Subsidy Payment received by Owner during such period attributable to any Public Housing Unit for a period in which such Public Housing Unit was vacant for more than sixty (60) days, unless pursuant to reasonable accommodation requirements under the Act. For purposes of this provision:

1. A Public Housing Unit shall be deemed vacant (i) commencing on the first day for which rent is not charged for that unit following termination or expiration of its occupancy as a Public Housing Unit, and (ii) ending on the day preceding the first day for which rent is charged for that unit based on re-occupancy as a Public Housing Unit, or the first day for which rent is charged for occupancy as a Public Housing Unit of a different unit which was not previously occupied as a Public Housing Unit, whichever shall first occur; and

2. The amount of the Operating Subsidy Payment attributable to a Public Housing Unit for a period in which such Public Housing Unit was vacant for more than sixty (60) days shall be determined by multiplying the amount of Operating Subsidy Payment received by Owner during such year, by the product of (i) the net rentable square feet of such Unit, divided by the net rentable square feet of all Public Housing Units (including such vacant Unit), multiplied by (ii) the number of days in excess of sixty (60) during which such Unit is vacant, divided by 365.

Section 7.07 Maintenance of Records. It shall remain the responsibility of the Authority to maintain sufficient records and to take necessary action to assure HUD that all the Authority obligations to HUD under Public Housing Requirements are fulfilled. Where the Public Housing Requirements require the Authority to furnish reports, records, statements, certificates, documents or other information to HUD, or otherwise deal with HUD, the Owner shall furnish to the Authority such reports, records, statements certificates, documents or other information as are within its control and shall provide all other information in its control reasonably requested by the Authority via a medium, electronic or print, reasonably acceptable to the Authority. Nothing contained in this Section shall be construed to relieve Owner of its obligation to maintain its own books and records.

Section 7.08 Records for Audit Purposes. Without limitation on any other provision of this Agreement, Owner shall maintain all records concerning the Public Housing Units and the Non Public Housing Units for five (5) years unless a longer period is required under 24 CFR §85.42. Owner shall maintain records required by 24 CFR part 135 for the period that HUD requires such records to be maintained. Owner will give the Authority, HUD, the Controller General of the United States, the General Accounting Office, or any of their authorized representatives, access to and the right to examine, copy, or otherwise reproduce all records pertaining to the development, operation or management of the Development. The right to such access shall continue as long as the records are retained, even if such period exceeds the mandatory three-year retention period. Furthermore, if the Authority audits the Owner's records and determines that any disbursements received by Owner from the ACC Reserve are in excess of the amount that Owner was entitled to receive under this Agreement, or that were used by Owner for purposes other than those permitted by this Agreement, such amounts shall be refunded by Owner to the ACC Reserve upon demand by Authority together with interest since the date of improper withdrawal or use at the rate earned by funds in such account during that same period plus three (3%) percent.

ARTICLE VIII. NON-DISCRIMINATION AND OTHER FEDERAL REQUIREMENTS

Section 8.01 Applicable Requirements. The Owner will comply with all applicable requirements including but not limited to the following, as the same may be amended from time to time:

(a) The Fair Housing Act, 42 U.S.C. 3601-19, and regulations issued thereunder, 24 C.F.R. Part 100; Executive Order 11063 (Equal Opportunity in Housing) and regulations issued thereunder, 24 C.F.R. Part 107; the fair housing poster regulations, 24 C.F.R. Part 110, and applicable advertising guidelines.

(b) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and regulations issued thereunder relating to nondiscrimination in housing, 24 C.F.R. Part 1.

(c) Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations issued thereunder, 24 C.F.R. Part 146.

(d) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and regulations issued thereunder, 24 C.F.R. Part 8; the Americans with Disabilities Act, 42 U.S.C. 12181-89, and regulations issued thereunder, 28 C.F.R. Part 35.

(e) Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and its implementing regulations of 24 C.F.R. Part 135.

(f) OMBS Circular Numbers A-110 and A-122, as they relate to the acceptance of federal funds and to 24 CFR part 85, to the extent applicable.

(g) Wage Rates under Davis-Bacon Act (40 U.S.C. §276a et seq.) to the extent applicable.

ARTICLE IX. INSURANCE REQUIREMENTS; RESTORATION OF PROPERTY.

Section 9.01 Insurance. The Owner shall comply with all requirements of Part B, Attachment VII of the ACC and shall procure and maintain in force adequate insurance to protect the Owner and the Authority from financial loss resulting from hazards, including, without limitation, hazards insured against under such types of coverages as are required by Part B, Attachment VII, of the ACC, or if stricter, such coverages and in such amounts as may be required by any lender, and such other hazards to which the Owner reasonably determines that insurance is appropriate. Without limiting the generality of the foregoing, the Owner shall maintain and shall cause the Management Agent to maintain the insurance required to be carried under the ground lease between the Authority and the Owner (the "Ground Lease") and under any leasehold mortgage of the Development.

Section 9.02 Claims. In the event of an insured claim that takes place during the term of this Agreement, or that arises out of events that take place during the term of this Agreement, the Owner will notify the Authority within sixty (60) days following discovery of the claim by the Owner. In addition, the Owner will investigate and furnish the Authority with reports of all accidents, claims and known potential claims for damage or injury and will cooperate with its insurers and those of the Authority.

Section 9.03 Restoration, Casualty, Condemnation. If any act or occurrence of any kind or nature (including any taking by condemnation or any casualty) shall result in damage to or loss or destruction of the Development, in whole or in part, and without diminution of any obligation of the Owner in respect thereof under any approved leasehold mortgages (as identified in the Ground Lease), the Owner, to the extent that insurance proceeds or condemnation proceeds and other funds, if any, made available by the first mortgage lender (including, without limitation, by further advance pursuant to the approved leasehold mortgages) permit, shall promptly cause the restoration, reconstruction, and/or repair of the Development as nearly as possible to its value, condition and character immediately prior to such taking or casualty. The approved leasehold mortgage documents shall contain provisions requiring restoration consistent

with the foregoing if such restoration shall be determined feasible in accordance with the ACC, as amended by the Mixed-Finance Amendment. If such condemnation or insurance proceeds and other available funds are not sufficient or restoration is otherwise determined in accordance with the approved leasehold mortgage documents to be not feasible, such proceeds shall be applied as provided in the approved leasehold mortgage documents and the number of units (and bedroom count) in the Development remaining following such taking or casualty (and following any construction, reconstruction or repair undertaken by reason thereof or necessitated thereby) which shall be Public Housing Units, shall be determined in accordance with Section 11 of the Mixed-Finance ACC Amendment.

ARTICLE X. DISPOSITION AND ENCUMBRANCE

Section 10.01 No Demolition or Disposition. During the term of this Agreement and during such further period when such approval may be required by law as then in effect, and except as otherwise provided under this Article X, the Owner shall not demolish, or dispose of its interest in the Public Housing Units (including, without limitation, by conveyance or lease of the Development or any portion thereof, or by assignment of the Owner's rights under this Agreement), without the prior written approval of the Authority and HUD.

Section 10.02 No Encumbrances. During the term of this Agreement, and subject to the terms of Sections 10.03 and 10.04 hereof, the Owner shall not mortgage, pledge, or otherwise encumber its interest in the Development, without the prior written approval of the Authority and HUD.

Section 10.03 Exclusions. The following actions are expressly excluded from the covenants set forth in Sections 10.01 and 10.02 hereof:

(a) Mortgages, financing arrangements, extended low-income housing commitments within the meaning of 26 U.S. Code 542 and other instruments approved in writing by HUD under the terms of the Mixed-Finance ACC Amendment, and transfer of the Development to the mortgagee under any such approved mortgage loans, by foreclosure or deed-in-lieu of foreclosure (or the leasehold equivalent thereof), or to a third-party purchaser pursuant to a foreclosure sale (or the leasehold equivalent thereof), provided that any such transfer shall be subject to the terms of the Declaration of Restrictive Covenants;

(b) Conveyance or dedication of land for use as streets, alleys, or other public rights-of-way, and grants and easements for the establishment, operation, and maintenance of utility services;

(c) Normal uses and encumbrances associated with the operation of the Development or arising by operation of law (including leases to residents of dwelling units);

(a) Execution and recordation of the Authority and HUD approved covenants,

conditions or restrictions pursuant to Tax Credit Requirements.

Section 10.04 Transfers of Interests

(a) No transfer, conveyance, or assignment shall be made without the prior written approval of both the Authority and, if required by the then-current Public Housing Requirements, HUD of: (1) any interest of a managing member, general partner, or controlling stockholder (any such interest being referred to as a "***Controlling Interest***") of Owner; or (2) a Controlling Interest in any entity that has a Controlling Interest in Owner; or (3) prior to the payment in full of all equity contributions described in the approved evidentiary documents listed in the Mixed-Finance ACC Amendment, any other interest in Owner, or in any partner or member thereof. For purposes of the definition of "Controlling Interest" set forth above and this Section 10.04, a "Controlling Interest" shall not include any interest, no matter how large, of a limited partner in a limited partnership or of a limited liability company member that is not a manager or managing member of such limited liability company.

(b) Notwithstanding the foregoing, the consent of the Authority and HUD shall not be required where a business organization that owns an interest that is not a Controlling Interest in the Owner or in any member, partner or stockholder of Owner, as applicable, transfers all or a portion of such interest; provided that the Owner: (A) provides the Authority and HUD with written notice of such transfer; and (B) certifies to the Authority and HUD that (a) the new owner of the interest remains obligated to fund its equity contribution in accordance with the terms of the HUD-approved organizational documents of the Owner, and (b) in the case of a non-Controlling Interest in the Owner, the transferee is an affiliate of the transferor.

(c) The consent of the Authority and HUD shall not be required for the exercise by Investor of its right pursuant to the Operating Agreement to remove the managing member of Owner and appoint Investor or an affiliate thereof as interim managing member of Owner so long as Investor gives prompt written notice to the Authority and HUD of such removal and appointment; provided that the Authority and HUD consent shall be required for the appointment of such interim managing member to extend beyond a ninety (90) day period and for the appointment of any entity (including Investor or an affiliate thereof) as the permanent replacement managing member.

(d) The Authority agrees that it shall not, and shall not cause HUD to, unreasonably withhold, delay, or condition a request by Owner for consent by the Authority, HUD, or both hereunder, as applicable, to an internal reorganization of the company structure of Owner or any of the members of Owner.

the non-defaulting party shall notify the defaulting party in writing of (i) the nature of the default, (ii) the actions required to be taken by the defaulting party to cure the default, and (iii) the period of time within which the defaulting party must respond with a showing that all required actions have been taken, provided that such period of time shall be no less than fifteen (15) business days for a failure to make Operating Subsidy Payments, thirty (30) calendar days for other monetary defaults, and no less than sixty (60) calendar days for non-monetary defaults, or such additional periods of time as may be reasonable, provided that the defaulting party promptly commences the cure of such default within the initial cure period and diligently prosecutes the same to completion.

(b) In addition to all other rights of the Investor hereunder, if following receipt of said written notices from the Authority, the Investor shall have exercised its removal right under the Operating Agreement and the substitute managing member within thirty (30) days of being admitted to the Owner either has cured such default or has commenced to cure and thereafter diligently and continuously pursues same, then the Owner shall not be considered in default or breach of the Agreement, and

(e) The consent of the Authority and HUD shall not be required for any exercise by Investor of its right to enforce the requirements of the Operating Agreement relating to the repurchase by the managing member of Investor's interest in the Owner under certain defined circumstances in which Investor deems itself at risk of not realizing anticipated benefits.

ARTICLE XI. DEFAULT AND REMEDIES.

Section 11.01 Default. An Event of Default by either party under this Agreement shall occur if that party materially violates, breaches, or fails to comply with any provision of, or obligation under, this Agreement or the Ground Lease (including, without limitation, by reason of its violation, breach, or failure to comply with applicable Public Housing Requirements) and fails to cure such default within the time period provided in Section 11.02. Upon expiration of the cure period provided by Article 11 herein and continuing until such default is cured, the Authority shall have the right to withhold Operating Subsidy Payments unless the Investor is diligently pursuing its cure rights pursuant to Section 11.02. Notwithstanding the foregoing, the Public Housing Units shall continue to be operated in accordance with the Public Housing Requirements.

Notwithstanding anything to the contrary set forth in this Agreement, HUD may pursue any and all rights and remedies against the Authority and the Owner pursuant to the ACC as modified by the Mixed-Finance ACC Amendment.

Section 11.02 Notice and Cure Period.

(a) Upon a determination by one party that a default by the other party has occurred,

the Authority shall promptly resume Operating Subsidy Payments and pay all amounts previously withheld.

Section 11.03 Remedies. If the defaulting party (or, as applicable, the Investor and/or any Approved Mortgage Lender, if such party has exercised intervention rights available to it) fails to respond or take corrective action within the time periods set forth above, the non-defaulting party shall have the right to exercise any legal or equitable remedy available to it by reason of the nature of such default, including without limitation to seek appropriate relief through a non-compulsory arbitration proceeding conducted under rules of the American Arbitration Association as the parties may agree, or to seek appropriate relief in any court having jurisdiction, including, but not limited to, specific performance, injunctive relief, or the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement.

Section 11.04 Rights of Others. The Authority shall transmit concurrently to the Investor a copy of any notice of default by the Owner under this Agreement, and in the event that the Owner shall fail to cure any such default within the applicable time period, the Investor shall be given an additional thirty (30) days to effect a cure of the Owner's default or to pursue its right to remove its managing member in accordance with 11.02(b) and the Operating Agreement; provided, however, that in an emergency situation the Authority shall be permitted to act temporarily to protect the Public Housing Units and the tenants thereof. Authority shall also transmit a copy of any notice of default to HUD.

Section 11.05 Exclusive Remedy. Notwithstanding anything to the contrary herein, in the event that diminished appropriations under Section 9(e) of the Act or other legislative changes reduce the amount of operating subsidy that the Authority is able to provide to the Owner, the remedies contained in this Agreement, consistent with the Act (including, without limitation section 35(h) thereof) as amended from time to time, and applicable HUD Regulations issued pursuant thereto, including, but not limited to, steps to be taken by the Owner to increase the rent derived from the Public Housing Units, shall be the exclusive remedies available to the Owner with respect to the reduction of operating subsidies provided by the Authority to the Owner. The Owner further agrees that in the event that diminished appropriations under Section 9 of the Act or other legislative changes significantly reduce the amount of operating or subsidy that the Authority is able to provide, the Owner shall have no recourse under this Agreement against any other "project" or "operating receipt" of the Authority, as such terms are defined in the ACC, or any public housing operating reserve of the Authority reflected in the Authority's annual operating budget and required under the ACC, or against any other asset of the Authority that is unrelated to the Development, except as provided herein. Provided however, that nothing herein shall deprive Owner of legal or equitable remedies related to that portion of the Operating Subsidy Requirement that remains due under this Agreement after allowing for any reduction of operating subsidy received by the Authority from HUD, nor shall anything herein deprive Owner of its right to enforce the Authority Operating Deficit Obligation in accordance with its terms, provided that such funds are received and available for use by the Authority.

ARTICLE XII. DISCLAIMER OF HUD RELATIONSHIPS

The Authority and the Owner acknowledge that any transfer of HUD funds by the Authority to the Owner or any participating party shall not be or be deemed to be an assignment of such funds, and the Owner or any participating party shall not succeed to any rights or benefits of the Authority under the ACC, or attain any privileges, authorities, interests, or rights in or under the ACC. Owner further agrees to include this disclaimer in each of its agreements or contracts with any partner, participating party, or any other party involving the use of public housing funds for the development.

Nothing contained in the ACC or in any agreement between the Authority and the Owner, nor any act of HUD or the Authority, shall be deemed or construed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD, except between HUD and the Authority as provided under the terms of the ACC; provided, however, that the first mortgage lender (if applicable) shall be entitled to rely upon Section 12(D) of the Mixed-Finance Amendment and to foreclose upon its mortgage and/or exercise any rights or remedies thereunder, and in doing so, succeed to the status of the Owner under said mortgage and hereunder.

ARTICLE XIII. MISCELLANEOUS.

Section 13.01 Term of Agreement. Except as otherwise provided herein, this Agreement shall continue in full force and effect until the later to occur of (a) 40 years from EIOP, or (b) expiration of the period during which the Public Housing Units are required by law to be operated as "public housing" in accordance with the Act.

Section 13.02 Decision Standards

(a) In any approval, consent or other determination by any party required under this Agreement, the party shall act reasonably, in good faith, and in a timely manner, unless a different standard is explicitly stated.

(a) Good faith means honesty in fact in the conduct or transaction concerned based on the facts and circumstances actually known to the individual(s) acting for the party.

(b) Discretion, sole discretion, option, election or words of similar import in this Agreement denote the party's privilege to act in furtherance of the party's interest.

(c) Judgment denotes a subjective standard obligating the party to use good faith in forming its professional opinion or estimate.

(d) Reasonable or reasonable judgment denotes an objective standard obligating the

party in good faith to act in a manner which is consistent with usual and customary practices of entities similarly situated, and not arbitrary or capricious.

Section 13.03 Notices. All such notices and other communications shall be deemed given on the date of personal or local courier delivery, telecopy (fax) transmission, one (1) day after delivery to overnight courier or express delivery service, or the day indicated received on the return receipt when deposited in the United States Mail.

If to the Authority:
Housing Authority of the City of Annapolis
1217 Madison Street
Annapolis, MD 21403
Attn: Eric Brown

With a copy to:
Reno & Cavanaugh, PLLC
455 Massachusetts Avenue, N.W.
Suite 400
Washington, D.C. 20001
Attn: Megan Glasheen

If to Owner:
Obery Court Phase I, LLC
c/o Pennrose GP, LLC
230 Wyoming Avenue
Kingston, Pennsylvania 18704

With a copy to:
Greenberg Traurig, LLP
2700 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Attn: Stuart Poppel

If to Investor:
Hudson Housing Capital LLC
630 Fifth Avenue, 28th Floor
New York, New York 10111
Attn: Joseph A. Macari
Fax No.: (212) 218-4467

With copies to:
Klein Hornig LLP
1275 K Street NW, Suite 1200
Washington, D.C. 20005
Attn: Christopher Hornig
Fax No.: (202) 842-3936

If to HUD:
United States Department of Housing and Urban Development
451 7th Street, S.W.

Washington, DC 20410
Attn: Assistant Secretary of Public and Indian Housing

Section 13.04 Further Assurances. Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement.

Section 13.05 No Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties; provided, however, that except as provided in Section 10.04, the Owner may not assign its interest in the Agreement without the prior written consent of the Authority, which shall not unreasonably be withheld and the prior consent of HUD. Any attempted assignment by Owner without such consents will be null and void.

Section 13.06 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

Section 13.07 Interpretation and Governing Law. This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Maryland. It is the intention of the parties that each and every provision of law required to be inserted and set forth in this Agreement shall be so inserted and, if any such provision has not been inserted, by mistake or otherwise, it shall be deemed incorporated herein.

Section 13.08 Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement, provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Agreement.

Section 13.09 No Personal Liability. No officer, director, shareholder, partner, employee, agent or other person authorized to act for or on behalf of either party shall be personally liable for any obligation, express or implied, hereunder. The Owner shall look solely to the Authority funds that are legally available for such purpose, and the Authority shall look solely to the Owner, for the satisfaction of any remedy each party might have with respect to the other for the other's failure to perform any of its obligations hereunder.

Section 13.10 Modification of Agreement. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto. Material modifications require the approval of HUD and no amendment shall impair the obligations of the Authority or Owner to develop and operate the Public Housing Units in accordance with the applicable Public Housing Requirements.

Section 13.11 The Owner's Employees and Liabilities. It is understood that persons engaged or employed by the Owner as employees, agents, or independent contractors shall be

engaged or employed by the Owner and not by the Authority; and the Owner alone is responsible for their work, direction, compensation and personal conduct. Nothing included in any provision of this Agreement shall impose any liability or duty upon the Authority to persons, firms, or corporations employed or engaged by the Owner in any capacity whatsoever, or make the Authority liable to any such persons, firms, or corporations, or to any government, for the acts, omissions, liabilities, obligations, and taxes, of whatsoever nature, of the Owner or of its employees, agents, or independent contractors.

Section 13.12 Neither Party an Agent. Nothing in this Agreement shall be deemed to appoint either the Owner or the Authority as an agent for or representative of the other, and neither one shall be authorized to act on behalf of the other with respect to any matters except those specifically set forth in this Agreement. Neither the Owner nor the Authority shall have any liability or duty to any person, firm, corporation, or governmental body for any act of omission or commission, liability, or obligation of the other, whether arising from the Owner's or the Authority's actions under this Agreement or otherwise.

Section 13.13 Waivers. The failure of either party to insist in any one or more cases upon the strict performance of any of the other party's obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the waiving party.

Section 13.14 Total Agreement. This instrument embodies the whole agreement of the parties with respect to the matters set forth herein. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representation, or agreements, either verbal or written between the parties.

Section 13.15 Future Changes in Applicable Laws. The parties hereto agree that in the event any of the federal or other legal requirements currently applicable hereto are amended, modified or repealed subsequent to the date hereof, it is the intent of the parties that, to the greatest extent permitted by law, nothing herein shall be construed or interpreted to apply such amendments, modifications, or new requirement in a manner more restrictive of the operation of the Development than those requirements currently applicable to the Development.

Section 13.16 Calendar Days. Unless otherwise stated, all references herein to a numbered period of days means calendar days.

Section 13.17 Temporary Interests. Any rights granted hereunder to any Approved Mortgage Lender, or other party, shall exist and be effective only for so long as such party maintains an otherwise enforceable interest in the Development, as through a currently effective loan, regulatory, or operating agreement. Any approval rights of HUD referenced herein shall be required only if and to the extent required by then-current Public Housing Requirements.

Section 13.18 Reasonableness. The Authority and the Owner shall act in a commercially

reasonable manner with respect to their respective obligations as set forth in this Agreement, including the granting of any consent or approval.

Section 13.19 Future Legislation. Subject to remedies provided in Article 6 hereof, nothing contained herein shall prevent or diminish the full application to the Public Housing Units of any legislation enacted after the date hereof, including any that provides for termination of the Operating Fund under Section 9 of the Act or other Federal project-based assistance to public housing developments, including, without limitation, any provision thereof releasing or otherwise modifying occupancy or tenant rent restrictions previously applicable to units in such developments.

Section 13.20 Limited Owner Obligation. It is of the essence of this Agreement that during the term hereof, the Owner will maintain and operate the Public Housing Units in accordance with Public Housing Requirements as provided herein; provided, however, that if the Public Housing Units Rental Income, plus any form of governmental operating or rental assistance received in respect of the Public Housing Units (including without limitation withdrawals from the ACC Reserve or other contributions by the Authority), shall be less than Public Housing Units Expenses, the Owner shall at no time be required to contribute from its own funds toward Public Housing Units Expenses in order to preserve the character or number of Public Housing Units specified in Section 2.02 herein.

Section 13.21 Exhibits. All exhibits attached to this Agreement are incorporated herein by reference.

Section 13.22 Conflicts. In the event of any differing requirements among regulatory programs to which the Development is subject, the Owner shall comply with the strictest (and therefore all) of such requirements.

[Remainder of Page Left Blank]

IN WITNESS WHEREOF, the parties have duly executed this Agreement by their duly authorized signatories on or as of the date written on the initial page hereof.

AUTHORITY:

HOUSING AUTHORITY OF THE CITY OF ANNAPOLIS

By: _____
Name: Eric Brown
Title: Executive Director

STATE OF MARYLAND)
) ss.
COUNTY OF Balto.)

On this the 6th day of March, 2009, before me, the undersigned officer, personally appeared Eric Brown, who acknowledged himself to be the Executive Director of the Housing Authority of the City of Annapolis, a public body corporate and politic, and he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the Housing Authority of the City of Annapolis, by signing the name of the Housing Authority of the City of Annapolis by himself as Executive Director.

In witness whereof I hereunto set my hand.

KATHLEEN CORDNER NOTARY PUBLIC BALTIMORE COUNTY, MD

_____
Notary Public/ My Commission Expires: 7/1/2010
Commissioner of Superior Court

OWNER:

Obery Court Phase I, LLC, a Maryland limited liability company

By: Obery Court GP, LLC, a Maryland limited liability company, its managing member

By: Pennrose GP, LLC, a Pennsylvania limited liability company, its managing member

By: _____
Mark H. Dambly, President

STATE OF PA)
) ss.
COUNTY OF PHILADELPHIA)

On this the 5th day of MARCH, 2009, before me, the undersigned officer, personally appeared Mark Dambly who acknowledged himself to be the President of Pennrose GP, LLC the managing member of Obery Court GP, LLC, the managing member of Obery Court Phase I, LLC, a Maryland limited liability company, and he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the corporation, by signing the name of the limited liability company by himself as President of Pennrose GP, LLC, the managing member of the managing member of Obery Court Phase I, LLC.

In witness whereof I hereunto set my hand.

_____
Notary Public/ My Commission Expires:
Commissioner of Superior Court

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Kristin M. Rhoads, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires March 22, 2011
Member, Pennsylvania Association of Notaries

Prepared by:
Sarah Molseed
Reno & Cavanaugh, PLLC
1250 Eye Street, NW
Suite 900
Washington, DC 20005-3922
Phone: (202) 783-2800

EXHIBIT A
Site Description

METES AND BOUNDS

BEGINNING FOR THE SAME AT A POINT FORMED BY THE INTERSECTION OF THE WESTERN RIGHT OF WAY LINE OF BATES STREET, 35 FEET WIDE, AND THE NORTHERN RIGHT OF WAY LINE OF CLAY STREET, 40 FEET WIDE; THENCE LEAVING THE POINT OF BEGINNING, AS NOW SURVEYED BY KCW ENGINEERING TECHNOLOGIES, INC. AND RUNNING WITH AND BINDING ON THE NORTHERN RIGHT OF WAY LINE OF CLAY STREET, 40 FEET WIDE,

1. NORTH 85 DEGREES 51 MINUTES 14 SECONDS WEST 289.82 FEET TO A POINT FORMED BY THE INTERSECTION OF THE NORTHERN RIGHT OF WAY LINE OF CLAY STREET, 40 FEET WIDE AND THE EASTERN RIGHT OF WAY LINE OF OBERY STREET, 40 FEET WIDE, THENCE RUNNING WITH AND BINDING ON THE EASTERN RIGHT OF WAY LINE OF OBERY STREET, 40 FEET WIDE,
2. NORTH 04 DEGREES 11 MINUTES 40 SECONDS EAST 242.4 FEET MORE OR LESS TO THE WATERS EDGE OF COLLEGE CREEK, THENCE RUNNING WITH THE WATERS EDGE OF COLLEGE CREEK THE FOLLOWING THREE COURSES AND DISTANCES,
3. NORTH 76 DEGREES 35 MINUTES 01 SECONDS EAST 141.5 FEET MORE OR LESS; THENCE
4. NORTH 64 DEGREES 15 MINUTES 13 SECONDS EAST 95.5 FEET MORE OR LESS; THENCE
5. SOUTH 62 DEGREES 51 MINUTES 20 SECONDS EAST 78.1 FEET MORE OR LESS TO THE WESTERN RIGHT OF WAY LINE OF BATES STREET, 35 FEET WIDE; THENCE RUNNING WITH AND BINDING ON THE WESTERN RIGHT OF WAY LINE OF BATES STREET, 35 FEET WIDE,
6. SOUTH 04 DEGREES 08 MINUTES 46 SECONDS WEST 302.18 FEET TO THE POINT OF BEGINNING. CONTAINING 84,010 SQUARE FEET OR 1.9286 ACRES OF LAND MORE OR LESS.

BEING ALL OF THAT FIRST DESCRIBED PARCEL OF LAND BY DEED DATED APRIL 22, 1939 WAS RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY IN LIBER JHH 196, FOLIO 400, WAS GRANTED AND CONVEYED BY STELLA W. GARDINER TO THE HOUSING AUTHORITY OF THE CITY OF ANNAPOLIS.