

Colorado Housing and Finance Authority
1981 Blake Street
Denver, Colorado 80202-1272
Attention: Jocelyn Bailey, Paralegal

COLORADO HOUSING AND FINANCE AUTHORITY REGULATORY AGREEMENT

THIS **REGULATORY AGREEMENT** (this “Agreement”) is made and entered into as of August __, 2023 by and between **INDIBUILD FRUITA LLLP**, a Colorado limited liability limited partnership, and its successors, assigns and transferees of the Development (as hereinafter defined), jointly and severally (the “**Owner**”), whose address is 4884 Briar Ridge Court, Boulder, Colorado 80301, **FRUITA COLORADO HOUSING AUTHORITY (“FHA”)**, and the **COLORADO HOUSING AND FINANCE AUTHORITY**, a body corporate and political subdivision of the State of Colorado (the “**Authority**”) and its successors and assigns, whose address is 1981 Blake Street, Denver, Colorado 80202. This Agreement is intended to be filed and recorded in the official public records of Mesa County, Colorado, and shall constitute a restriction upon the use of the property hereinafter described subject to and in accordance with the terms contained herein.

WITNESSETH:

A. The Owner has applied to the Authority pursuant to the Authority’s Capital Magnet Fund Program (the “**Program**”) for a construction loan in the original principal amount of Eight Hundred Twenty Five Thousand and No/100 Dollars (\$825,000.00), which shall be disbursed in a series of draws, with a term of twenty-four (24) months (the “**Construction Loan**”), and a permanent loan in the original principal amount of Eight Hundred Twenty Five Thousand and No/100 Dollars (\$825,000.00) with a term of seventeen (17) years (the “**Permanent Loan**”, and together with the Construction Loan, the “**Loans**”), which will be secured by a Deed of Trust and used to finance a rental housing facility for Single Persons and Families (as defined below) of low-to moderate income persons, known as The Fruita Mews, with an address of 1601 K 4/10 Road, Fruita, Colorado 81521 (the “**Property**”), on lands in Mesa County, Colorado, described in **Exhibit A** attached hereto and by this reference made a part hereof (the “**Real Property**”); and

B. In connection with the Loans, the Authority has agreed to grant to FHA an amount of up to One Hundred Seventy Thousand and No/100 Dollars (\$170,000) (the “**Grant**”) pursuant to the terms of the Subgrant Agreement of even date herewith by and between the Authority, FHA and the Owner (the “**Subgrant Agreement**”). FHA has agreed to loan the Grant to Owner, which will be disbursed simultaneously with the Loans.

C. The Loans and the Grant are subject to the requirements of the Capital Magnet Fund Assistance Agreement and the requirements of 12 C.F.R. Part 1807 (“**CMF Regulations**”).

D. Owner was awarded a reservation of 9% federal low income housing tax credits for the Property which award will be memorialized with a Land Use Restriction Agreement between the Owner and the Authority, as the allocating agency for the tax credits; and

E. The Authority is unwilling to make the Loan unless the Owner agrees to comply with the requirements of the Program, the CMF Agreement, the CMF Regulations, and the regulations set forth herein, and the Owner is willing to execute and abide by this Agreement, as a condition of obtaining the Loan.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto, their successors and assigns, as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the following respective meanings.

(a) **“Act”** means the Colorado Housing and Finance Authority Act, part 7 of article 4 of title 29 of Colorado Revised Statutes, as amended and supplemented from time to time.

(b) **“AMI”** means Area Median Income.

(c) **“Assistance Agreement”** means that certain Capital Magnet Fund Assistance Agreement between the Authority and Community Development Financial Institutions Fund dated effective on or about February 8, 2022 and all the terms and conditions contained therein.

(d) **“Code”** means the Internal Revenue Code of 1986, as amended and supplemented from time to time, and applicable proposed, temporary, and final regulations thereunder.

(e) **“CDFI”** means Community Development Financial Institutions Fund.

(f) **“C.F.R.”** or **“CFR”** means Code of Federal Regulations, as the same may be amended from time to time.

(g) **“Development”** includes the Real Property, the improvements from time to time constructed thereon, including the Property, and all other assets owned by Owner and used in connection with the operation of the Real Property and such improvements of whatsoever nature or wheresoever situate.

(h) **“Family”** means two or more persons whether or not related by blood, marriage, or adoption who live or expect to live together as a single household in the same dwelling unit.

(i) **“Financing Documents”** means all documents and instruments executed by the Owner or the Authority in connection with the Loan.

(j) “**Gross Rent**” means the rent or other occupancy charges, including a utility allowance, applicable to a residential unit.

(k) “**Guidelines**” means any rule, regulation or publication from CDFI that concerns the Capital Magnet Fund program.

(l) “**Initial Occupancy**” means for the purposes of the Program, after the Project is Placed into Service, at least ninety percent (90%) of the Development is occupied within 12 months of the Project Completion date.

(m) “**Low-to-Moderate Income Persons or Families**” means those Single Persons or Families whose incomes, determined in a manner consistent with determinations of lower income families under Section 8, do not exceed income thresholds set forth in Section 2(b), as determined by the Authority, for the area in which the Development is located, and such other Single Persons and Families who shall be determined from time to time by the Authority to be “low-income or moderate-income families” within the meaning of the Act except that, if there is more than one wage earner in the household, such income shall not exceed the aggregate of the income limit for Low-to Moderate Income Persons or Families under this Agreement for each wage earner and his or her dependents.

(n) “**Low-to-Moderate Income Unit**” means the units set aside for Low- to Moderate- Income Persons or Families, as set forth in Section 2(b).

(o) “**Mortgage**” means that certain Deed of Trust, Security Agreement, Financing Statement, Fixture Filing, and Assignment of Rents and Leases of even date herewith, by Owner in favor of Authority to secure the Loan, including any amendments, modifications and/or supplements thereto, or any other instrument securing the Loan.

(p) “**Mortgaged Property**” includes all property, real, personal, or mixed covered by the Mortgage.

(q) “**Note**” means that certain Promissory Note of even date herewith, by and between Owner, as borrower, and Authority, as holder, secured by the Mortgage, evidencing the Owner’s obligation to repay the Loan.

(r) “**Placed into Service**” means, for the purpose of this Agreement and the Program, on or before six (6) months after Project Completion is achieved when the Development is otherwise ready for occupancy as evidenced by a certificate of occupancy.

(s) “**Program Statute and Regulations**” means 12 CFR Part 1807, and any implementing regulations as each may be amended from time to time.

(t) “**Program Compliance Manual**” means the Authority’s Multifamily Program Compliance Manual, as amended from time to time.

(u) **“Project Completion”** means the date when all of the requirements set forth at 12 C.F.R. § 1807.503 for the Development have been met.

(v) **“Rules”** means the Colorado Housing and Finance Authority Community Development Lending Credit Policy, as amended and supplemented from time to time.

(w) **“Senior Lender”** means any mortgage lender of the Owner holding a lien on the Mortgaged Property senior to the Mortgage.

(x) **“Single Person”** means a person whether or not related by blood, marriage or adoption to another person who lives or expects to live in the same dwelling unit.

(y) **“State”** means the State of Colorado.

(z) **“Tax Credit Investor”** means NEF Assignment Corporation, as nominee.

2. **Occupancy.** The Owner covenants and agrees that, in connection with the ownership and operation of the Development, it will comply, and will require any subsequent purchaser of the Development to comply, with all of the following from Initial Occupancy for the longer of (a) ten (10) years from Project Completion and Initial Occupancy; (b) or the period any portion of the Loan remains outstanding:

(a) Once available for occupancy, each residential unit in the Development (other than any units approved by the Authority for occupancy by a resident manager or other necessary employee) will be rented or held available for rental to those members of the general public who qualify as a Family or a Single Person on a continuous, nontransient basis, and may not be converted to condominium or other use, at all times for ten (10) years or the period any portion of the Loan remains outstanding, whichever is longer.

(b) The Development consists of **50** residential units. At all times for the longer of (i) ten (10) years from Project Completion and Initial Occupancy or (ii) the period any portion of the Loan remains outstanding, all of the residential units will be both rent-restricted and occupied (or held vacant and available for immediately occupancy) by Low-to-Moderate-Income Persons or Families whose income level does not exceed the applicable AMI Threshold as follows:

No. of Units	AMI Threshold
4 units	30% or less of AMI
4 units	40% or less of AMI
12 units	50% or less of AMI
24 units	60% or less of AMI
6 units	100% or less of AMI

A residential unit is rent-restricted if the Gross Rent for such unit does not exceed thirty percent (30%) of the imputed income limitation applicable to such unit.

Any residential unit occupied by a Low-to-Moderate-Income Person or Family at the commencement of occupancy shall continue to be treated as an affordable unit notwithstanding an increase in the income of such individual or family above the income limitation applicable under this subsection 2(b) or a decrease in the AMI such that the income of such individual or family is above the income limitation applicable under the subsection 2(b), provided that, if such Low-to-Moderate-Income Person's or Family's income subsequently exceeds one hundred forty percent (140%) of the applicable income limit, such unit shall no longer be an affordable unit if after such determination, but prior to the next determination, any residential unit of comparable or smaller size is rented to a tenant who is not a Low-to-Moderate-Income Person or Family.

(c) Tenants in such units shall enjoy equal access to all common facilities of the Development.

(d) The income and assets of each Low-to-Moderate-Income Person or Family will be certified by a Tenant Income Certification in the form provided by the Authority. Income shall be verified by an Income Verification in the form provided by the Authority for each person who will occupy the unit, and assets will be verified in a manner satisfactory to the Authority. Income Verifications, asset verifications and Tenant Income Certifications are subject to independent investigation and verification by the Authority, and, at the Authority's request, will be submitted to the Authority. Note: When determining tenant income eligibility, the Guidelines and the Assistance Agreement have different requirements than Section 42 of the Code, which may impact tenant qualification and monitoring.

(e) All tenant leases shall be expressly subordinate to the Mortgage, and shall contain clauses, among others, wherein each individual lessee:

- (1) Certifies the accuracy of the statements made in its application and Tenant Income Certification; and
- (2) Agrees that the family income, family composition and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of its tenancy; that it will comply promptly with all requests for information with respect thereto from the Owner, or the Authority, and that its failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of its tenancy.

(f) The benefits of this Section 2 shall inure to, and may be enforced by the Authority and its successors, for the term of this Agreement, whether or not the Authority shall continue to be the holder of the Note or the Mortgage, and whether or not the Loan may be paid in full.

3. **Rents.**

(a) The Gross Rent charged for each unit shall not exceed the maximum limit shown for each type of unit on the rent tables published from time to time in writing by the Authority. Annual Rent on units which are intended to qualify as Low-to-Moderate-Income Units will not exceed thirty percent (30%) of the imputed income limitation applicable to such unit. A Low-to-Moderate-Income Unit which has remained vacant for more than ninety (90) days will not be deemed a Low-to-Moderate-Income Unit unless the advertised Rent for such unit does not exceed thirty percent (30%) of the imputed income limitation applicable to such unit.

(b) For purposes of paragraph (a) above, the “imputed income limitation” applicable to a unit is the applicable percentage of area median income, as most recently determined by the Authority, which would apply if the number of individuals occupying such unit were as follows:

<u>Number of Bedrooms</u>	<u>Occupancy</u>
0	1
1	1.5
2	3
3	4.5

(c) Upon prior approval of the Authority, the Owner may charge to and receive from any tenant such amounts as from time to time may be mutually agreed upon between the tenant and Owner for any facilities and/or services which may be furnished by the Owner or others to such tenant upon his request, in addition to the facilities included in the approved rental schedule.

4. **Development Cash.** All rents and other receipts of the Development shall be deposited in the name of the Development in a bank or savings and loan association whose deposits are insured by the Federal Deposit Insurance Corporation (“**FDIC**”). Such funds shall be withdrawn only in accordance with the provisions of this Agreement for expenses of the Development. Any partner, officer, employee or agent of the Owner receiving funds of the Development other than by such expense payment shall immediately deposit such funds in the Development bank account and, failing so to do in violation of this Agreement, shall hold such funds in trust. Any partner, officer, employee or agent of the Owner receiving property of the Development in violation of this Agreement shall immediately deliver such property to the Development and failing so to do shall hold such property in trust. At such time as the Owner shall have lost control and/or possession of the Development, all funds held in trust shall be delivered to the Authority or the Trustee to the extent that the mortgage indebtedness has not been satisfied.

5. **Replacement Reserve Fund.**

(a) Establishment. The Authority (or Senior Lender pursuant to the terms of Section 5(b) below) shall establish and maintain a replacement reserve fund to be funded by the Owner in the name of the Development in a bank or savings and loan association designated by the Authority (the “**Replacement Reserve Fund**”). The Authority may charge reasonable fees for maintaining deposited funds.

(b) Deposits. Concurrently with the commencement of payments of principal of and interest on the Loan (in connection with the conversion of the Loan from a construction loan to a permanent loan), Owner shall make monthly deposits in the Replacement Reserve Fund in an amount equal to \$1,250.00 per month, which amount shall be increased annually by at least the greater of (i) three percent (3%) or (ii) such higher amount as the Authority may determine is required in future years based on the condition of the property. The Authority agrees that so long as the senior mortgage made by Senior Lender for the benefit of the Owner remains outstanding, the Authority shall recognize the replacement reserve funded by Owner to be held by Senior Lender in accordance with the documents of Senior Lender as satisfying the monthly deposits into the Replacement Reserve Fund under this Section 5(b), provided such amounts equal or exceed the amounts required to be held by the Authority hereunder.

(c) Disbursement of Funds. Subject to the terms of Section 5(b) above, the Replacement Reserve Fund shall at all times be under the control of the Authority, but moneys may be disbursed to the Owner from time to time with the prior written approval of the Authority to pay or reimburse the Owner for the payment of any required repair or replacement costs which may be capitalized by the Owner in accordance with GAAP consistently applied; provided that the Owner must obtain prior written consent of the Tax Credit Investor for withdrawals from the Replacement Reserve Fund prior to requesting the Authority’s consent when the Tax Credit Investor’s consent is required under the Partnership Agreement of the Owner.

(d) Pledge and Security Interest. All such deposited funds are hereby pledged and assigned to the Authority as additional security for the Loan, and the Owner hereby grants the Authority a security interest in, all of the Owner’s right, title and interest in and to all such funds and all proceeds thereof and the account in which such funds are held. Except for an assignment and pledge of security interest to the Senior Lender, the Owner shall not, without obtaining the prior written consent of the Authority, further pledge, assign or grant any security interest in the Replacement Reserve Fund, or permit any Lien to attach thereto, or any levy to be made thereon, or any UCC Financing Statements to be filed with respect thereto, except those naming the Authority as the secured party. The Replacement Reserve Account is pledged and included as Collateral as set forth in the Deed of Trust which, among other things, is intended by the parties to be a security agreement for purposes of the UCC. If an Event of Default shall occur hereunder or under any of the Financing Documents, the Authority may apply deposited funds in the Replacement Reserve Fund in its discretion to any of the Owner's outstanding obligations hereunder or under the Financing Documents. Provided no Event of Default is continuing, all interest which accrues on the funds in the Replacement Reserve Fund shall accrue for the benefit of the Owner and shall be taxable to the Owner and shall be added to and disbursed in the same manner and under the same conditions as the principal sum on which said interest accrued. Upon

payment of all such obligations and discharge of the Note, any remaining deposited funds in the Replacement Reserve Fund shall belong and be paid over to the Owner.

6. **Operating Reserve Fund.** On or prior to the commencement of payments of principal of and interest on the Loan (in connection with the conversion of the Loan from a construction loan to a permanent loan), Owner shall establish and maintain as provided in Owner's partnership agreement an operating reserve account, with a depository approved by the Authority, in an amount equal to at least six months of operating expenses and debt service with respect to the Project.

7. **Management and Marketing.**

(a) The Owner shall provide for the management of the Development in accordance with the management plan approved by the Authority and otherwise in a manner reasonably satisfactory to the Authority. Owner shall report to the Asset Management department and Program Compliance department of the Authority any change in management of the Development within ten (10) days of the occurrence of such change.

(b) The Owner shall submit to the Authority for the Authority's approval if requested, a proposed schedule of rental rates, no less than sixty (60) days prior to the beginning of each fiscal year of the Development.

(c) Payment for services, supplies, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area in which the Development is located.

(d) The books and accounts of the operations of the Development and all tenant lists, applications, and waiting lists relating to the Development shall at all times be kept separate and identifiable from any other business of the Owner which is unrelated to the Development, and shall be maintained, as required by the Authority from time to time, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Authority or its duly authorized agent.

(e) Within ninety (90) days following the end of each fiscal year of the Owner, the Owner shall furnish to the Authority the annual audited financial report based upon an examination of the books and records of the Owner, prepared and certified by a certified public accountant, or other persons acceptable to the Authority.

(f) The Owner acknowledges and agrees that the Authority shall file such annual financial statements, and Owner shall promptly provide to the Authority for filing such additional financial information and operating data and shall execute a continuing disclosure undertaking within ten (10) business days after a request is made by the Authority, as is deemed necessary for the Authority to comply with Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934 or as is deemed desirable by the Authority, from time to time in its sole discretion.

(g) The Owner shall deliver to the Authority annually during the term of this Agreement a Certification of Continuing Program Compliance in the form provided by the Authority.

(h) At the request of the Authority, the Owner shall furnish monthly occupancy and financial reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liability, contracts, operation, and condition of the Development and the status of the Mortgage.

(i) The Owner also shall collect and submit to the Authority monthly and again on an annual basis, on a form to be provided by the Authority, such demographic and occupancy information as required by the Program Compliance Manual and as the Authority may request.

(j) The Owner shall market the Development in a manner consistent with the marketing plan approved by the Authority, including particularly, but without limitation, the affirmative fair marketing provisions thereof.

(k) If the Development includes a rental or management office, such office shall be used exclusively for the rental or management of the Development.

(l) The Owner will comply with the requirements of the Program Compliance Manual.

(m) The Owner acknowledges that the Authority will conduct an onsite review of the Property at least every three (3) years to ensure compliance with this Regulatory Agreement, the Note and all other documents executed by Owner in connection with the Loan, and that the Authority may conduct onsite reviews more frequently if required by the Program Compliance Manual or in the Authority's reasonable judgment additional onsite reviews are prudent.

(m) At no point during the Term of the Agreement shall the Owner permit the Development to be used for any of the following: (i) an emergency shelter (including shelters for disaster victims); (ii) a nursing home; (iii) a convalescent home; (iv) a student dormitory; (v) a project consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises; (vi) a project consisting of farming, as set forth in 12 C.F.R. § 1807.302(c)(2).

(n) The Project has not received any CDFI Fund awards or allocations other than this CMF Award.

(o) The owner of a rental unit cannot refuse to lease the unit to a Section 8 Program certificate or voucher holder (24 CFR part 982, Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the

Section 8 Rental Voucher Program) or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

8. **Maintenance.**

(a) The Owner shall maintain the Development, including without limitation the residential units, the grounds and all facilities and equipment appurtenant thereto, in good repair and condition satisfactory to the Authority. Subject to the rights of residential tenants, the Development shall be subject to inspection at any time during normal business hours following at least forty-eight hours written notice by the Authority, or the authorized agents thereof.

(b) The Owner shall not without the prior written consent of the Authority remodel, add to, reconstruct or demolish any part of the Development in any manner which would effect a change in the use or character of any portion of the Development.

9. **Compliance with Act, Program Statute and Regulations, Assistance Agreement and Code.** The Owner will operate the Development in accordance with (i) the applicable provisions of Section 42 of the Code, (ii) the terms of this Agreement, (iii) the Program Compliance Manual, (iv) the Assistance Agreement, (v) the CMF Regulations, and (vi) all applicable federal, State, and local statutes, rules and regulations with respect to the Development, including but not limited to the Program Statute and Regulations. In connection with the foregoing, the Owner agrees to execute and deliver such amendments and supplements to this Agreement as the Authority reasonably shall determine to be necessary to assure compliance with the Act, the Code and any other rule, regulation, law or agreement referred to herein, and shall be subject to all applicable fees for non-compliance of the foregoing, including but not limited to failure to submit required reports or respond in full to program compliance reviews.

10. **Equal Opportunity.** The Owner will comply with the provisions of any federal, State, or local law prohibiting discrimination on the grounds of race, color, religion or creed, sex, marital status, national origin, familial status or disability, sexual or gender preference, political opinion or affiliation in the rental, lease, use or occupancy of the Development or in connection with the employment or application for employment of persons for the operation or management of the Development and will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), Title VIII of the Civil Rights Act of 1968 (Public Law 90-284, 82 Stat. 73), and Executive Order 11063, and shall provide prompt written notice to the Authority of the filing of any complaints of discrimination with respect to the Development.

11. **Sale and Assignment of Development.** During the term of this Agreement, the Owner shall not sell or assign the Development, in whole or in part, without the prior written notice to and consent of the Authority, which consent shall be given promptly provided that: (i) the Owner shall not be in default hereunder; (ii) the continued operation of the Development shall comply with the provisions of this Agreement; (iii) the purchaser shall assume the obligations of the Owner under the Note and Mortgage; (iv) the purchaser or assignee shall be willing and capable of

complying with the terms and conditions of this Agreement; (v) the subsequent purchaser or assignee shall execute any document reasonably requested by the Authority with respect to assuming the obligations of the Owner under this Agreement; (vi) the Authority shall not have any reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee relating to the Development; and, (vii) the Owner shall pay to the Authority a transfer fee in the amount of one-half of one percent (0.50%) of the then outstanding principal balance of the Loan.

This provision is not intended to apply to any sale, transfer, assignment or other conveyance of the Development made pursuant to a foreclosure of the Mortgage or any conveyance in lieu thereof.

12. **Default.**

(a) Upon a violation of any of the provisions of this Agreement by the Owner, the Authority shall give written notice thereof to the Owner and its Tax Credit Investor, by registered or certified mail, addressed to the address set forth in the first paragraph hereof, or such other address as may subsequently, upon appropriate written notice thereof to the Authority, be designated by the Owner as its legal business address. The Owner shall have thirty (30) days after the date such notice is received to correct the violation. If the violation be such that it cannot be corrected within the applicable period, it shall nonetheless be deemed to be corrected if corrective action is instituted by the Owner within the applicable period and diligently pursued until the violation is corrected.

(b) If a violation of this Agreement is not corrected by the Owner to the satisfaction of the Authority within the time and otherwise as provided in paragraph (a) of this Section 10, without further notice the Authority may declare a default under this Agreement effective on the date of such declaration of default and upon such default the Authority may:

- (1) Declare the Note immediately due and payable and then proceed with the foreclosure of the Mortgage;
- (2) Collect all rents and charges in connection with the operation of the Development and use such collections to satisfy the Owner's obligations under this Agreement and under the Note and Mortgage and the necessary expenses of preserving the property and operating the Development;
- (3) Take possession of the Development, bring any action necessary to enforce any rights of the Owner growing out of the Development operation, and operate or cause the Development to be operated in accordance with the terms of this Agreement until such time as the Authority in its discretion determines that the Owner is again in a position to operate the Development in accordance with the terms of this Agreement and in compliance with the requirements of the Note and Mortgage;

- (4) Apply to any court, State or federal, for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement, or for such other relief as may be appropriate, since the injury to the Authority arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.

The Owner acknowledges and agrees that the Authority's remedies at law, in the event of a violation of this Agreement, would be inadequate to assure the Authority's public purpose under the Act.

(c) If the Owner refuses immediately after default to permit and facilitate the exercise of the remedies described in Section 10(b)(2) or (3) hereof by the Authority, the Authority shall be entitled to the appointment of a receiver for the Development and of the rents, issues, and profits thereof as a matter of right without regard to the solvency or insolvency of the Owner or of the then owner of the Development and without regard to the value thereof, and such receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice to the Owner -- notice being hereby expressly waived -- and all rents, issues and profits, income and revenue therefrom shall be applied by such receiver for the purposes described in Section 10(b)(2) or (3) in such order as applicant may request, according to the law and subject to the orders and directions of the court.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Tax Credit Investor shall have the right, but not the obligation, to cure any default of Owner under this Agreement, and Authority agrees to accept cures tendered by Tax Credit Investor as if made by Owner.

13. **Notification Regarding Debarment; Litigation.** The Owner agrees to notify the Authority immediately if Owner, Sponsor or any entity or principal related to Owner or Sponsor is debarred, suspended, excluded, disqualified, or declared ineligible by the U.S. Department of the Treasury or any other federal agency or department. In addition, the Owner agrees to notify the Authority immediately regarding any charge against Owner, Sponsor, or any entity or principal related to Owner or Sponsor listed in 31 C.F.R. 19.800(a).

14. **Compliance by Owner.** Notwithstanding any provision herein to the contrary, the Owner shall be responsible for monitoring and verifying compliance of the Development with this Agreement.

15. **Agreement Binding.** This Agreement and the covenants contained herein shall run with the Real Property and shall bind, and the benefits shall inure to, respectively, the Owner (including each general, special or limited partner of the Owner, each of whom the Owner hereby represents to have authorized the Owner to bind by this Agreement, and, to the extent controlled by the Owner or any of the foregoing, each person who is "related" to any of the foregoing, its heirs, legal representatives, executors, administrators, successors in office or interest, and assigns,

and all subsequent owners of the Development or any interest therein, and the Authority and its successors and assigns, for the term provided in Section 16 hereof.

16. **Term of Agreement.** This Agreement shall be in full force and effect from the date hereof to the longer of: (i) the period during which any part of the Loan remains unpaid or (ii) ten (10) years from Project Completion and Initial Occupancy (the "**Term**").

17. **Expenses.** The Owner covenants and agrees to pay all expenses, including reasonable attorneys' fees, paid or to be paid by the Authority in connection with execution or performance of the obligations of the Owner under this Agreement or the enforcement by the Authority of the provisions hereof.

18. **Indemnity.** Owner shall defend (by counsel satisfactory to the Authority), indemnify and save and hold harmless the Authority and its directors, officers, agents and employees from and against all claims, demands, actions, losses, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs) arising from or relating to: (i) the material violation of any non-monetary covenant set forth herein or in the Mortgage or the Note, to the extent that such violation is the result of its own acts or omissions or the acts or omissions of others which it has authorized or permitted in violation of the provisions hereof or of the Mortgage or Note; and (ii) the Owner's fraud or misrepresentation, whether affirmative or by intentional omission.

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

20. **Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

21. **Jurisdiction and Venue.** OWNER AGREES THAT ANY CONTROVERSY ARISING UNDER OR IN RELATION TO THIS AGREEMENT SHALL BE LITIGATED EXCLUSIVELY IN COLORADO. THE STATE AND FEDERAL COURTS AND AUTHORITIES SITTING IN THE CITY AND COUNTY OF DENVER, COLORADO, SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL CONTROVERSIES WHICH SHALL ARISE UNDER OR IN RELATION TO THIS AGREEMENT. OWNER IRREVOCABLY CONSENTS TO SERVICE, JURISDICTION, AND VENUE OF SUCH COURTS FOR ANY SUCH LITIGATION AND WAIVES ANY OTHER VENUE TO WHICH IT MIGHT BE ENTITLED BY VIRTUE OF DOMICILE, HABITUAL RESIDENCE OR OTHERWISE. HOWEVER, NOTHING HEREIN IS INTENDED TO LIMIT AUTHORITY'S RIGHT TO BRING ANY SUIT, ACTION OR PROCEEDING RELATING TO MATTERS ARISING UNDER THIS AGREEMENT AGAINST OWNER OR ANY OF OWNER'S ASSETS IN ANY COURT OF ANY OTHER JURISDICTION

22. **Nonrecourse Liability.** Notwithstanding any other provision contained in this Agreement, it is agreed that the execution of the Note shall impose no personal liability on the Owner for the payment of the indebtedness evidenced thereby and, in the event of a default, the holder of the Note shall look solely to the Development and to the rents, issues and profits thereof, in satisfaction of the indebtedness evidenced by the Note and will not seek or obtain any deficiency

or personal judgment against the Owner except such judgment or decree as may be necessary to foreclose and bar the Owner's interest in the Development and all other property mortgaged, pledged, conveyed or assigned to secure payment of the Note; provided that nothing in this condition shall operate to impair any obligation of the Owner under this Agreement, and, provided further, that Owner shall remain personally liable for damages to the Authority, its successors and assigns, and the Development resulting from or with respect to (i) funds or any portion of the Development coming into its hands which, by the provisions hereof, of the Mortgage or Note, it is not entitled to retain; or (ii) the Owner's fraud or misrepresentation, whether affirmative or by intentional omission.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

OWNER:

INDIBUILD FRUITA LLLP,
a Colorado limited liability limited partnership

By: INDIBUILD FRUITA GP LLC,
a Colorado limited liability company,
its General Partner

By: INIDIBUILD LLC,
a Colorado limited liability company,
its Manager

By: _____
Kimberley A. Coughlin,
Sole Member

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 2023,
by Kimberley A. Coughlin, as Sole Member of indibuild llc, a Colorado limited liability company,
as Manager of IndiBuild Fruita GP LLC, a Colorado limited liability company, as General Partner
of IndiBuild Fruita LLLP, a Colorado limited liability limited partnership.

Witness my hand and official seal.

Notary Public

[SEAL]

My Commission expires: _____

THE AUTHORITY:

COLORADO HOUSING AND FINANCE
AUTHORITY, a body corporate and political
subdivision of the State of Colorado

By: _____
Jaime G. Gomez, Deputy Executive Director
and Chief Operating Officer

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Jaime G. Gomez, as Deputy Executive Director and Chief Operating Officer of COLORADO HOUSING AND FINANCE AUTHORITY, a body corporate and political subdivision of the State of Colorado.

Witness my hand and official seal.

Notary Public

[SEAL]

My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION

LOT 1, INDIBUILD MINOR SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 29, 2022 UNDER RECEPTION NO. 3052639, COUNTY OF MESA, STATE OF COLORADO.

Also known as (for informational purposes only): 1601 K 4/10 Road, Fruita, CO 81521