

COMPLETION ASSURANCE AGREEMENT

THIS COMPLETION ASSURANCE AGREEMENT made this ____ day of ***, by and among ***, a *** corporation, having an office at *** (the "Contractor"), and *** **LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP**, a Michigan limited partnership, having an office at *** (the "Owner"), and the **MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**, whose address is *** (the "Authority").

R E C I T A L S:

A. The Contractor and the Owner have entered into a Construction Contract dated ***, and other Contract Documents of even date (collectively the "Contract") providing for the construction of a housing development known as ***, MSHDA Development No. *** (the "Development"), and copies of the Contract Documents being on file with the Authority.

B. The construction of the Development is to be financed by a construction loan made to the Owner by the Authority in the amount of \$***, which is secured by a Mortgage of the Development, and by a *** loan in the amount of \$*** (together, the construction loan and the *** loan are referred to as the "Mortgage Loan"), also secured by a mortgage of the Development (together, such mortgages are referred to as the "Mortgage").

C. The Authority is unwilling to make advances of loan proceeds unless the Contractor first shall furnish proper assurance to the Owner and to the Authority for:

- a. the performance of the obligations assumed by the Contractor under the Contract;
- b. the completion of the Development in accordance with the drawings and specifications referred to in the Contract, free and clear of any liens, claims or encumbrances whatsoever, except for the lien of the Mortgage; and
- c. the satisfaction of any loss, damage or expense which the Owner or the Authority may suffer or sustain through the failure of the Contractor to fulfill all obligations assumed under the Contract.

IN CONSIDERATION OF the mutual promises and undertakings contained in this Agreement the parties on behalf of themselves, their successors or assigns respectively, undertake and agree that:

1. The Contractor has deposited with the Authority, or if an Authorized Officer of the Authority so elects, with a depository satisfactory to an Authorized Officer of the Authority, a Completion Assurance Fund (the "Fund"), in the amount of \$***, to secure or indemnify the Owner or the Authority, as the case may be, for any expenses, loss or damage suffered or sustained as the result of any default by the Contractor in its performance pursuant to the Contract; it being understood and agreed that the Fund shall at all times be under the control of the Authority or its assigns and is deposited in the form of: *** (DELETE INAPPLICABLE REFERENCE) cash// securities of, or fully guaranteed as to principal by, the United States of America, which securities shall be freely negotiable or assigned to the Authority// an unconditional, irrevocable Letter of Credit issued to the Authority by a commercial bank acceptable to an Authorized Officer of the Authority.

2. The Authority shall maintain the Fund as a separate trust account to be disbursed as follows:
 - a. To the Contractor or party making such deposit during the course of construction,

such portion of the Fund as may be deemed necessary by an Authorized Officer of the Authority, or as may be approved by an Authorized Officer of the Authority.

b. To the Contractor or party making such a deposit, the balance of the Fund remaining at the time that final payment is to be made to the Contractor pursuant to Section 701 of the Contract, except that there shall be withheld from the payment of such balance an amount equal to 2-1/2% of the Total Contract Sum of the Contract, which amount is to be retained in the Fund for a period of one year from the date of the Final Payment of the Authority's Mortgage Loan, as defined in the Contract. Such amount shall be held as a fund to guarantee the correction of any defects in construction due to faulty materials or workmanship or damage to the mortgaged premises resulting from such defects, which defects exist within one year after the date of the Final Payment (the "Guarantee Period"). Such amount may be used for the correction of such defects or damage in the event the Contractor fails to make such corrections. The Contractor's liability for such corrections is not limited by the amount of such sum, nor shall the Contractor be excused from correcting such defects under the Contract.

c. To the Authority the entire Fund or balance remaining in the Fund, in the event of a default by the Contractor under the Contract, such entire Fund or balance remaining in the Fund to be used by the Authority to indemnify the Owner and the Authority as the case may be, for any loss, damage or expense whatsoever which they may suffer by reason of the Contractor's failure to perform properly under the Contract. In any event, any and all disbursements from the Fund shall be made only upon the prior written approval of an Authorized Officer of the Authority.

3. At such time as the Authority determines that construction of the Development is seventy-five percent (75%) or more complete, the Owner and the Contractor jointly may make application to the Authority for a reduction in the amount of the Contractor's letter of credit to an amount not less than fifteen percent (15%) of the Total Contract Sum. Further, at such time as the Authority determines that construction of the Development is Ninety percent (90%) or more complete, the Owner and the Contractor jointly may make application to the Authority for a reduction in the amount of the Contractor's letter of credit to an amount not less than ten (10%) percent of the Total Contract Sum. The application shall be approved if the Authority determines that: (i) construction of the Development is progressing on schedule; (ii) the Contractor is delivering units to the Owner in accordance with the approved schedule of completion; (iii) model units have been completed by the Contractor for use in connection with the marketing program as to the Development; and (iv) the amounts remaining to be paid to the Contractor under this Contract exceed by a reasonable amount the Authority's estimate of the cost of the remaining work under this Contract, plus any unpaid Change Orders.

Upon Final Completion and Final Payment for the Work, the Owner and the Contractor jointly may make application to the Authority for a reduction in the amount of the letter of credit, to an amount not less than two and one-half percent (2.5%) of the Total Contract Sum, which sum shall be held for the duration of the Guarantee Period.

3. The Contractor and the Owner consent to the transfer of the rights of the Authority under this Agreement by assignment in case any other lender or lenders should become the owner or holder of the Mortgage.

4. This Agreement shall not alter or limit the obligations and liabilities of the Contractor under the Contract, but shall be deemed to be merely additional security for the performance by the Contractor of its obligations under the Contract.

5. It is understood and agreed that, in the event the Fund is held by a depository other than the

Authority, such depository is not charged with any duty or responsibility to see to the performance of or compliance with any agreements between any of the parties to this Agreement other than that of paying over the Fund as directed in writing by an Authorized Officer of the Authority, nor to see to the application of the Fund after making disbursements as so directed, unless otherwise agreed to between the depository and an Authorized Officer of the Authority.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, executed this Agreement as of the day and year shown above.

*** (Contractor)

By: _____

Its:

*** LIMITED DIVIDEND HOUSING
ASSOCIATION LIMITED PARTNERSHIP

By: _____

Its: General Partner

MICHIGAN STATE HOUSING
DEVELOPMENT AUTHORITY

By: _____

Christopher L. LaGrand
Director of Legal Affairs