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REGULATORY AND USE AGREEMENT
[Rental Affordability Restriction]

***For Comprehensive Permit Projects in Which Subsidy is Provided
Through the Department of Housing and Community Development***

This Regulatory and Use Agreement (this "Agreement") is made this 3 day of June 2011, by and between the Department of Housing and Community Development ("DHCD") acting as Subsidizing Agency (the "Subsidizing Agency"), as defined under the provisions of 760 CMR 56.02, and **Towne School Limited Partnership, a Massachusetts Limited Partnership** having a mailing address of c/o Common Ground Development Corporation, 155 Merrimack Street, Lowell, MA 01852, and its successors and assigns (the "Developer").

RECITALS

WHEREAS, the Developer intends to construct a housing development known as Old High School Commons at a 1.23+-acre site located at 3 Charter Road in the Town of Acton, Massachusetts (the "Municipality"), located in Middlesex County, Massachusetts, more particularly described in Exhibit A attached hereto and made a part hereof (the "Development"); and

WHEREAS, the Department of Housing and Community Development has promulgated Regulations at 760 CMR 56.00 (as in effect as of the date hereof and as they may be amended from time to time, the "Regulations") relating to the issuance of comprehensive permits under Chapter 40B, Sections 20-23, of the Massachusetts General Laws (as in effect as of the date hereof, the "Act") and pursuant thereto has issued its Comprehensive Permit Guidelines (as in effect as of the date hereof, the "Guidelines" and, collectively with the Regulations and the Act, the "Comprehensive Permit Rules"); and

WHEREAS, DHCD will serve as Subsidizing Agency for the Development pursuant to the Comprehensive Permit Rules and in accordance with the terms and provisions hereof; and

WHEREAS, the Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals of the Municipality in accordance with the Act, which permit is recorded at the Middlesex County Registry of Deeds/Registry District of the Land Court ("Registry") in Book 4835, Page 470, as amended, and as further amended by the terms of this Agreement; and

WHEREAS, pursuant to the Comprehensive Permit and the requirements of the Comprehensive Permit Rules, the Development is to consist of a total of fifteen (15) rental units (the "Affordable Units") which will be rented to Low or Moderate Income Persons and Families (as defined herein) at rentals specified in this Agreement and will be subject to this Agreement; and

WHEREAS, DHCD has adopted the Preparation of Cost Certification for 40B Rental Developments: Inter-Agency 40B Rental Cost Certification Guidance for Owners, Certified Public Accountants and Municipalities (the "Cost Certification Guidance") dated as of April 6,

3 Charter Road, Acton



2011, which shall govern the cost certification and limited dividend requirements for the Development pursuant to the Comprehensive Permit Rules; and

WHEREAS, the parties intend that this Agreement shall serve as a "Use Restriction" as defined in and required by Section 56.05(13) of the Regulations; and

WHEREAS, the parties recognize that Affirmative Fair Marketing (as defined herein) is an important precondition for rental of Affordable Units and that local preference cannot be granted in a manner which results in a violation of applicable fair housing laws, regulations and subsidy programs; and.

WHEREAS, the parties recognize that the Municipality has an interest in preserving affordability of the Affordable Units and may offer valuable services in administration, monitoring and enforcement.

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Subsidizing Agency and the Developer hereby agree as follows:

DEFINITIONS

1. In addition to terms defined elsewhere in this Agreement, the following terms as used in this Agreement shall have the meanings set forth below:

Accountant's Annual Determination shall have the meaning given such term in Section 7(f) hereof.

Accumulated Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Accumulated and Unpaid Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Act shall have the meaning given such term in the Recitals hereof.

Affirmative Fair Housing Marketing Plan shall mean the Affirmative Fair Housing Marketing Plan prepared by the Developer in accordance with the Guidelines and approved by the Subsidizing Agency, with such changes thereto that may be approved by the Subsidizing Agency, as further set forth in Section 3.

Affordable Units shall have the meaning set forth in the Recitals above.

Allowable Development Costs shall have the meaning given such term in Section 21 hereof.

Annual Excess Revenues shall have the meaning given such term in Section 7(e) hereof.

Annual Income shall be determined in the manner set forth in 24 C.F.R. 5609 (or any successor regulations).

Area shall mean the Boston-Cambridge-Quincy MA-NH HUD Metro FMR Area (HMFA) as designated by the Department of Housing and Urban Development ("HUD").

Area Median Income ("AMI") shall mean the median gross income for the Area, as determined from time to time by HUD. For purposes of determining whether Adjusted Family Income qualifies a tenant for treatment as a Low or Moderate Income Tenant, the Area Median Income shall be adjusted for family size.

Comprehensive Permit shall have the meaning given such term in the Recitals hereof.

Comprehensive Permit Rules shall have the meaning given such term in the Recitals hereof.

Construction Lender shall mean the lender(s) making the Construction Loan, and its successors and assigns.

Construction Loan shall mean the loan to the Developer for the construction of the Development.

Construction Mortgage shall mean the mortgage from the Developer securing the Construction Loan.

Cost Certification shall have the meaning given such term in Section 20 hereof.

Current Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Developer's Equity shall be calculated according to the formulas outlined in Attachment C of the Cost Certification Guidance, using the Cost Method until the Cost Certification process is complete, and either the Cost Method or the Value Method, whichever results in the greater amount, thereafter. Developer's Equity shall be retroactively applied to the period from the start date (commencement of construction of the Development as evidenced by issuance of the first building permit) until Substantial Completion (the "Construction Period"). For the Construction Period, Developer's Equity shall mean the average of costs expended by the Developer on the development during the period in question, based on a review of Developer's financial reports by an independent accounting firm. By way of example only, if on the first day of construction the Developer's costs are \$10,000,000 (all attributable to land acquisition costs), and one year later the Developer's costs are \$20,000,000 (half attributable to land acquisition costs, half attributable to construction costs), then the Developer's Equity for that year of construction would be the average of those two amounts of \$15,000,000. The Developer's Equity for the construction period shall be appropriately prorated for any partial year during such period.

Developer Parties shall have the meaning given such term in Section 7(b) hereof.

Development shall have the meaning given such term in the Recitals hereof.

Development Revenues shall have the meaning given such term in Section 7(b) hereof.

Distribution Payments shall have the meaning given such term in Section 7(b) hereof.

Event of Default shall mean a default in the observance of any covenant under this Agreement or the Mortgage existing after the expiration of any applicable notice and cure periods.

Excess Revenues Account shall mean the account established under Section 7(e) hereof.

Family shall have the same meaning as set forth in 24 C.F.R. §5.403 (or any successor regulations).

Guidelines shall have the meaning given such term in the Recitals hereof.

Housing Subsidy Program shall mean any other state or federal housing subsidy program providing rental or other subsidy to the Development.

HUD shall mean the United States Department of Housing and Urban Development.

Lender shall mean the Construction Lender and/or the Permanent Lender.

Low or Moderate Income Persons or Families shall mean persons or Families whose Annual Incomes do not exceed sixty percent (60%) of the Median Income for the Area, and shall also mean persons or Families meeting such lower income requirements as may be required under the Comprehensive Permit or any applicable Housing Subsidy Program.

Low or Moderate Income Tenants shall mean Low or Moderate Income Persons or Families who occupy the Affordable Units.

Maximum Annual Distributable Amounts shall have the meaning given such term in Section 7(c) hereof.

Mortgage shall mean the Construction Mortgage and/or the Permanent Mortgage.

Permanent Lender shall mean the lender(s) making the Permanent Loan to the Developer, and its successors and assigns.

Permanent Loan shall mean the Permanent Loan made or committed to be made by the Permanent Lender to the Developer after completion of construction of the Development, which will replace the Construction Loan, or any subsequent refinancing thereof in compliance with any specific terms of the Comprehensive Permit or any Housing Subsidy Program applicable to the Development.

Permanent Mortgage shall mean the mortgage from the Developer to the Permanent Lender securing the Permanent Loan.

Regulations shall have the meaning given such term in the Recitals hereof.

Related Person: shall mean a person whose relationship to such other person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

Substantial Completion shall have the meaning given such term in Section 20 hereof.

Tenant Selection Plan shall mean the Tenant Selection Plan, prepared by the Developer in accordance with the Guidelines and approved by the Subsidizing Agency, with such changes thereto which may be approved by the Subsidizing Agency.

Term shall have the meaning set forth in Section 22.

CONSTRUCTION OBLIGATIONS

2. (a) The Developer agrees to construct the Development in accordance with plans and specifications approved by the Subsidizing Agency and the Municipality (the "Plans and Specifications"), in accordance with all on-site and off-site construction, design and land use conditions of the Comprehensive Permit, and in accordance with the information describing the Development presented by the Developer to the Subsidizing Agency in its Application for Final Approval. All Affordable Units to be constructed as part of the Development must be similar in exterior appearance to other units in the Development and shall be evenly dispersed throughout the Development. In addition, all Affordable Units must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and sanitary facilities, all as more fully shown in the Plans and Specifications. Materials used for the interiors of the Affordable Units must be of good quality. The Development must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. Except to the extent that the Development is exempted from such compliance by the Comprehensive Permit, the Development must also comply with all applicable local codes, ordinances and by-laws.

(b) The Subsidizing Agency shall monitor compliance with the construction obligations set forth in this section in such manner as the Subsidizing Agency may deem reasonably necessary. In furtherance thereof, the Developer shall provide to the Subsidizing Agency (i) evidence that the final plans and specifications for the Development comply with the requirements of the Comprehensive Permit and that the Development was built substantially in accordance with such plans and specifications; and (ii) such information as the Subsidizing

Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor proposed by the Construction Lender.

USE RESTRICTION/RENTALS AND RENTS

3. (a) The Developer shall rent the Affordable Units during the Term hereof to Low or Moderate Income Persons or Families upon the terms and conditions set forth in the Comprehensive Permit and this Agreement. In fulfilling the foregoing requirement, Developer will accept referrals of tenants from the Public Housing Authority and the Acton Community Housing Corporation in the Municipality, and will not unreasonably refuse occupancy to any prospective tenants so referred who otherwise meet the requirements of the Tenant Selection Plan. The foregoing provisions shall not relieve Developer of any obligations it may have under the provisions of other documents and instruments it has entered with respect to any applicable Housing Subsidy Program; provided, however, the Subsidizing Agency shall have no obligation hereunder, expressed or implied, to monitor or enforce the applicable requirements of any such Housing Subsidy Programs.

(b) The annual rental expense for each Affordable Unit (equal to the gross rent plus allowances for all tenant-paid utilities, including tenant-paid heat, hot water and electricity) shall not exceed thirty percent (30%) of sixty percent (60%) of AMI, adjusted for household size, assuming that an Affordable Unit which does not have a separate bedroom is occupied by one individual, and that a unit which has one or more separate bedrooms is occupied by 1.5 individuals for each separate bedroom. If rentals of the Affordable Units are subsidized under any Housing Subsidy Program, then the rent applicable to the Affordable Units may be limited to that permitted by such Housing Subsidy Program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

(c) For purposes of satisfying the requirement that the Affordable Units shall be occupied by Low or Moderate Income Tenants hereunder, no Low or Moderate Income Tenant shall be denied continued occupancy because, after admission, the Low or Moderate Income Tenant's Annual Income exceeds sixty percent (60%) of Area Median Income (provided, however, that no Low or Moderate Income Tenant shall continue to be counted as a Low or Moderate Income Tenant as of any date upon which such tenant's Annual Income exceeds one hundred forty percent (140%) of sixty percent (60%) of Area Median Income if any unit is rented to a tenant who is not a Low or Moderate Income Tenant. Other than as provided in the preceding sentence, any unit shall retain its character as an Affordable Unit occupied by a Low or Moderate Income Tenant until it is reoccupied, at which time whether or not such unit is occupied by a Low or Moderate Income Tenant shall be re-determined under the rules set forth in this paragraph, except that no re-occupancy of an Affordable Unit for a temporary period not to exceed thirty-one (31) days shall be taken into account for this purpose.

(d) If, after initial occupancy, the Annual Income of a Low or Moderate Income Tenant increases and, as a result of such increase, exceeds sixty percent (60%) of Area Median Income but is less than one hundred forty percent (140%) of sixty percent (60%) of Area Median Income, such tenant shall continue to be treated as a Low or Moderate Income Tenant and the maximum rent set forth in Section 3(b) above shall continue to apply to such tenant. In the event that a Low or Moderate-Income Tenant's Annual Income increases and, as a result of such

increase, exceeds one hundred forty percent (140%) of sixty percent (60%) of Area Median Income, from and after the expiration of the then-current term of such tenant's lease, the Developer may charge the Low or Moderate-Income Tenant a market rate for the dwelling unit.

(e) Rentals for the Affordable Units shall be initially established by the Developer upon approval by the Subsidizing Agent, subject to change from time to time (if necessary to reflect any changes in AMI) in accordance with the terms and provisions of this Agreement and any applicable Housing Subsidy Program.

(f) Developer shall obtain income certifications satisfactory in form and manner to the Subsidizing Agency at least annually for all Low or Moderate-Income Tenants, or more frequently if required by any applicable Housing Subsidy Program. Said income certifications shall be kept by the management agent for the Development and made available to the Subsidizing Agency upon request.

(g) Prior to initial lease-up, the Developer shall submit an Affirmative Fair Housing Marketing Plan (also known as an "AFHM Plan") for the Subsidizing Agency's approval. At a minimum the AFHM Plan shall meet the requirements of the Guidelines, as the same may be amended from time to time. The AFHM Plan, upon approval by the Subsidizing Agency, shall become a part of this Agreement and shall have the same force and effect as if set out in full in this Agreement.

(h) The AFHM Plan shall designate entities to implement the plan who are qualified to perform their duties. The Subsidizing Agency may require that another entity be found if the Subsidizing Agency finds that the entity designated by the Developer is not qualified. Moreover, the Subsidizing Agency may require the removal of an entity responsible for a duty under the Affirmative Fair Housing Marketing Plan if that entity does not meet its obligations under the Affirmative Fair Housing Marketing Plan.

(i) The restrictions contained herein are intended to be construed as an affordable housing restriction as defined in Section 31 of Chapter 184 of Massachusetts General Laws which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law but rather shall run for the Term hereof. In addition, this Agreement is intended to be superior to the lien of any mortgage on the Development and survive any foreclosure or exercise of any remedies thereunder and the Developer agrees to obtain any prior lienholder consent with respect thereto as the Subsidizing Agency shall require.

TENANT SELECTION AND OCCUPANCY

4. Developer shall use its good faith efforts during the Term of this Agreement to maintain all the Affordable Units within the Development at full occupancy as set forth in Section 2 hereof. In marketing and renting the Affordable Units, the Developer shall comply with the Tenant Selection Plan and Affirmative Fair Housing Marketing Plan which are incorporated herein by reference with the same force and effect as if set out in this Agreement.

5. Occupancy agreements for Affordable Units shall meet the requirements of the Comprehensive Permit Rules, this Agreement, and any applicable Housing Subsidy Program, and shall contain clauses, among others, wherein each resident of such Affordable Unit:

(a) certifies the accuracy of the statements made in the application and income survey;

(b) agrees that the family income, family composition and other eligibility requirements, shall be deemed substantial and material obligations of his or her occupancy; that he or she will comply promptly with all requests for information with respect thereto from Developer or the Subsidizing Agency; and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her occupancy; and

(c) agrees that at such time as Developer or the Subsidizing Agency may direct, he or she will furnish to Developer certification of then current family income, with such documentation as the Subsidizing Agency shall reasonably require; and agrees to such charges as the Subsidizing Agency has previously approved for any facilities and/or services which may be furnished by Developer or others to such resident upon his or her request, in addition to the facilities included in the rentals, as amended from time to time pursuant to Section 3 above.

6. Intentionally omitted.

LIMITED DIVIDENDS

7. (a) The Developer covenants and agrees that Distribution Payments made in any fiscal year of the Development shall not exceed the Maximum Annual Distributable Amounts for such fiscal year.

(b) For the purposes hereof, the term "Distribution Payments" shall mean all amounts paid from revenues, income and other receipts of the Development, not including any amounts payable in respect of capital contributions paid by any members or partners of the Developer or any loan proceeds payable to the Developer (herein called "Development Revenues") which are paid to any partner, manager, member or any other Related Person of the Developer (collectively, the "Developer Parties") as profit, income, or fees or other expenses which are unrelated to the operation of the Development or which are in excess of fees and expenses which would be incurred from persons providing similar services who are not Developer Parties and provide such services on an arms-length basis.

(c) For the purposes hereof the "Maximum Annual Distributable Amounts" for any particular fiscal year shall be defined and determined as follows: the sum of

(i) an amount equal to ten percent (10%) of the "Developer's Equity" for such fiscal year and as of the date hereof the Developer's Equity shall be \$_____, subject to adjustment as provided in (d) below (the "Current Distribution Amounts"); plus

(ii) the amount of all Accumulated and Unpaid Distributions calculated as of the first day of such fiscal year.

In no event shall the total Maximum Annual Distributable Amounts actually distributed for any given year exceed total funds available for distribution after all current and owed-to-date expenses have been paid and reserves, then due and owing, have been funded.

"Accumulated and Unpaid Distribution Amounts" shall be the aggregate of the Current Distribution Amounts calculated for all prior fiscal years less the Distribution Payments ("Accumulated Distribution Amounts") calculated for each such fiscal year together with simple interest ("Accrued Interest") resulting from such calculation in all prior years computed at five percent (5%) per annum. For the purposes of this calculation, it is assumed any amounts available for distribution in any year shall be fully disbursed.

(d) When using the Value-Based Approach, the Developer's Equity may be adjusted not more than once in any five year period with the first five - year period commencing with the first fiscal year of the Development. Any adjustments shall be made only upon the written request of the Developer and, unless the Developer is otherwise directed by the Subsidizing Agency, shall be based upon an appraisal commissioned by (and naming as a client) the Subsidizing Agency and prepared by an independent and qualified appraiser prequalified by, and randomly assigned to the Development by, the Subsidizing Agency. The appraiser shall submit a Self-Contained Appraisal Report to the Subsidizing Agency in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The costs of such appraisal shall be borne by the Developer. Such appraisal shall be based on the so-called 'investment value' methodology, using assumptions subject to the reasonable approval of the Subsidizing Agency.

Upon completion of an appraisal as provided above, the Developer's Equity shall be adjusted to equal the appraised value of the Development as determined by the appraisal less the unpaid principal amount of the sum of secured debt on the Development plus public equity, whether structured as a grant or loan determined as of the date of the appraisal. Such new Developer's Equity shall be the Developer's Equity commencing with the first day of the month following the date of such appraisal and stay in effect until a subsequent adjustment.

(e) If at the end of any fiscal year, any Development Revenues for such fiscal year shall remain and are in excess of the Maximum Annual Distributable Amounts for such fiscal year, such amount (the "Annual Excess Revenues"), other than those which may be required by any Lender to remain at the Development as a reserve to pay the expenses of the Development, shall be deposited in an escrow account with the Lender (or if the Loan is paid off, with the Subsidizing Agency) designated as the "Excess Revenues Account" and not released except with the prior written consent of the Subsidizing Agency or if required by Lender to avoid a default on the Loan.

Upon Developer's request, amounts may also be withdrawn from the Excess Revenues Account during the Term hereof and applied for the following purposes: (i) payment of or adequate reserve for all sums due or currently required to be paid under the terms of the Mortgage; (ii) payment of or adequate reserve for all reasonable and necessary operating expenses of the Development as reasonably determined by the Developer; (iii) deposit of all

amounts as may be deposited in a reserve fund for capital replacements reasonably determined by the Developer to be sufficient to meet anticipated capital needs of the Development (the "Replacement Reserve") which may be held by a lending institution reasonably acceptable to the Subsidizing Agency and which reserves may be used for capital expenditures for the Development reasonably determined to be necessary by the Developer; (iv) payments of operating expense loans made by the partners, managers or members of Developer for Development expenses, provided that Developer shall have obtained prior written approval for such loans from the applicable Lender (or, if there is no mortgage, or after discharge of the Mortgage, from the Subsidizing Agency) and shall have supplied the applicable Lender (or the Subsidizing Agency) with such evidence as the applicable Lender (or the Subsidizing Agency, as applicable) may reasonably request as to the application of the proceeds of such operating expense loans to Development; or (v) for any other purposes, subject to a determination by the Lender (or, if there is no Mortgage, or the Mortgage is discharged during the Term of this Agreement, the reasonable determination by the Subsidizing Agency) that the expenditure is necessary to address the Development's physical or financial needs and that no other Development reserve funds are available to address such needs. Notwithstanding the foregoing, payment of the items set forth in clauses (i), (ii), (iii) and (v) above by the Developer shall be subject to the prior written approval of the Subsidizing Agency, which approval shall not be unreasonably withheld or delayed; it being agreed by the Subsidizing Agency that if the Developer can demonstrate that its proposed operating expenditures, capital expenditures and reserves are substantially consistent with those made for other developments of the Developer or its affiliates with the Commonwealth of Massachusetts, the Subsidizing Agency shall approve such request. Further, in no event shall such review or approval be required by the Subsidizing Agency to the extent any such capital expenditures or reserves are mandated by and Lender.

Further, the Subsidizing Agency agrees that it shall not unreasonably withhold or delay its consent to release of any amounts held in the Excess Revenues Account, upon the written request of the Developer that:

- (i) provide a direct and material benefit to Low or Moderate Tenants; or
- (ii) reduce rentals to Low or Moderate Tenants.

In the event that the Subsidizing Agency's approval is requested pursuant to this Section 7(e) for expenditures out of the Excess Revenues Account, and the Subsidizing Agency fails to respond within thirty (30) days of the Subsidizing Agency's receipt thereof, then the Subsidizing Agency shall be deemed to have approved the request, and the Subsidizing Agency shall have no further rights to object to, or place conditions upon, the same.

In any event, cash available for distribution in any year in excess of twenty percent (20%) of Developer's Equity, subject to payment of Accumulated and Unpaid Distributions, shall be distributed to the Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency as provided herein, or as otherwise directed by the Subsidizing Agency. Upon the expiration of the "Limited Dividend Term" which has the same meaning as "Term" as defined in Section 23(a) hereof, any balance remaining in the Excess Revenues Account shall be distributed by the Developer to the Replacement Reserve held for the Development.

(f) The Developer shall provide the Subsidizing Agency for each fiscal year with a copy of its audited financial statements, and provide the Subsidizing Agency with a certificate from the independent certified public accountant (the "CPA") who prepared such reports which certifies as to their determination (the "Accountant's Annual Determination") of the following for such fiscal year, based on the terms and conditions hereof:

- (i) Accumulated Distribution Amounts;
- (ii) Current Distribution Amounts;
- (iii) Maximum Annual Distributable Amounts;
- (iv) Annual Excess Revenues;
- (v) Accumulated and Unpaid Distribution Amounts (including a calculation of Accumulated Distribution Amounts and Accrued Interest); and
- (vi) Development Revenues.

Such Accountant's Annual Determination shall be accompanied by a form completed by the CPA and by a Certificate of Developer in forms as reasonably required by the Subsidizing Agency certifying under penalties of perjury as to the matters such as, without limitation, the fact that (i) the Developer has made available all necessary financial records and related data to the CPA who made such Accountant's Annual Determination, (ii) there are no material transactions related to the Development that have not been properly recorded in the accounting records underlying the Accountant's Annual Determination, (iii) the Developer has no knowledge of any fraud or suspected fraud affecting the entity involving management, subcontractors, employees who have significant roles in internal control, or others where the fraud could have a material effect on the Accountant's Annual Determination and has no knowledge of any allegations of fraud or suspected fraud affecting the Developer or the Development received in communications from employees, former employees, subcontractors, regulators, or others, and (iv) the Developer has reviewed the information presented in the Accountant's Annual Determination and believes that such determination is an appropriate representation of the Development.

(g) the Subsidizing Agency shall have sixty (60) days after the delivery of the Accountant's Annual Determination to accept it, to make its objections in writing to the Developer and the Developer's CPA, or to request from the Developer and/or CPA additional information regarding it. If the Subsidizing Agency does not object to it, or request additional information with respect to it, it shall have been deemed accepted by the Subsidizing Agency. If the Subsidizing Agency shall request additional information, then the Developer shall provide to the Subsidizing Agency such additional information as promptly as possible and the Subsidizing Agency shall have an additional thirty (30) days thereafter to review such information and either accept or raise objections to such Accountant's Annual Determination. If no such objections are made within such thirty day (30) period, the Accountant's Annual Determination shall be deemed accepted by the Subsidizing Agency. Prior to acceptance of the Accountant's Annual Determination, the Subsidizing Agency shall deliver a copy of the Accountant's Annual Determination to the Municipality with the Subsidizing Agency's determination of the Developer's compliance with the Comprehensive Permit Rules. The Municipality shall have

the option of evaluating the report for accuracy (e.g., absence of material errors), applying the same standards as set forth herein, for a period of 30 days after receipt. The Subsidizing Agency will reasonably review any inaccuracies identified by the Municipality during this period and shall thereafter either accept or raise objections to the Accountant's Annual Determination as provided above.

To the extent that the Subsidizing Agency shall raise any objections to such Accountant's Annual Determination as provided above, then the Developer, and the Subsidizing Agency shall consult in good faith and seek to resolve such objections within an additional thirty (30) day period. If any objections are not resolved during such period, then the Subsidizing Agency may enforce the provisions under this Section by the exercise of any remedies it may have under this Agreement.

(h) If upon the approval of an Accountant's Annual Determination as provided above, such Accountant's Annual Determination shall show that the Distribution Payments for such fiscal year shall be in excess of the Maximum Annual Distributable Amounts for such fiscal year, then upon thirty (30) days written notice from the Subsidizing Agency, the Developer shall cause such excess to be deposited in the Excess Revenue Account from sources other than Development Revenues to the extent not otherwise required by Lender to remain with the Development as provided in subsection (e) above.

If such Accountant's Annual Determination as approved shall show that there are Annual Excess Revenues for such fiscal year, which have not been distributed, such amounts shall be applied as provided in subsection (e) above within thirty (30) days after the approval of the Accountant's Annual Determination as set forth in subsection (f) above.

(i) Notwithstanding anything to the contrary contained in this Agreement, a distribution resulting from the proceeds of a sale or refinancing of the Development shall not be regulated by this Agreement. If a sale or refinancing results in a greater or lesser unpaid principal amount of the sum of secured debt on the Development (not including public equity), there shall be a new evaluation of Developer's Equity.

(j) Payment of fees and profits from capital sources for the initial development of the Development to the Developer and/or the Developer's related party consultants, partners and legal or beneficial owners of the Development shall (unless otherwise limited by the Subsidizing Agency) be limited to no more that amount resulting from the calculation in Attachment B—, Step 3 ("Calculation of Maximum Allowable 40B Developer Fee and Overhead") of the Cost Certification Guidance (the "Maximum Allowable Developer Fee"). The Maximum Allowable Developer Fee shall not include fees or profits paid to any other party, whether or not related to the Developer, to the extent the same are arm's length and commercially reasonable in light of the size and complexity of the Development. The Developer shall comply with the requirements of Section 21 below regarding Cost Certification. In accordance with the requirements of 760 CMR 56.04(8)(e), in the event that the Subsidizing Agency determines, following examination of the Cost Certification submitted by the Developer pursuant to Section 21 below, that amounts were paid or distributed by the Developer in excess of the above limitations (the "Excess Distributions"), the Developer shall pay over in full such Excess Distributions to the

Municipality within fifteen (15) business days of notice and demand given by the Subsidizing Agency as provided herein.

MANAGEMENT OF THE DEVELOPMENT

8. Developer shall maintain the Development in good physical and financial condition in accordance with the Subsidizing Agency's requirements and standards and the requirements and standards of the Mortgage and any applicable Housing Subsidy Program. Developer shall provide for the management of the Development in a manner that is consistent with accepted practices and industry standards for the management of multi-family market rate rental housing. Notwithstanding the foregoing, the Subsidizing Agency shall have no obligation hereunder, expressed or implied, to monitor or enforce any such standards or requirements and, further, the Subsidizing Agency has not reviewed nor approved the Plans and Specifications for compliance with federal, state or local codes or other laws.

CHANGE IN COMPOSITION OF DEVELOPER ENTITY; RESTRICTIONS ON TRANSFERS

9. The Developer shall provide the Subsidizing Agency with thirty (30) days' prior written notice of the following:

(a) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or

(b) the conveyance, assignment, transfer, or relinquishment of twenty-five percent (25%) or more of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any limited partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

The Developer shall provide the Subsidizing Agency with thirty (30) days' prior written notice of any sale, conveyance, transfer, ground lease, exchange, pledge, assignment or mortgage of the Development, whether direct or indirect.

BOOKS AND RECORDS

10. All records, accounts, books, tenant lists, applications, waiting lists, documents, and contracts relating to the Development shall at all times be kept separate and identifiable from any other business of Developer which is unrelated to the Development, and shall be

maintained, as required by applicable regulations and/or guidelines issued by the Subsidizing Agency from time to time, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Subsidizing Agency. Failure to keep such books and accounts and/or make them available to the Subsidizing Agency will be an Event of Default hereunder.

ANNUAL FINANCIAL REPORT

11. Within ninety (90) days following the end of each fiscal year of the Development, Developer shall furnish the Subsidizing Agency with a complete annual financial report for the Development based upon an examination of the books and records of Developer containing a detailed, itemized statement of all income and expenditures, prepared and certified by a certified public accountant in accordance with the reasonable requirements of the Subsidizing Agency which include: (i) financial statements submitted in a format acceptable to the Subsidizing Agency; (ii) the financial report on an accrual basis and in conformity with generally accepted accounting principles applied on a consistent basis; and (iii) amounts available for distribution under Section 7 above. A duly authorized agent of Developer must approve such submission in writing. The provisions of this paragraph may be waived or modified by the Subsidizing Agency.

FINANCIAL STATEMENTS AND OCCUPANCY REPORTS

12. At the request of the Subsidizing Agency, Developer shall furnish financial statements and occupancy reports and shall give specific answers to questions upon which information is reasonably desired from time to time relative to the ownership and operation of the Development.

NO CHANGE OF DEVELOPMENT'S USE

13. Developer shall not, without prior written approval of the Subsidizing Agency, change the type or number of Affordable Units or permit the use of the dwelling accommodations of the Development for any purpose except residences and any other use permitted by the Comprehensive Permit.

NO DISCRIMINATION

14. (a) There shall be no discrimination upon the basis of race, color, religion, sex, national origin, genetic information, ancestry, sexual orientation, age, familial status, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, or physical or mental disability in the lease, use, or occupancy of the Development (provided that if the Development qualifies as elderly housing under applicable state and federal law, occupancy may be restricted to the elderly in accordance with said laws) or in connection with the employment or application for employment of persons for the operation and management of the Development. Developer or its management company shall, with respect to the Development, take affirmative measures to advertise for employment or contracts for goods and services, and hire and promote employees.

(b) There shall be full compliance with the provisions of all state or local laws prohibiting discrimination in housing on the basis of race, color, religion, sex, national origin, genetic information, ancestry, sexual orientation, age, familial status, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, or physical or mental disability, and providing for nondiscrimination and equal opportunity in housing, including without limitation in the implementation of any local preference established under the Comprehensive Permit. Failure or refusal to comply with any such provisions shall be a proper basis for the Subsidizing Agency to take any corrective action it may deem necessary including, without limitation, referral to the appropriate governmental authority for enforcement.

DEFAULTS; REMEDIES

15. (a) If any default, violation, or breach of any provision of this Agreement is not cured to the satisfaction of the Subsidizing Agency within thirty (30) days after the giving of notice to the Developer as provided herein, then at the Subsidizing Agency's option, and without further notice, the Subsidizing Agency may either terminate this Agreement, or the Subsidizing Agency may apply to any state or federal court for specific performance of this Agreement, or the Subsidizing Agency may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct noncompliance with this Agreement. The Developer hereby agrees that the Subsidizing Agency and the Municipality shall each have an independent right to enforce Developer's compliance with the requirements of this Agreement.

(b) If the Subsidizing Agency elects to terminate this Agreement as the result of an uncured breach, violation, or default hereof; then whether the Affordable Units continue to be included in the Subsidized Housing Inventory maintained by the Subsidizing Agency for purposes of the Act shall from the date of such termination be determined solely by the Subsidizing Agency rules and regulations then in effect.

(c) The Developer shall pay all fees and expenses (including legal fees) of the Subsidizing Agency and/or Municipality in the event enforcement action is taken against the Developer hereunder. The Subsidizing Agency and the Municipality shall be entitled to seek recovery of its respective fees and expenses incurred in enforcing this Agreement against the Developer and to assert a lien on the Development, junior to the lien securing the Loan, to secure payment by the Developer of such fees and expenses. The Subsidizing Agency and the Municipality may perfect a lien on the Development by recording/filing one or more certificates setting forth the amount of the costs and expenses due and owing in the Registry.

(d) The Developer hereby grants to the Subsidizing Agency or its designee the right to enter upon the Development for the purpose of enforcing the terms of this Agreement, or of taking all actions with respect to the Development which the Subsidizing Agency may determine to be necessary or appropriate to prevent, remedy or abate any violation of this Agreement.

MONITORING AGENT; FEES; SUCCESSOR SUBSIDIZING AGENCY

16. The Subsidizing Agency intends to monitor the Developer's compliance with the requirements of this Agreement. The Developer hereby agrees to pay the Subsidizing Agency fees for its services hereunder, initially in the annual amount of \$25/Affordable Unit/year, due

and payable within ninety (90) days following the end of each fiscal year of the Development; and Developer hereby grants to the Subsidizing Agency a security interest in Development Revenues as security for the payment of such fees subject to the lien of the Mortgage and this Agreement shall constitute a security agreement with respect thereto.

17. The Subsidizing Agency shall have the right to engage a third party (the "Monitoring Agent") to monitor compliance with all or a portion of the ongoing requirements of this Agreement. The Subsidizing Agency shall notify the Developer and the Municipality in the event the Subsidizing Agency engages a Monitoring Agent, and in such event (i) as partial compensation for providing these services, the Developer hereby agrees to pay to the Monitoring Agent an annual monitoring fee in an amount reasonably determined by the Subsidizing Agency, payable within thirty (30) days of the end of each fiscal year of the Developer during the Term of this Agreement, but not in excess of the amounts as authorized by the Subsidizing Agency hereto and any fees payable under Section 17 hereof shall be net of such fees payable to a Monitoring Agent; and (ii) the Developer hereby agrees that the Monitoring Agent shall have the same rights, and be owed the same duties, as the Subsidizing Agency under this Agreement, and shall act on behalf of the Subsidizing Agency hereunder, to the extent that the Subsidizing Agency delegates its rights and duties by written agreement with the Monitoring Agent.

18. The Subsidizing Agency may resign from its duties hereunder upon ninety (90) days prior written notice to the Developer and the Municipality. In such event, the Subsidizing Agency may appoint a successor Subsidizing Agency hereunder who shall succeed to all the duties and rights of the Subsidizing Agency hereunder and the Subsidizing Agency shall turn over all amounts and security held by it hereunder to the successor Subsidizing Agency.

CONSTRUCTION AND FINAL COST CERTIFICATION

19. To ensure adequate monitoring of construction of the Development, the Developer shall provide to the Subsidizing Agency such information as the Subsidizing Agency may reasonably require concerning the expertise, qualifications and scope of work of any construction monitor retained by the Lender. If such information is reasonably acceptable to the Subsidizing Agency, the Developer shall provide to the Subsidizing Agency prior to commencement of construction a certification from the Lender concerning construction monitoring in a form acceptable to the Subsidizing Agency. If the information provided to the Subsidizing Agency is not acceptable to the Subsidizing Agency, or if at any time after acceptance the construction monitor fails to provide adequate construction oversight in accordance with the requirements of the Lender's certification, the Developer shall fund the cost of a construction monitor retained by the Subsidizing Agency. In addition, the Developer shall provide to the Subsidizing Agency evidence that the final plans and specifications for the Development comply with the requirements of the Comprehensive Permit and that the Development was built substantially in accordance with such plans and specifications.

20. Upon Substantial Completion, the Developer shall provide the Subsidizing Agency with a certificate of the architect for the Development in the form of a "Certificate of Substantial Completion" (AIA Form G704) or such other form of completion certificate acceptable to the Subsidizing Agency.

In addition, within ninety (90) days after Substantial Completion, the Developer shall provide the Subsidizing Agency with its Cost Certification for the Development as per the requirements of the Cost Certification Guidance.

As used herein, the term "Substantial Completion" shall mean the time when the construction of the Development is sufficiently complete so that all of the units may be occupied and amenities may be used for their intended purpose, except for designated punch list items and seasonal work which does not interfere with the residential use of the Development.

For the purposes hereof the term "Cost Certification" shall mean the determination by the Subsidizing Agency of the aggregate amount of all Development Costs as a result of its review and approval of: (i) an itemized statement of Total Development Costs together with a statement of gross income from the Development received by the Developer to date in the format provided in the Cost Certification Guidance (the "Cost Examination"). The Cost Certification must be examined in accordance with the attestation standards of the American Institute of Certified Public Accountants (AICPA) by an independent certified public accountant (CPA) and (ii) an owner's and/or general contractor's certificate, as provided in the Cost Certification Guidance, executed by the Developer and/or general contractor under penalties of perjury, which identifies the amount of the Construction Contract, the amount of any approved Change Orders, including a listing of such Change Orders, and any amounts due to subcontractors and/or suppliers. "Allowable Development Costs" shall mean any hard costs or soft costs paid or incurred with respect to Development as determined by and in accordance with the Guidelines.

21. **SURETY (INTENTIONALLY OMITTED)**

ADDITIONAL SECURITY

22. In furtherance of the Developer's obligations hereunder to construct the Development in accordance with the Plans and Specifications, to comply with the Affordability Requirement and otherwise to comply with its obligations under this Agreement, the Developer shall deliver to the Subsidizing Agency such additional security as the Subsidizing Agency may deem reasonable in form and amount ("Additional Security"). The Subsidizing Agency may waive the requirement for such Additional Security in its sole discretion.

TERM

23. (a) The restrictions contained in this Agreement are intended to be construed as a affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33, and which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law but rather shall run for the full term hereof. The Term (the "Term") of this Agreement shall be a term of fifty (50) years commencing on the date of the issuance of the Occupancy Permit for the Development by the Town of Acton Building Inspector (the "Commencement Date") and ending on the fiftieth (50th) anniversary of the Commencement Date. This Agreement is made for the benefit of the Department of Housing and Community

Development, and the Department of Housing and Community Development shall be deemed to be the holder of the affordable housing restriction created by this Agreement. The Department of Housing and Community Development has determined that the acquiring of such affordable housing restriction is in the public interest.

(b) The Developer intends, declares and covenants, on behalf of itself and its successors and assigns of the Development during the Term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Development (i) shall be and are covenants running with the Development for the Term of this Agreement, binding upon the Developer's successors in title and all subsequent owners and operators of the Development; (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer (and the benefits shall inure to the Department of Housing and Community Development and any past, present or prospective tenant of the Development) and the Subsidizing Agency and each of their respective successors and assigns during the Term of the Agreement. The Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are also deemed to be satisfied, or in the alternative, that an equitable servitude has been created to insure that these restrictions run with the land.

(c) Notwithstanding the foregoing, this Agreement may be released by the Subsidizing Agency if the Development is financed by a state or federal agency and, in connection with such financing, a regulatory agreement acceptable to the Subsidizing Agency is recorded in the Registry. The rights and obligations of the Subsidizing Agency under this Agreement shall continue for the Term.

INDEMNIFICATION/LIMITATION ON LIABILITY

24. The Developer, for itself and its successors and assigns, agrees to indemnify and hold harmless the Subsidizing Agency against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Subsidizing Agency by reason of its relationship to the Development under this Agreement and not involving the Subsidizing Agency acting in bad faith or with gross negligence.

25. The Subsidizing Agency shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence

CASUALTY

26. Subject to the rights of the Lender, Developer agrees that if the Development, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer shall use reasonable efforts to repair and restore the Development to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Development in accordance with the terms of this Agreement, subject to the approval of the Subsidizing Agency.

DEVELOPER'S REPRESENTATIONS, COVENANTS AND WARRANTIES

27. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a limited partnership duly organized under, and is qualified to transact business under, the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Development is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Development free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, and any other documents executed in connection with the loan from a Construction Lender or Permanent Lender, or other encumbrances permitted by the Subsidizing Agency).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

MISCELLANEOUS CONTRACT PROVISIONS

28. This Agreement may not be modified or amended except with the written consent of the Subsidizing Agency or its successors and assigns and Developer or its successors and assigns. The Developer hereby agrees to make such modifications to this Agreement as may be required by the Subsidizing Agency to implement the Comprehensive Permit Rules, as amended from time to time.

29. Developer warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict therewith.

30. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

31. Any titles or captions contained in this Agreement are for reference only and shall not be deemed a part of this Agreement or play any role in the construction or interpretation hereof.

32. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

33. The terms and conditions of this Agreement have been freely accepted by the parties. The provisions and restrictions contained herein exist to further the mutual purposes and goals of the Subsidizing Agency, the Municipality and the Developer set forth herein to create and preserve access to land and to decent and affordable rental housing opportunities for eligible families who are often denied such opportunities for lack of financial resources.

NOTICES

34. Any notice or other communication in connection with this Agreement shall be in writing and (i) deposited in the United States mail, postage prepaid, by registered or certified mail, or (ii) hand delivered by any commercially recognized courier service or overnight delivery service, such as Federal Express, or (iii) sent by facsimile transmission if a fax number is designated below, addressed as follows:

If to the Developer:

Towne School Limited Partnership
155 Merrimack Street
Lowell, MA 01852

with copies by regular mail or such hand delivery
or facsimile transmission to:

Deschenes & Farrell, PC
Attn: Douglas C. Deschenes
1 Billerica Road
Chelmsford, MA 01824

If to the Subsidizing Agency:

Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, Massachusetts 02114
Attention:

With a copy to:

Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, Massachusetts 02114
Attention: Chief Legal Counsel

If to the Municipality:

Town Manager
Town of Acton
472 Main Street
Acton, MA 01720

Any such addressee may change its address for such notices to any other address in the United States as such addressee shall have specified by written notice given as set forth above.

A notice shall be deemed to have been given, delivered and received upon the earliest of: (i) if sent by certified or registered mail, on the date of actual receipt (or tender of delivery and refusal thereof) as evidenced by the return receipt; or (ii) if hand delivered by such courier or overnight delivery service, when so delivered or tendered for delivery during customary business hours on a business day at the specified address; or (iii) if facsimile transmission is a permitted means of giving notice, upon receipt as evidenced by confirmation. Notice shall not be deemed to be defective with respect to the recipient thereof for failure of receipt by any other party.

RECORDING

35. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded or filed with the Registry, and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to the Subsidizing Agency evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

GOVERNING LAW

36. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

CONFLICT

37. In the event of any conflict or inconsistency (including without limitation more restrictive terms) between the terms of the Comprehensive Permit, any other document relating to the Development and the terms of this Agreement, the terms of this Agreement shall control.

DELEGATION BY THE SUBSIDIZING AGENCY

38. The Subsidizing Agency may delegate its compliance and enforcement obligations under this Agreement to a third party, if the third party meets standards established by the Subsidizing Agency, by providing written notice of such delegation to the Developer and the Municipality. In carrying out the compliance and enforcement obligations of the Subsidizing Agency under this Agreement, such third party shall apply and adhere to the pertinent standards of the Subsidizing Agency.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused these presents to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

DEVELOPER:

Towne School Limited Partnership
By: Towne School GP LLC, its general partner
By: Common Ground Development Corporation,
its managing member

By: William Lipnitzky
Name: William Lipnitzky
Title: Manager

~~MASSACHUSETTS DEPARTMENT OF
HOUSING AND COMMUNITY
DEVELOPMENT, as Subsidizing Agency as
aforesaid~~

~~By: _____
Name: _____
Title: _____~~

Attachments:

Exhibit A – Legal Description

Exhibit B - Form of Zoning Board of Appeals Acknowledgment

IN WITNESS WHEREOF, the parties have caused these presents to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

DEVELOPER:

Towne School Limited Partnership
By: Towne School GP LLC, its general partner
By: Common Ground Development Corporation,
its managing member

By: _____

Name:

Title:

**MASSACHUSETTS DEPARTMENT OF
HOUSING AND COMMUNITY
DEVELOPMENT**, as Subsidizing Agency as
aforesaid

By: Deborah J. Goddard

Name: Deborah J. Goddard

Title: Chief Counsel

Attachments:

Exhibit A – Legal Description

Exhibit B - Form of Zoning Board of Appeals Acknowledgment

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this _____ day of _____, 2011, before me, the undersigned notary public, personally appeared _____, the _____ of the Massachusetts Department of Housing and Community Development, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this 20 day of May, 2011, before me, the undersigned notary public, personally appeared William Lipnitz, the manager of Common Ground Development Corporation, as the Managing Member of Towne School GP, LLC, the general partner of Towne School Limited Partnership, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed as the manager of Common Ground Development Corporation, as the Managing Member of Towne School GP, LLC, the general partner of Towne School Limited Partnership, a limited partnership.

Cheryl A. Stangle
Notary Public
My commission expires: 3/1/13



COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

On this 17th day of June, 2011, before me, the undersigned notary public, personally appeared Deborah Goddard, the Chief Counsel of the Massachusetts Department of Housing and Community Development, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed.

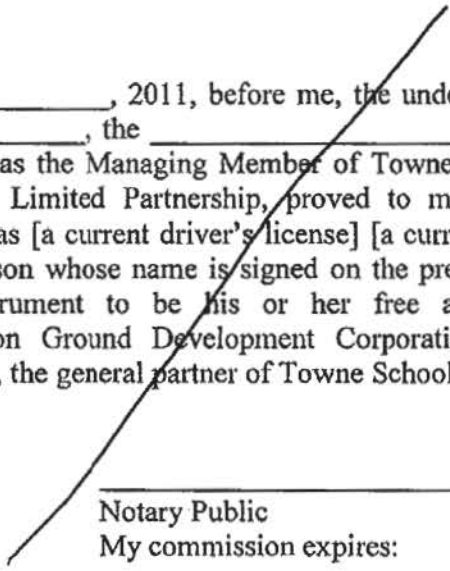


Notary Public
My commission expires: REBECCA E. FRAWLEY
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS
MY COMMISSION EXPIRES JANUARY 17, 2014

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this _____ day of _____, 2011, before me, the undersigned notary public, personally appeared _____, the _____ of Common Ground Development Corporation, as the Managing Member of Towne School GP, LLC, the general partner of Towne School Limited Partnership, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed as the _____ of Common Ground Development Corporation, as the Managing Member of Towne School GP, LLC, the general partner of Towne School Limited Partnership, a limited partnership.



Notary Public
My commission expires:

Exhibit A

LEGAL DESCRIPTION OF PREMISES

Towne Building Lease Area

The description, bounds and location of the Towne Building Lease Area are as shown on a plan entitled, "Towne Building Lease Area Plan of Land, Acton, Massachusetts, (Middlesex County), owned by the Town of Acton, scale 1" = 20', dated June 2, 2003, prepared by the Town of Acton Engineering Department" ("the Lease Area Plan). Said Lease Area Plan is on file with the Town of Acton Engineering Department. The Towne Building Lease Area is more particularly described as follows:

Beginning at a plastic stake on the sideline of Massachusetts Avenue (1907 State Highway Layout) at the intersection with Charter Road (discontinued as a Town way in 1970);

Thence: N01°-23'-30"W a distance of one hundred seventy six and sixty-two hundredths (176.62) feet to a plastic stake;

Thence: By a curved line to the right, the radius of which is twenty (20.00) feet, a distance of thirty and ninety-four hundredths (30.94) feet to a plastic stake;

Thence: N87°-15'-21"E a distance of forty two and ninety-four hundredths (42.94) feet to a plastic stake;

Thence: By a curved line to the right, the radius of which is two hundred fifty and thirty-four hundredths (250.34) feet, a distance of one hundred twenty eight and one hundredth (128.01) feet to a plastic stake;

Thence: By a curved line to the left, the radius of which is two hundred sixty six and eighty-nine hundredths (266.89) feet, a distance of ninety five and fourteen hundredths (95.14) feet to a plastic stake;

Thence: S17°-51'-00"W a distance of two hundred twenty three and forty-three hundredths (223.43) feet to a plastic stake;

Thence: N71°-58'-30"W a distance of two hundred fourteen and thirty-eight hundredths (214.38) feet to the point of beginning.

Containing, according to said Lease Area Plan, 53,773 square feet of land, more or less.

Exhibit B

ACKNOWLEDGEMENT OF ZONING BOARD OF APPEALS

The undersigned duly authorized Chairman and members of the Acton Zoning Board of Appeals hereby acknowledges that, after due consideration of the Developer's request, pursuant to the requirements of 760 CMR 56.05(11), the Board hereby agrees that the foregoing Regulatory Agreement satisfies the requirements of the Comprehensive Permit as defined therein. Without limiting the generality of the foregoing, the units in the Development required to be affordable under the Comprehensive Permit shall be affordable if such units are rented in accordance with Section 2, 3 and 4 of the foregoing Regulatory Agreement; any local preference set forth in the Comprehensive Permit shall be implemented only to the extent in compliance with applicable state and federal fair housing rules; and compliance with the limited dividend requirement shall be determined solely by the Subsidizing Agency under the Regulatory Agreement using the standards of the Subsidizing Agency applicable to comprehensive permit projects in accordance with the Comprehensive Permit Rules. In addition, the conflict provision of the Regulatory Agreement shall control over any conflict provision of the Comprehensive Permit.

TOWN OF ACTON
ZONING BOARD OF APPEALS

By: [Signature]
Name: Kenneth F. Kozick
Its: Chairman, Duly authorized by the Zoning Board of Appeals

COMMONWEALTH OF MASSACHUSETTS

Worcester County, ss.

On this 16th day of MAY, 2011, before me, the undersigned notary public, personally appeared Kenneth F. Kozick, the Chairman of the Acton Zoning Board of Appeals, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of the Acton Zoning Board of Appeals.



[Signature]
Notary Public
My commission expires: