

**PROMISSORY NOTE**

\$ \_\_\_\_\_  
[\_\_\_\_\_, 20\_\_\_\_  
Rocky Hill, Connecticut

FOR VALUE RECEIVED, the undersigned, \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_ with an office and principal place of business at \_\_\_\_\_ (the "**Maker**"), promises to pay to the order of the **CONNECTICUT HOUSING FINANCE AUTHORITY** (the "**Holder**"), a body politic and corporate constituting a public instrumentality and political subdivision of the State of Connecticut, at its office at 999 West Street, Rocky Hill, Connecticut 06067, or at such other place as the Holder hereof may designate in writing, the principal sum of \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_), or so much thereof as shall be advanced hereunder and pursuant hereto (the "**Loan**"), and pursuant to that certain Program Assistance Agreement dated as of even date herewith (the "**Assistance Agreement**") and pursuant to that certain Open-End Mortgage Deed and Security Agreement dated as of even date herewith (the "**Mortgage**"; this Note, the Assistance Agreement, the Mortgage and all other loan documents executed in connection with the Loan, collectively, the "**Loan Documents**"), together with interest thereon as hereinafter set forth.

This Note is secured by the Mortgage on certain real property known as \_\_\_\_\_, located at \_\_\_\_\_ (the "**Development**"), upon which Maker agrees to construct, on said Development a unit multifamily rental housing development in strict conformity with the plans, drawings and specifications now in the possession of the Holder, which Development shall include \_\_\_\_\_ (\_\_\_\_) workforce units affordable to middle income households and persons (the "**Workforce/Middle Income Units**").

The period commencing on the date hereof and ending on [\_\_\_\_\_ 3[0/1], 20\_\_ is hereinafter referred to as the "**Interest-Only Period**" and the period commencing on [\_\_\_\_\_ 1, 20\_\_] and continuing until Maturity (as hereinafter defined) is hereinafter referred to as the "**Amortization Period**".

Interest shall accrue hereunder on the outstanding principal balance at the rate of [\_\_\_\_\_ and \_\_\_\_\_ percent (\_\_\_\_%) per annum], and: (i) during the Interest-Only Period, interest only shall be due and payable monthly, in arrears, which payments shall commence on the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) month after the date hereof and shall continue on the first (1<sup>st</sup>) day of each and every month thereafter through and including [\_\_\_\_\_ 1, 20\_\_ (the "**Final Interest-Only Payment Date**"); and (ii) during the Amortization Period, principal and interest, in arrears, shall be due and payable in consecutive equal monthly installments in an amount sufficient to amortize the principal amount advanced under the Loan in accordance with a [\_\_\_\_\_ (\_\_\_\_) year amortization schedule over a [\_\_\_\_\_ (\_\_\_\_) year term, commencing on [\_\_\_\_\_, 20\_\_ and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter, until the entire principal sum, with interest, has been fully paid. Any and all remaining unpaid indebtedness, together with any and all unpaid interest at the aforesaid rate shall be due and payable on [\_\_\_\_\_ 1, 20\_\_ ("**Maturity**").

This Note may be payable in advance of the Maturity upon the Maker's payment of a housing program maintenance fee equal to one percent (1%) of the then outstanding principal

balance of the Loan and without the prior written consent of the Holder, *provided, however*, the Workforce/Middle Income Units shall remain subject to the restrictive covenant in favor of the Holder until the later of: (a) the six (6) year anniversary of the issuance of a certificates of occupancy for the Workforce/Middle Income Units, or (b) the date of full repayment of the Loan.

Interest hereunder shall be calculated based upon, and charged for, the actual days elapsed during a 365 or 366 day year, as applicable (and the actual number of days per calendar month) during the Interest-Only Period, a 360 day year (30 day months) during the Amortization Period.

Advances of funds hereunder shall be made specifically in reliance upon the continued satisfaction of all promises, agreements, representations, pledges and covenants made by Maker, as set forth more fully in this Note, the Mortgage, the Assistance Agreement and in all other documents executed in connection with the Loan (collectively, the "**Loan Documents**").

The principal and interest payable hereunder shall be payable in lawful money of the United States of America, which shall be legal tender for public and private debts at the time of payment.

Each monthly installment due under this Note (and as set out in the Loan Documents) shall be applied by Holder to the following items in the following order:

1. taxes, payments in lieu of taxes, assessments, water and sewer charges and other public impositions;
  2. hazard and liability insurance premiums;
  3. late charges, if any, due pursuant to this Note;
  4. accrued interest on this Note;
  5. payments to any escrows and reserves as may be required by the Loan Documents;
  6. all other amounts due and owing under the Loan Documents (as hereafter defined);
- and
7. principal.

Maker also agrees to pay (i) all taxes or duties assessed upon said sums or this Note against the Holder hereof, the debt evidenced hereby or the Mortgage and upon the Development, and (ii) all reasonable costs, expenses and attorneys' fees incurred by the Holder in any proceeding for collection of the debt evidenced hereby or any foreclosure of the Mortgage, or in protecting or sustaining the lien of such Mortgage or any litigation or controversy arising from or connected with this Note or the Mortgage.

Holder may collect a late charge not to exceed four percent (4%) of any monthly installment which is not paid within fifteen (15) days of the due date thereof to cover the extra expense involved in handling such delinquent payment.

The occurrence of an Event of Default (as defined in the Mortgage) shall render the whole of this Note immediately due and payable at the option of the Holder hereof, or immediately and automatically upon the occurrence of an "Event of Default" under the Mortgage. Failure to exercise said option shall not constitute a waiver of the right of said Holder to exercise said option at a later time.

Holder shall notify Maker of the occurrence of an Event of Default.

Each and every Maker, endorser, guarantor and surety of this Note and all others who may become liable for all or any part of the obligations evidenced by this Note do hereby waive demand, presentment for payment, protest, notice of protest and notice of nonpayment of this Note and do hereby consent to any number of renewals or extensions of the time of payment thereof and of the time for advances under this Note and agree that any such renewals or extensions may be made without notice to any of said parties and without affecting their liability hereon, and further consent to the release of any part or parts of the security for the payment hereof and to the release of any party or parties liable hereon, all without affecting the liability of any other persons, firms, or corporations liable for the payment of this Note.

Maker agrees that all expenditures by the Holder on account of the Loan (other than principal), and the principal of this Note after Maturity or in the event of an Event of Default that continues for more than thirty (30) days, shall bear interest at the Default Rate. The "**Default Rate**" shall be the lesser of (i) the highest rate allowed by applicable law or (ii) a rate which is three (3) percentage points per annum in excess of the highest rate specified in this Note.

In the event that at any time any payment received by the Holder hereunder shall be deemed by final order of court of competent jurisdiction to have been a voidable preference or fraudulent conveyance under the bankruptcy or insolvency laws of the United States, or shall be deemed to be otherwise due to any party other than the Holder, then, in any such event, the obligation to make such payment shall survive any cancellation of this Note and/or return thereof to Maker, shall not be discharged or satisfied by any prior payment thereof and/or cancellation of this Note, but shall remain and /or automatically be reinstated, as applicable, as a valid and binding obligation enforceable in accordance with the terms and provisions hereof, and the amount of such payment shall bear interest at the Default Rate from the date of such final order until repaid hereunder.

Maker hereby gives the Holder a lien and right of setoff for all of Maker's liabilities hereunder upon and against all deposits, credits, and property of the Maker, endorsers or guarantors in the hands of the Holder, other than the Development, and any other collateral of the Maker, endorsers or guarantors now or hereafter in possession or control of Holder or in transit to it. Upon the occurrence of an Event of Default (as defined in the Mortgage), Holder may, at any time, apply the same or any part thereof to any liability of Maker to the Holder even though un-matured.

If the Holder hereof shall not have advanced, within the period set forth below within which advances shall be made, all sums to be advanced according to this Note, there shall be deducted from the amount due on this Note such sums as have not been advanced, and this Note shall then evidence an indebtedness of the principal amount herein stated less such sum as has not been advanced.

This Note shall not be assumed without the prior written consent of the Holder.

Should this Note be signed by more than one maker, references in this Note to Maker or maker in the singular shall include the plural and all obligations herein contained shall be the joint and several obligations of each maker hereof.

MAKER AND EACH GUARANTOR AND ENDORSER HEREOF REPRESENTS, WARRANTS AND ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS NOTE IS A PART IS A "COMMERCIAL TRANSACTION" AS DEFINED BY THE GENERAL STATUTES OF THE STATE OF CONNECTICUT. MONIES NOW OR IN THE FUTURE TO BE ADVANCED TO OR ON BEHALF OF MAKER ARE NOT AND WILL NOT BE USED FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. MAKER AND EACH GUARANTOR AND ENDORSER HEREOF HEREBY WAIVES, TO THE MAXIMUM EXTENT NOW OR HEREAFTER PERMITTED BY APPLICABLE LAW, ALL RIGHTS TO PRIOR NOTICE AND PRIOR COURT HEARING OR PRIOR COURT ORDER UNDER CONNECTICUT GENERAL STATUTES SECTIONS 52-278a ET SEQ. AS AMENDED OR UNDER ANY OTHER STATE OR FEDERAL LAW WITH RESPECT TO ANY AND ALL PREJUDGMENT REMEDIES HOLDER MAY EMPLOY TO ENFORCE ITS RIGHTS AND REMEDIES HEREUNDER OR UNDER THE OTHER LOAN DOCUMENTS. MAKER AND EACH GUARANTOR AND ENDORSER HEREOF FURTHER CONSENTS TO THE ISSUANCE OF ANY PREJUDGMENT REMEDIES WITHOUT A BOND AND AGREES NOT TO REQUEST OR FILE MOTIONS SEEKING TO REQUIRE THE POSTING OF A BOND IN CONNECTION WITH HOLDER'S EXERCISE OF ANY PREJUDGMENT REMEDY. MAKER AND EACH GUARANTOR AND ENDORSER HEREOF ACKNOWLEDGES THAT IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, WITHOUT DURESS, AND ONLY AFTER CONSIDERING THE RAMIFICATIONS OF THIS WAIVER WITH ITS ATTORNEYS.

Notwithstanding anything to the contrary, express or implied, contained in this Note or any of the Loan Documents, it is an express condition upon which this Note and all other Loan Documents are given and accepted that neither the Maker nor any partner, general or limited, nor any member, present or future, nor any individual, limited liability company, partnership or corporation, which now owns, or in the future may own, the Development will ever be liable for the obligations of the Maker under this Note or for any obligation under any of the Loan Documents, except to the limited extent specifically set forth below; and the Holder, for itself and its successors and assigns, agrees to look solely and exclusively to the Development and to the other security, deposits and credits given as security for the repayment of the Construction Loan and for the payment and performance of the Maker's obligations under the Loan Documents.

In any action or proceeding brought on the Mortgage, the Note, or any of the other Loan Documents in which a money judgment is sought, the Holder shall look solely to the Development and Maker's interest in the Development and in all present and future leases and income from the Development, provided that this shall not impair the Holder's right to seek and obtain a money or deficiency judgment against Maker or any general partner, member or shareholder of Maker, or against any member, shareholder or partner of any general partner of the Maker, in an action based upon:

- (i) fraud, misappropriation of funds, or material misrepresentation in connection with any of the Loan Documents, or any affidavit, certification, warranty or representation given by Maker or any general partner, manager, member or

shareholder of Maker or by any member, manager, shareholder or partner of any general partner of Maker;

- (ii) recovery of any condemnation, insurance, or other proceeds or similar funds or payments attributable to the Development which, under the terms of any of the Loan Documents, should have been paid to the Holder;
- (iii) recovery of any tenant security deposits, advance or prepaid rent or other similar sums paid to, or held by, Maker or any other party in connection with the operation of the Development;
- (iv) recovery of any compensation paid, provided, or owed to an affiliate or manager in connection with any agreement which does not comply with the terms of the Mortgage;
- (v) any breach or violation of representations, warranties, covenants (other than the covenant to make payments under this Note) and indemnities executed in connection with the Loan;
- (vi) material waste of any portion of the Development;
- (vii) collection of rents in advance in violation of any covenant in the Mortgage or other Loan Documents;
- (viii) failure to make payments when due on the Note or payments of insurance premiums, property taxes, payments in lieu of taxes, or payments of other operating or maintenance expenses related to the Development during such time as total revenues from the Development are sufficient to pay such amounts, or the failure to pay a portion of such amounts, up to the full extent of the total revenues from the Development available to pay such amounts;
- (ix) intentional failure to maintain resident occupancy levels and income from the Development; or
- (x) that certain Environmental Indemnification Agreement dated as of even date herewith made by Maker in favor of Holder.

The foregoing shall not impair the liability of Maker or any guarantor with respect to any guaranty or indemnity, nor shall the foregoing be deemed a waiver by Holder or an impairment of any statutory right of indemnity against Maker or any guarantor nor shall the foregoing affect in any way the rights of Holder to enforce its rights in and to the Development under the Mortgage and other Loan Documents by foreclosure, exercise of any power of sale, possession, exercise of its rights under the UCC (as defined in the Mortgage) or pursuant to any assignment of leases and rents.

This Note shall be governed by and construed in accordance with the laws of the State of Connecticut. All notices and communications required or permitted hereunder shall be in writing and given in accordance with the Mortgage.

[\_\_\_\_\_]
By: [\_\_\_\_\_]
Its [\_\_\_\_\_]

By: \_\_\_\_\_
Name:
Title:
Duly Authorized

DRAFT