

WHEN RECORDED MAIL TO:

Stellar Bank
If By US Mail:
PO Box 41314
Houston, Texas 77241-1314
Attention: Stephen W. Rose
If by Hand or Overnight Delivery:
9 Greenway Plaza, Suite 110
Houston, Texas 77046
Attention: Stephen W. Rose
Re: Fiji Lofts Deal ID No. 60001032

**MULTIFAMILY LEASEHOLD DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(TEXAS)**

**TOGETHER WITH GROUND LESSOR (FEE OWNER)
SUBORDINATION AND JOINDER**

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**MULTIFAMILY LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(TEXAS)**

This **MULTIFAMILY LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** (this “**Instrument**”) is dated for reference purposes only as of the 1st day of January, 2026, and will not be effective and binding on the parties hereto until the Closing Date (as hereinafter defined), by **SDC CORINTH III, LP**, a Texas limited partnership, whose address is 3030 LBJ Freeway, Suite 1350, Dallas, Texas 75234, as grantor (“**Borrower**”), to **WILMINGTON TRUST, NATIONAL ASSOCIATION**, having an address at 15950 North Dallas Parkway, Suite 200, Dallas, Texas 75248, as trustee (“**Trustee**”) for the benefit of the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State of Texas, whose address is P.O. Box 13941, Austin, Texas 78711, as beneficiary, and its successors and assigns (“**Governmental Lender**”). Borrower’s organizational identification number is 0801231472.

The Loan is made and the Indebtedness is evidenced by that certain Multifamily Note (as hereafter defined), dated as of the Closing Date, in the maximum principal amount of **SIX MILLION AND NO/100 DOLLARS** (\$6,000,000), maturing on the earlier to occur of June 1, 2027, or any earlier date on which the unpaid principal balance of the Note becomes due and payable, by acceleration or otherwise (the “**Maturity Date**”).

Immediately upon the execution and delivery of the Note, this Instrument and the other Loan Documents, it is contemplated and intended that Governmental Lender will assign its rights under the Loan Documents to Wilmington Trust, National Association, as fiscal agent (the “**Fiscal Agent**”) for the benefit of Stellar Bank, a Texas state chartered bank (“**Funding Lender**” and together with Governmental Lender, as the context may require, “**Lender**”), pursuant to that certain Funding Loan Agreement, dated as of the date hereof, by and among Governmental Lender, Fiscal Agent and Funding Lender and that certain Assignment of Deed of Trust and Loan Documents, dated as of the date hereof, from Governmental Lender to Fiscal Agent for the benefit of Funding Lender.

NOW THEREFORE:

Granting Clause. Borrower, in consideration of the Indebtedness and the trust created by this Instrument, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, the Mortgaged Property, including the Land located in the City and County of Dallas, Texas, and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee’s successor in trust and Trustee’s assigns forever.

TO SECURE TO GOVERNMENTAL LENDER and its successors and assigns the repayment of the Indebtedness evidenced by the Note executed by Borrower and maturing on the Maturity Date, and all renewals, extensions and modifications of the Indebtedness, including, without limitation, the payment of all sums advanced by or on behalf of Governmental Lender to protect the security of this Instrument under Section 12 and the performance of the covenants and agreements of Borrower contained in the Loan Documents.

Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered except for the Permitted Encumbrances. Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any Permitted Encumbrances.

This Instrument is also a financing statement and a fixture filing under the Uniform Commercial Code of the Property Jurisdiction and the information set forth on Exhibit C is included for that purpose.

Covenants. Borrower covenants and agrees as follows:

1. **DEFINITIONS.** The following terms, when used in this Instrument (including when used in the above recitals), shall have the following meanings:

(a) **“Affiliate”** means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

(b) **“Agreement of Environmental Indemnification”** means that certain Agreement of Environmental Indemnification, dated as of the date hereof, by Borrower and Guarantor for the benefit of Beneficiary Parties.

(c) **“Bankruptcy Event”** means any one or more of the following:

(i) (A) the commencement of a voluntary case under one or more of the Insolvency Laws by the Borrower; (B) the acknowledgment in writing by the Borrower that it is unable to pay its debts generally as they mature; (C) the making of a general assignment for the benefit of creditors by the Borrower; (D) the commencement of an involuntary case under one or more Insolvency Laws against the Borrower; or (E) the appointment of a receiver, liquidator, custodian, sequestrator, trustee or other similar officer who exercises control over the Borrower or any substantial part of the assets of the Borrower provided that any proceeding or case under (D) or (E) above is not dismissed within 90 days after filing;

(ii) Any Guarantor or any Affiliate of a Guarantor files an involuntary petition against Borrower under one or more of the Insolvency Laws; or

(iii) Both (A) an involuntary petition under any one or more of the Insolvency Laws is filed against Borrower or Borrower directly or indirectly becomes the subject of any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or in equity, and (B) Borrower or any Affiliate of Borrower has acted in concert or conspired with such creditors of Borrower (other than Lender) to cause the filing thereof with the

intent to interfere with enforcement rights of Lender after the occurrence of an Event of Default.

(d) **“Beneficiary Parties”** means Governmental Lender, Funding Lender, Fiscal Agent, any Servicer and their respective successors and assigns, together with any lawful owner, holder or pledgee of the Note.

(e) **“Borrower”** means all persons or entities identified as “Borrower” in the first paragraph of this Instrument, together with their successors and assigns.

(f) **“Borrower’s Organizational Documents”** means, collectively: (i) the certificate of limited partnership, certificate or articles of formation or certificate or articles of organization of Borrower filed with the Office of the Secretary of State of Texas on February 16, 2010, as the same may be amended and/or restated from time to time; and (ii) the Amended and Restated Agreement of Limited Partnership of Borrower, dated as of the Closing Date, as the same may be amended and/or restated from time to time.

(g) **“Business Day”** means any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

(h) **“Closing Date”** means the date of the Note.

(i) **“Collateral Agreement”** means any separate agreement between Borrower and Funding Lender and/or Governmental Lender or Servicer for the purpose of establishing tax, repair or replacement reserve or escrow accounts for the Mortgaged Property or granting Lender a security interest in any such accounts, or any other agreement or agreements between Borrower, Funding Lender and/or Governmental Lender or Servicer which provide for the establishment of any other fund, reserve or account.

(j) **“Collateral Assignments”** means, collectively, each of the Collateral Assignments under and as defined in the Original Borrower Loan Security Instrument (as each Collateral Assignment has been amended to secure the Note).

(k) **“Construction Funding Agreement”** means that certain Construction Funding Agreement, dated December 1, 2021, between the Funding Lender and Borrower setting forth certain provisions relating to disbursement of the Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

(l) **“Control”** means, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, through the ownership of voting securities, by contract or otherwise, including the power to elect a majority of the directors of a corporation, to select the general partner of a partnership, or otherwise to have the power

independently to remove and then select a majority of those individuals exercising managerial authority over an entity.

(m) **“Credit Enhancer”** means a government sponsored enterprise that at any time, directly or indirectly, purchases the Loan or provides credit enhancement with respect to the Loan.

(n) **“Environmental Permit”** means any permit, license, or other authorization issued under any Hazardous Materials Law with respect to any activities or businesses conducted on or in relation to the Mortgaged Property.

(o) **“Event of Default”** means the occurrence of any event listed in Section 22.

(p) **“Fiscal Agent”** has the meaning ascribed in the Recitals hereof.

(q) **“Fixtures”** means all property which is so attached to the Land or the Improvements as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

(r) **“Funding Lender”** has the meaning ascribed thereto in the recitals to this Instrument.

(s) **“Governmental Authority”** means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property.

(t) **“Guarantor”** means, individually and collectively, jointly and severally, (i) Jideofor O. Oji, an individual, (ii) Joseph N. Agumadu, an individual and/or (iii) any other person or entity which may hereafter become a guarantor of any of Borrower’s obligations under the Loan.

(u) **“Hazardous Materials”** means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; radon; Mold; toxic or mycotoxin spores; any

substance the presence of which on the Mortgaged Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance (whether or not naturally occurring) now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “solid waste”, “pesticide”, “contaminant,” or “pollutant”, or otherwise classified as hazardous or toxic by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

(v) “**Hazardous Materials Laws**” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, rule of common law (including, without limitation, nuisance and trespass), consent order, administrative rulings and court judgments and decrees or other government directive in effect now or in the future and including all amendments, that relate to Hazardous Materials or to the protection or conservation of the environment or human health and apply to Borrower or to the Mortgaged Property, including, without limitation, those relating to industrial hygiene, or the use, analysis, generation, manufacture, storage, discharge, release, disposal, transportation, treatment, investigation, or remediation of Hazardous Materials. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq., the Superfund Amendments and Reauthorization Act, the Solid Waste Disposal Act, the Clean Air Act, the Occupational Safety and Health Act, and their state analogs.

(w) “**Impositions**” and “**Imposition Deposits**” shall have the meanings ascribed thereto in Section 7(a).

(x) “**Improvements**” means the buildings, structures, improvements, and alterations now constructed or at any time in the future constructed or placed upon the Land, including any future replacements and additions.

(y) “**Indebtedness**” means collectively, the principal of, interest on, and all other amounts due at any time under, the Note, this Instrument or any other Loan Document, including prepayment premiums, late charges, default interest, and advances as provided in Section 12 to protect the security of this Instrument, and any fees or expenses paid by Governmental Lender on behalf of Borrower to Governmental Lender, or any other party for the Loan or other amounts relating to the Loan Documents which are paid by Governmental Lender, and for which Borrower is obligated to reimburse Governmental Lender pursuant to the terms of the Loan Documents;

(z) “**Initial Owners**” means, with respect to Borrower or any other entity, the persons or entities who on the date of the Note, directly or indirectly, own in the aggregate 100% of the ownership interests in Borrower or that entity.

(aa) **“Insolvency Laws”** means the United States Bankruptcy Code, 11 U.S.C. § 101, et seq., together with any other federal or state law affecting debtor and creditor rights or relating to the bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding, as amended from time to time, to the extent applicable to the Borrower.

(bb) **“Land”** means the land described in Exhibit A.

(cc) **“Leases”** means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

(dd) **“Lender”** means the entity identified as “Lender” in the recitals to this Instrument, or any subsequent holder of the Note.

(ee) **“Loan”** means the loan made by Governmental Lender to Borrower in an amount not to exceed the original principal amount of the Note, which loan is evidenced by the Note and secured by, among other things, this Instrument.

(ff) **“Loan Agreement”** means that certain Borrower Loan Agreement, dated as of the date hereof, by and between Borrower and Governmental Lender relating to the Loan, as the same may be amended, modified or supplemented from time to time.

(gg) **“Loan Documents”** means collectively, the Loan Agreement, the Note, this Instrument, the Construction Funding Agreement, the Agreement of Environmental Indemnification, all guaranties, all indemnity agreements, all Collateral Agreements, all Collateral Assignments, all O&M Programs, the MMP, and any other documents now or in the future executed by Borrower, any guarantor or any other person in connection with the Loan, as such documents may be amended from time to time.

(hh) **“Material Property Agreements”** means any agreement which, in Lender’s sole discretion, acting in good faith, materially affects the Mortgaged Property, the use thereof or otherwise materially affects the rights of Borrower or Beneficiary Parties in, to, and with respect to the Mortgaged Property or the proceeds therefrom, including, without limitation, each of the following: (i) any agreement regarding the payment in lieu of taxes (“PILOT”), (ii) all covenants, conditions and restrictions, including, without limitation, any declaration subjecting the Mortgaged Property to an association of owners or other community governance, (iii) any agreement regarding the abatement or exemption of real estate taxes, (iv) any easement pursuant to which the Mortgaged Property is granted access to a public right of way, (v) any material lease of all or any portion of the Mortgaged Property, (vi) any operating agreements relating to the Land or the Improvements and (vii) any regulatory agreements, declarations, land use restriction agreements or similar instruments affecting the Mortgaged Property including the operation or use thereof.

(ii) **“Maturity Date”** has the meaning ascribed thereto in the recitals to this Instrument.

(jj) “**MMP**” means an operations and maintenance plan, moisture management program and/or microbial operations and maintenance program approved by Lender to control water intrusion and prevent the development of Mold or moisture at the Mortgaged Property throughout the term of this Instrument. If required by Lender, the MMP shall contain a provision for (i) staff training, (ii) information to be provided to tenants, (iii) documentation of the plan, (iv) the appropriate protocol for incident response and remediation and (v) routine, scheduled inspections of common space and unit interiors.

(kk) “**Mold**” means mold, fungus, microbial contamination or pathogenic organisms.

(ll) “**Mortgaged Property**” means all of Borrower’s present and future right, title and interest in and to all of the following:

- (i) the Land;
- (ii) the Improvements;
- (iii) the Fixtures;
- (iv) the Personality;
- (v) all current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated;
- (vi) all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personality or any other part of the Mortgaged Property, whether or not Borrower obtained the insurance pursuant to Lender’s requirements;
- (vii) all awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personality or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personality or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;
- (viii) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personality or any other part of the Mortgaged Property entered into by Borrower now or in the

future, including cash or securities deposited to secure performance by parties of their obligations;

- (ix) all Rents and Leases;
- (x) all earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, whether the foregoing are now due, past due, or to become due, all undisbursed proceeds of the Loan secured by this Instrument, deposits forfeited by tenants, and, if Borrower is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents;
- (xi) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated);
- (xii) all tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits;
- (xiii) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property;
- (xiv) all documents, writings, books, files, records and other documents arising from or relating to any of the foregoing, whether now existing or hereafter created; and
- (xv) all proceeds from the conversion, voluntary or involuntary, of any of the above into cash or liquidated claims, and the right to collect such proceeds, and all other cash and non-cash proceeds and products of any of the foregoing.

(mm) “**Note**” means that certain Multifamily Note, dated as of the Closing Date, executed and delivered by the Borrower, payable to Governmental Lender in an amount not to exceed the original maximum principal amount of the Loan set forth in the recitals to this Instrument, including all schedules, riders, allonges and addenda, as the same may be amended, modified, or supplemented from time to time.

(nn) “**O&M Program**” has the meaning ascribed thereto in Section 18(d).

(oo) “**Original Borrower Loan Security Instrument**” means Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement dated as of December 1, 2021, executed by Borrower for the benefit of Governmental Lender.

(pp) **“Permitted Encumbrances”** means the Original Borrower Loan Security Instrument, the Regulatory Agreement, the Extended Use Agreement (as defined in Section 47), any easements, encumbrances or restrictions listed on the schedule of exceptions in the title insurance policy issued to Lender as of the date of recordation of this Instrument insuring Lender’s interest in the Mortgaged Property.

(qq) **“Permitted Transfer”** has the meaning ascribed thereto in Section 21(b).

(rr) **“Person”** means any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(ss) **“Personalty”** means all:

- (i) accounts (including deposit accounts) of Borrower related to the Mortgaged Property;
- (ii) Imposition Deposits;
- (iii) equipment, goods, supplies and inventory owned by Borrower that are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements (other than Fixtures), including furniture, furnishings, machinery, building materials, tools, books, records (whether in written or electronic form), computer equipment (hardware and software);
- (iv) other tangible personal property owned by Borrower which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or in the Improvements (other than Fixtures), including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances;
- (v) any operating agreements relating to the Land or the Improvements;
- (vi) any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements;
- (vii) documents, instruments, chattel paper, claims, deposits, deposit accounts, payment intangibles, other intangible property, general intangibles, and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a Governmental Authority; and

(viii) any rights of Borrower in or under letters of credit.

(tt) **“Project”** means that 204-unit multifamily project known as Fiji Lofts and located in the City and County of Dallas, State of Texas.

(uu) **“Property Jurisdiction”** means the State of Texas.

(vv) **“Regulatory Agreement”** means, collectively, (i) the Amended and Restated Regulatory and Land Use Restriction Agreement, dated as of the date hereof, by and among Governmental Lender, Fiscal Agent, Dallas County Housing Finance Corporation 2025, as fee owner, and the Borrower, and (ii) the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the date hereof, by and between Dallas County Housing Finance Corporation 2025 and the Borrower, each regulating or restricting the use or manner of operation of the Mortgaged Property and containing requirements that specified percentages of the dwelling units in the Mortgaged Property be occupied by tenants whose incomes are below specified levels.

(ww) **“Rents”** means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, including subsidy payments received from any sources (including, but not limited to payments under any Housing Assistance Payments Contract or similar agreements), parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due, or to become due, and deposits forfeited by tenants.

(xx) **“Servicer”** means the servicing party that is designated by Funding Lender to service the Loan, together with its successors in such capacity. The initial Servicer shall be Citibank, N.A.

(yy) **“Taxes”** means, collectively, all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(zz) **“Transfer”** means (i) a sale, assignment, transfer, or other disposition (whether voluntary, involuntary or by operation of law); (ii) the grant, creation, or attachment of a lien, encumbrance, or security interest (whether voluntary, involuntary or by operation of law); (iii) the issuance or other creation of a direct or indirect ownership interest; or (iv) the withdrawal, retirement, removal or involuntary resignation of any owner or manager of a legal entity.

(aaa) **“Uniform Commercial Code”** means the Uniform Commercial Code adopted by the Property Jurisdiction.

(bbb) **“United States Bankruptcy Code”** means the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., as amended from time to time.

2. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.

(a) This Instrument is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may be subjected to a security interest under the Uniform Commercial Code, whether such Mortgaged Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, “**UCC Collateral**”), and Borrower hereby grants to Lender a security interest in the UCC Collateral. Borrower hereby authorizes Lender to prepare and file any and all financing statements, continuation statements and financing statement amendments, in such form as Lender may require to perfect or continue the perfection of this security interest without execution by Borrower. Borrower shall pay all filing costs and all costs and expenses of any record searches for financing statements and/or amendments that Lender may require. Without the prior written consent of Lender, Borrower shall not create or permit to exist any other lien or security interest in any of the UCC Collateral except for the Permitted Encumbrances. If an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender shall have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Instrument or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Lender’s other remedies. This Instrument constitutes a financing statement with respect to any part of the Mortgaged Property which is or may become a Fixture.

(b) Unless Borrower gives at least thirty (30) days’ prior written notice to Lender and subject to Section 21 hereof, Borrower shall not: (i) change its name, identity, or structure of organization; (ii) change its state of organization through dissolution, merger, transfer of assets or otherwise; (iii) change its principal place of business (or chief executive office if more than one place of business); or (iv) add to or change any location at which any of the Mortgaged Property is stored, held or located. Such notice shall be accompanied by new financing statements and/or financing statement amendments in the same form as the financing statements delivered to Lender on the date hereof. Without limiting the foregoing, Borrower hereby authorizes and irrevocably appoints Lender and each of its officers attorneys-in-fact for Borrower to execute, deliver, and file, as applicable, such financing statements, continuation statements or amendments deemed necessary by Lender in its sole discretion for and on behalf of Borrower, without execution by Borrower. Borrower shall also execute and deliver to Lender modifications or supplements of this Instrument as Lender may require in connection with any change described in this Section.

3. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.

(a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Lender all Rents. It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Lender of all Rents and to authorize and empower Lender to collect and receive all Rents without the

necessity of further action on the part of Borrower. Promptly upon request by Lender, Borrower agrees to execute and deliver such further assignments of Rents as Lender may from time to time require. Borrower and Lender intend this assignment of Rents to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of Rents, and for no other purpose, Rents shall not be deemed to be a part of the Mortgaged Property. Notwithstanding anything to the contrary contained herein, the Lender is entitled to all the rights and remedies of an assignee set forth in Chapter 64 of the Texas Property Code, the Texas Assignment of Rents Act ("TARA"). This Instrument shall constitute and serve as a security instrument under TARA. The Lender shall have the ability to exercise its rights related to the Leases and payments, in the Lender's sole discretion and without prejudice to any other remedy available, as provided in this Instrument or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Instrument or the other Loan Documents, to the extent this Instrument or any of the other Loan Documents contain any notice or cure period, the date the enforcement of rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

(b) This assignment is also intended by the Borrower and the Lender to create, and shall be construed to create, a security interest with respect to the collateral assignment of the Rents in accordance with Section 64 of the Texas Property Code. Borrower hereby assigns and transfers to Lender all of Borrower's rights, title and interest to and under the Leases and Rents. This assignment is intended to be and constitutes a present and unconditional assignment, and Lender's right to the Rents is not contingent upon, and may be exercised without possession of the Mortgaged Property. Borrower may collect and retain the Rents as they become due and payable, unless an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period) and during such time, Lender may enforce its rights with respect to the Rents in accordance with the Act (defined below). Borrower agrees that pursuant to Section 64.002(a)(3) of the Act, any rent demand sent by Lender may be sent to Borrower in any manner and to any address for notice set forth herein. As described in Section 64.060 of the Act, Borrower shall, within ten (10) days after its receipt of a rent demand, deliver to Lender such Rents as are described in the rent demand. As used herein, "Act" means Chapter 64 of the Texas Property Code, as amended and supplemented from time to time. For clarity, it is noted that in 2011 the Texas Legislature enacted two Chapters 64 to the Texas Property Code and that the Chapter 64 referred to in this definition is the one that was enacted by S.B. 889, § 2, 82nd Leg., effective June 17, 2011, relating to Assignment of Rents to Lienholder. In the event that the Texas Legislature corrects this duplicate numbering and it assigns a different chapter number to the chapter relating to Assignment of Rents to Lienholder, all references herein to Chapter 64 and to sections of Chapter 64 shall be deemed to mean such re-assigned chapter and sections thereof. All Rents hereafter collected by Borrower shall be held by Borrower as trustee under a constructive trust for the benefit of Lender. Borrower hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Lender for the payment to Lender of any rentals or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall

have no right or duty to inquire as to whether any Event of Default or an event which, with the giving of notice or the lapse of time, or both, would constitute an Event of Default, has actually occurred or is then existing hereunder. Borrower hereby relieves the tenants from any liability to Borrower by reason of relying upon and complying with any such notice or demand by Lender. Lender may apply, in its sole discretion, any Rents so collected by Lender against any Indebtedness secured hereby, whether existing on the date hereof or hereafter arising. Collection of any Rents by Lender shall not cure or waive any Event Default or notice of Event of Default or invalidate any acts done pursuant to such notice.

(c) Borrower authorizes Lender to collect, sue for and compromise Rents and directs each tenant of the Mortgaged Property to pay all Rents to, or as directed by, Lender. However, until the occurrence and continuance of an Event of Default (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender hereby grants to Borrower a revocable license to collect and receive all Rents, to hold all Rents in trust for the benefit of Lender and to apply all Rents to pay the installments of interest and principal then due and payable under the Note and the other amounts then due and payable under the other Loan Documents, including Imposition Deposits, and to pay the current costs and expenses of managing, operating and maintaining the Mortgaged Property, including utilities, Taxes and insurance premiums (to the extent not included in Imposition Deposits), tenant improvements and other capital expenditures. So long as no Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), the Rents remaining after application pursuant to the preceding sentence may be retained by Borrower free and clear of, and released from, Lender's rights with respect to Rents under this Instrument. Upon the occurrence and continuance of an Event of Default (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), and without the necessity of Lender entering upon and taking and maintaining control of the Mortgaged Property directly, or by a receiver, Borrower's license to collect Rents shall automatically terminate and Lender shall without notice be entitled to all Rents as they become due and payable, including Rents then due and unpaid (such license shall be reinstated upon Borrower's cure of the Event of Default to the satisfaction of Lender). Borrower shall pay to Lender upon demand all Rents to which Lender is entitled. At any time after an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender may give, and Borrower hereby irrevocably authorizes Lender to give, notice to all tenants of the Mortgaged Property instructing them to pay all Rents to Lender, no tenant shall be obligated to inquire further as to the right of Lender to collect Rents, and no tenant shall be obligated to pay to Borrower any amounts which are actually paid to Lender in response to such a notice. Any such notice by Lender shall be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Borrower shall not interfere with and shall cooperate with Lender's collection of such Rents.

(d) Borrower represents and warrants to Lender that Borrower has not executed any prior assignment of Rents (other than an assignment of Rents securing indebtedness

that will be paid off and discharged with the proceeds of the Loan), that Borrower has not performed, and Borrower covenants and agrees that it will not perform, any acts and has not executed, and shall not execute, any instrument which would prevent Lender from exercising its rights under this Section 3, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any Rents for more than two months prior to the due dates of such Rents (other than a security deposit not in excess of one month's rent). Borrower shall not collect or accept payment of any Rents more than two months prior to the due dates of such Rents (other than a security deposit not in excess of one month's rent).

(e) If an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender may, but shall in no event be required to, regardless of the adequacy of Lender's security or the solvency of Borrower and even in the absence of waste, enter upon and take and maintain full control of the Mortgaged Property in order to perform all acts that Lender in its discretion determines to be necessary or desirable for the operation and maintenance of the Mortgaged Property, including the execution, cancellation or modification of Leases, the collection of all Rents, the making of repairs to the Mortgaged Property and the execution or termination of contracts providing for the management, operation or maintenance of the Mortgaged Property, for the purposes of enforcing the assignment of Rents pursuant to Section 3(a), protecting the Mortgaged Property or the security of this Instrument, or for such other purposes as Lender in its discretion may deem necessary or desirable. Alternatively, if an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), regardless of the adequacy of Lender's security, without regard to Borrower's solvency and without the necessity of giving prior notice (oral or written) to Borrower, Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in the preceding sentence. If Lender elects to seek the appointment of a receiver for the Mortgaged Property at any time after an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Borrower, by its execution of this Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte* if permitted by applicable law. Lender or the receiver, as the case may be, shall be entitled to receive a reasonable fee for managing the Mortgaged Property. Immediately upon appointment of a receiver or immediately upon Lender's entering upon and taking possession and control of the Mortgaged Property, Borrower shall surrender possession of the Mortgaged Property to Lender or the receiver, as the case may be, and shall deliver to Lender or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property and all security deposits and prepaid Rents. In the event Lender takes possession and control of the Mortgaged Property, Lender may exclude Borrower and its representatives from the Mortgaged Property. Borrower acknowledges and agrees that the exercise by Lender of any of the rights conferred under this Section 3 shall not be construed to make Lender a

mortgagee-in-possession of the Mortgaged Property so long as Lender has not itself entered into actual possession of the Land and Improvements.

(f) If Lender enters the Mortgaged Property, Lender shall be liable to account only to Borrower and only for those Rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property, by reason of any act or omission of Lender under this Section 3, and Borrower hereby releases and discharges Lender from any such liability to the fullest extent permitted by law, except for the gross negligence or willful misconduct of Lender or its agents.

(g) If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Lender for such purposes shall become an additional part of the Indebtedness as provided in Section 12.

(h) Any entering upon and taking of control of the Mortgaged Property by Lender or the receiver, as the case may be, and any application of Rents as provided in this Instrument shall not cure or waive any Event of Default or invalidate any other right or remedy of Lender under applicable law or provided for in this Instrument.

4. ASSIGNMENT OF LEASES; LEASES AFFECTING THE MORTGAGED PROPERTY.

(a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Lender all of Borrower's right, title and interest in, to and under the Leases, including Borrower's right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease. It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Lender of all of Borrower's right, title and interest in, to and under the Leases. Borrower and Lender intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases shall not be deemed to be a part of the "Mortgaged Property" as that term is defined in Section 1. Notwithstanding anything to the contrary contained herein, the Lender is entitled to all the rights and remedies of an assignee set forth in TARA. This Instrument shall constitute and serve as a security instrument under TARA. The Lender shall have the ability to exercise its rights related to the Leases and payments, in the Lender's sole discretion and without prejudice to any other remedy available, as provided in this Instrument or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Instrument or the other Loan Documents, to the extent this Instrument or any of the other Loan Documents contain any notice or cure period, the date the enforcement of rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

(b) Unless an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was

not timely resolved within the applicable notice and cure period), Borrower shall have all rights, power and authority granted to Borrower under any Lease (except as otherwise limited by this Section or any other provision of this Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. During the continuance of an Event of Default (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), the permission given to Borrower pursuant to the preceding sentence to exercise all rights, power and authority under Leases shall automatically terminate. Borrower shall comply with and observe Borrower's obligations under all Leases, including Borrower's obligations pertaining to the maintenance and disposition of tenant security deposits.

(c) Borrower acknowledges and agrees that the exercise by Lender, either directly or by a receiver, of any of the rights conferred under this Section 4 shall not be construed to make Lender a mortgagee-in-possession of the Mortgaged Property so long as Lender has not itself entered into actual possession of the Land and the Improvements. The acceptance by Lender of the assignment of the Leases pursuant to Section 4(a) shall not at any time or in any event obligate Lender to take any action under this Instrument or to expend any money or to incur any expenses. Lender shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Mortgaged Property, except to the extent arising from the gross negligence or willful misconduct of Lender. Prior to Lender's actual entry into and taking possession of the Mortgaged Property, Lender shall not (i) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease); (ii) be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property; or (iii) be responsible for the operation, control, care, management or repair of the Mortgaged Property or any portion of the Mortgaged Property. The execution of this Instrument by Borrower shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Mortgaged Property is and shall be that of Borrower, prior to such actual entry and taking of possession.

(d) Upon delivery of notice by Lender to Borrower of Lender's exercise of Lender's rights under this Section 4 at any time after the occurrence and during the continuance of an Event of Default (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), and without the necessity of Lender entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, Lender immediately shall have all rights, powers and authority granted to Borrower under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.

(e) Borrower shall, promptly upon Lender's request, deliver to Lender an executed copy of each residential Lease then in effect. All Leases for residential dwelling units shall (i) be on forms approved by Lender, (ii) be for initial terms of at least six (6) months and not more than two (2) years, (iii) not include options to purchase, (iv) be legally

valid, binding, and enforceable obligations of the tenants, (v) contain language expressly stating that such Lease is subordinate to the lien of this Instrument, (vi) provide that the address to which all notices, including any Notice to Pay Rents Other Than to Landlord (“NPROL”), required or permitted to be sent to the tenant; may not be changed unless 30 days prior written notice is given to Lender and that such address must be within the United States of America; (vii) provide for tenant’s agreement that upon the receipt of a NPROL, whether prior to or after the occurrence of an Event of Default, tenant shall: (a) not deduct any portion of the Rents for any purpose, notwithstanding Section 64.055(d) or any other provision of the Act, this Instrument or any other Loan Document; and (b) pay all Rents as they accrue to the Lender; (viii) provide for: (a) tenant’s unconditional waiver of any right to delay payment of Rents as well any right to continue paying Rents to any person other than Lender as contemplated by Section 64.056 of the Act, (b) tenant’s agreement that paragraphs 3 and 8 of the statutory form of NPROL may be deleted from any NPROL sent to tenant, as contemplated by Section 64.056 of the Act; (ix) provide tenant’s agreement that any notice, including a NPROL, from the Lender to the tenant shall be deemed to have been received by the tenant on the earliest of (a) the date of actual receipt by the tenant, (b) two (2) days after the same is sent to the address for notice specified in the Lease via a commercially reasonable delivery service, (e.g., Federal Express or UPS) or (c) by first class mail, when deposited in the U. S. Mail in accordance with Section 51.002(e) of the Texas Property Code; and (x) otherwise comply with all applicable laws.

(f) Except for laundry facilities and cable television services for tenants on market terms and conditions, Borrower shall not lease any portion of the Mortgaged Property for non-residential use except with the prior written consent of Lender and Lender’s prior written approval of the Lease agreement. Borrower shall not modify the terms of, or extend or terminate, any Lease for non-residential use (including any Lease in existence on the date of this Instrument) without the prior written consent of Lender. Borrower shall, without request by Lender, deliver an executed copy of each non-residential Lease to Lender promptly after such Lease is signed. All non-residential Leases, including renewals or extensions of existing Leases, shall specifically provide that (i) such Leases are subordinate to the lien of this Instrument; (ii) the tenant shall attorn to Lender and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Mortgaged Property by any purchaser at a foreclosure sale or by Lender in any manner; (iii) the tenant agrees to execute such further evidences of attornment as Lender or any purchaser at a foreclosure sale may from time to time request; (iv) the Lease shall not be terminated by foreclosure or any other transfer of the Mortgaged Property; (v) after a foreclosure sale of the Mortgaged Property, Lender or any other purchaser at such foreclosure sale may, at Lender’s or such purchaser’s option, accept or terminate such Lease; and (vi) the tenant shall, upon receipt after the occurrence of an Event of Default of a written request from Lender, pay all Rents payable under the Lease to Lender.

(g) Borrower shall not receive or accept Rent under any Lease (whether residential or non-residential) for more than two months in advance (other than a security deposit not in excess of one month’s rent).

5. PAYMENT OF INDEBTEDNESS; PERFORMANCE UNDER LOAN DOCUMENTS; PREPAYMENT PREMIUM. Borrower shall pay the Indebtedness when due in accordance with the terms of the Note and the other Loan Documents and shall perform, observe and comply with all other provisions of the Note and the other Loan Documents. Borrower shall pay a prepayment premium in connection with certain prepayments of the Indebtedness, including a payment made after Lender's exercise of any right of acceleration of the Indebtedness, as provided in the Note.

6. EXCULPATION. The personal liability of Borrower for payment of the Note and for performance of the other obligations to be performed by Borrower under this Instrument is limited in the manner, and to the extent, provided in the Note.

7. DEPOSITS FOR TAXES, INSURANCE AND OTHER CHARGES.

(a) As and when required under the Original Borrower Security Instrument, Borrower shall deposit with Lender on the day monthly installments of principal or interest, or both, are due under the Note (or on another day designated in writing by Lender), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Lender the entire sum required to pay, when due (i) any water and sewer charges which, if not paid, may result in a lien on all or any part of the Mortgaged Property, (ii) the premiums for fire and other hazard insurance, rental loss insurance and such other insurance as Lender may require under Section 19, (iii) Taxes, and (iv) amounts for other charges and expenses which Lender at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lender's interests, all as reasonably estimated from time to time by Lender, plus one-twelfth of such estimate, if required by Lender. The amounts deposited under the preceding sentence are collectively referred to in this Instrument as the "**Imposition Deposits**". The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Instrument as "**Impositions**". The amount of the Imposition Deposits shall be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Lender shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Lender are held for the purpose of paying Taxes, insurance premiums and each other Imposition.

(b) Imposition Deposits shall be held in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency. Lender shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Lender shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period). Unless applicable law requires, Lender shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits. As additional security for all of Borrower's obligations under this Instrument and the other Loan Documents, Borrower hereby pledges and grants to Lender a security interest in the

Imposition Deposits and all proceeds of and all interest and dividends on the Imposition Deposits. Any amounts deposited with Lender under this Section 7 shall not be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Lender for that purpose under Section 7(e).

(c) If Lender receives a bill or invoice for an Imposition, Lender shall pay the Imposition from the Imposition Deposits held by Lender. Lender shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(d) If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition exceeds the amount deemed necessary by Lender, plus one twelfth of such estimate if required by Lender, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition is less than the amount estimated by Lender to be necessary, plus one twelfth of such estimate if required by Lender, Borrower shall pay to Lender the amount of the deficiency within 15 days after notice from Lender.

(e) If an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender may apply any Imposition Deposits, in any amounts and in any order as Lender determines, in Lender's discretion, to pay any Impositions or as a credit against the Indebtedness. Upon payment in full of the Indebtedness, Lender shall refund to Borrower any Imposition Deposits held by Lender.

(f) If Lender does not collect an Imposition Deposit pursuant to a separate written waiver by Lender, then on or before the date each such Imposition is due, or on the date this Instrument requires each such Imposition to be paid, Borrower shall, if required by Lender, provide Lender with proof of payment of each such Imposition for which Lender does not require collection of Imposition Deposits. Lender may, at any time and in Lender's discretion, revoke its deferral or waiver and require Borrower to deposit with Lender any or all of the Imposition Deposits listed in this Section 7.

8. COLLATERAL AGREEMENTS. Borrower shall deposit with Lender such amounts as may be required by the Loan Agreement and any Collateral Agreement and shall perform all other obligations of Borrower under the Loan Agreement and each Collateral Agreement.

9. APPLICATION OF PAYMENTS. If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's discretion. Neither Lender's acceptance of an amount that is less than all amounts then due and payable nor Lender's application of such payment in the manner authorized shall constitute or be deemed to constitute

either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Instrument and the Note shall remain unchanged.

10. COMPLIANCE WITH LAWS. Borrower shall comply with all laws, ordinances, regulations and requirements of any Governmental Authority and all recorded lawful covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Mortgaged Property, fair housing, disability accommodation, zoning and land use, and Leases. Borrower also shall comply with all applicable laws that pertain to the maintenance and disposition of tenant security deposits. Borrower shall at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 10. Borrower shall take appropriate measures to prevent, and shall not engage in or knowingly permit, any illegal activities at the Mortgaged Property that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise materially impair the lien created by this Instrument or Lender's interest in the Mortgaged Property. Borrower represents and warrants to Lender that no portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

11. USE OF PROPERTY. Unless required by applicable law, Borrower shall not (a) allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Instrument was executed, except for any change in use approved by Lender, (b) convert any individual dwelling units or common areas to commercial use, (c) initiate a change in the zoning classification of the Mortgaged Property or acquiesce in a change in the zoning classification of the Mortgaged Property, (d) establish any condominium or cooperative regime with respect to the Mortgaged Property; (e) combine all or any part of the Mortgaged Property with all or any part of a tax parcel which is not part of the Mortgaged Property, or (f) subdivide or otherwise split any tax parcel constituting all or any part of the Mortgaged Property without the prior consent of Lender.

12. PROTECTION OF LENDER'S SECURITY; INSTRUMENT SECURES FUTURE ADVANCES.

(a) If Borrower fails to perform any of its obligations under this Instrument or any other Loan Document after the expiration of any applicable notice and cure period, or if any action or proceeding (including a Bankruptcy Event) is commenced which purports to affect the Mortgaged Property, Lender's security or Lender's rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, file such documents, disburse such sums and take such actions as Lender deems necessary to perform such obligations of Borrower and to protect Lender's interest, including (i) payment of fees, expenses and actual fees of attorneys, accountants, inspectors and consultants, (ii) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (iii) procurement of the insurance required by Section 19 (specifically including, without limitation, flood insurance if required by

Section 19), and (iv) payment of amounts which Borrower has failed to pay under Sections 15 and 17.

(b) Any amounts disbursed by Lender under this Section 12, or under any other provision of this Instrument that treats such disbursement as being made under this Section 12, shall be secured by this Instrument, shall be added to, and become part of, the principal component of the Indebtedness, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the "Default Rate", as defined in the Note.

(c) If the Lender shall elect to pay any sum due with reference to the Project or the Mortgaged Property, the Lender may do so in reliance on any bill, statement or assessment procured from the appropriate Governmental Authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by this Instrument and/or the other Loan Documents, the Lender shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same.

(d) Nothing in this Section 12 shall require Lender to incur any expense or take any action.

13. INSPECTION.

(a) Lender and its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests to the extent permitted under Section 18) during normal business hours, or at any other reasonable time, upon reasonable notice to Borrower if the inspection is to include occupied residential units (which notice need not be in writing). Notice to Borrower shall not be required in the case of an emergency, as determined in Lender's discretion, or when an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period).

(b) If Lender determines that Mold has developed as a result of a water intrusion event or leak, Lender, at Lender's discretion, may require that a professional inspector inspect the Mortgaged Property as frequently as Lender determines is necessary until any issue with Mold and its cause(s) are resolved to Lender's satisfaction. Such inspection shall be limited to a visual and olfactory inspection of the area that has experienced the Mold, water intrusion event or leak. Borrower shall be responsible for the cost of such professional inspection and any remediation deemed to be necessary as a result of the professional inspection. After any issue with Mold, water intrusion or leaks is remedied to Lender's satisfaction, Lender shall not require a professional inspection any more frequently than once every three years unless Lender is otherwise aware of Mold as a result of a subsequent water intrusion event or leak.

(c) If Lender determines not to conduct an annual inspection of the Mortgaged Property, and in lieu thereof Lender requests a certification, Borrower shall be prepared to provide and must actually provide to Lender a factually correct certification each year that the annual inspection is waived to the following effect: that Borrower represents and warrants that Borrower has not received any written complaint, notice, letter or other written communication from tenants, management agent or any Governmental Authority regarding odors, indoor air quality, Mold or any activity, condition, event or omission that causes or facilitates the growth of Mold on or in any part of the Mortgaged Property, or if Borrower has received any such written complaint, notice, letter or other written communication, that Borrower has investigated and determined that no Mold activity, condition or event exists or alternatively has fully and properly remediated such activity, condition, event or omission in compliance with the MMP for the Mortgaged Property. If Borrower is unwilling or unable to provide such certification, Lender may require a professional inspection of the Mortgaged Property at Borrower's expense.

14. BOOKS AND RECORDS; FINANCIAL REPORTING.

(a) Borrower shall keep and maintain at all times at the Mortgaged Property or the management agent's offices, and upon Lender's request, upon forty-eight (48) hours prior notice, shall make available at the Mortgaged Property, complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Mortgaged Property, and copies of all written contracts, Leases, and other instruments which affect the Mortgaged Property. The books, records, contracts, Leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender upon reasonable advance oral notice.

(b) Borrower shall furnish to Lender all of the following:

- (i) (1) except as provided in clause (2) below, within 45 days after the end of each fiscal quarter of Borrower, a statement of income and expenses for Borrower's operation of the Mortgaged Property on a year-to-date basis as of the end of each fiscal quarter, (2) within 120 days after the end of each fiscal year of Borrower, (A) a statement of income and expenses for Borrower's operation of the Mortgaged Property for such fiscal year, (B) a statement of changes in financial position of Borrower relating to the Mortgaged Property for such fiscal year, and (C) a balance sheet showing all assets and liabilities of Borrower relating to the Mortgaged Property as of the end of such fiscal year; and (3) any of the foregoing at any other time upon Lender's request;
- (ii) within 45 days after the end of each fiscal quarter of Borrower, and at any other time upon Lender's request, a rent schedule for the Mortgaged Property showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by Lender;

- (iii) within 120 days after the end of each fiscal year of Borrower, and at any other time upon Lender's request, an accounting of all security deposits held pursuant to all Leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to access information regarding such accounts;
- (iv) within 120 days after the end of each fiscal year of Borrower, and at any other time upon Lender's request, a statement that identifies all owners of any interest in Borrower and the interest held by each, if Borrower is a corporation, all officers and directors of Borrower, and if Borrower is a limited liability company, all managers who are not members;
- (v) upon Lender's request, a monthly property management report for the Mortgaged Property, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender;
- (vi) upon Lender's request, a balance sheet, a statement of income and expenses for Borrower and a statement of changes in financial position of Borrower for Borrower's most recent fiscal year;
- (vii) annually, if applicable, within 60 days of the date required for submission by the agency in the Property Jurisdiction responsible for monitoring the low income housing tax credit program, a low income housing tax credit compliance report in form and substance acceptable to Lender; and
- (viii) if required by Lender, within 30 days of the end of each calendar month, a monthly statement of income and expenses for such calendar month on a year-to-date basis for Borrower's operation of the Mortgaged Property.

(c) Each of the statements, schedules and reports required by Section 14(b) shall be certified to be complete and accurate by an individual having authority to bind Borrower and shall be in such form and contain such detail as Lender may require. Lender also may require that any statements, schedules or reports be audited at Borrower's expense by independent certified public accountants acceptable to Lender.

(d) If Borrower fails to provide in a timely manner the statements, schedules and reports required by Section 14(b), Lender shall have the right to have Borrower's books and records audited, at Borrower's expense, by independent certified public accountants selected by Lender in order to obtain such statements, schedules and reports, and all related

costs and expenses of Lender shall become immediately due and payable and shall become an additional part of the Indebtedness as provided in Section 12.

(e) If an Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Borrower shall deliver to Lender upon written demand all books and records relating to the Mortgaged Property or its operation.

(f) Borrower authorizes Lender to obtain a credit report on Borrower at any time.

15. **TAXES; OPERATING EXPENSES.**

(a) Subject to the provisions of Section 15(c) and Section 15(d), Borrower shall pay, or cause to be paid, all Taxes when due and before the imposition of any interest, fine, penalty or cost for nonpayment.

(b) Subject to the provisions of Section 15(c), Borrower shall pay (i) the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added, and (ii) insurance premiums at least 30 days prior to the expiration date of each policy of insurance, unless applicable law specifies some lesser period.

(c) If Lender is collecting Imposition Deposits, and to the extent that Lender holds sufficient Imposition Deposits for the purpose of paying a specific Imposition, then Borrower shall not be obligated to pay such Imposition, so long as no Event of Default exists and Borrower has timely delivered to Lender any bills or premium notices that it has received. If an Event of Default exists, Lender may exercise any rights Lender may have with respect to Imposition Deposits without regard to whether Impositions are then due and payable. Lender shall have no liability to Borrower for failing to pay any Impositions to the extent that any Event of Default has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), insufficient Imposition Deposits are held by Lender at the time an Imposition becomes due and payable or Borrower has failed to provide Lender with bills and premium notices as provided above.

(d) Borrower, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (i) Borrower notifies Lender of the commencement or expected commencement of such proceedings, (ii) the Mortgaged Property is not in danger of being sold or forfeited, (iii) Borrower deposits with Lender reserves sufficient to pay the contested Imposition, if requested by Lender, and (iv) Borrower furnishes whatever additional security is required in the proceedings or is requested by Lender, which may include the delivery to Lender of the reserves established by Borrower to pay the contested Imposition.

(e) Borrower shall promptly deliver to Lender copies of all notices of, and invoices for, Impositions, and if Borrower pays any Imposition directly, Borrower shall promptly furnish to Lender on or before the date this Instrument requires such Impositions to be paid, copies of receipts evidencing that such payments were made.

(f) All payments made by Borrower to Lender pursuant to this Instrument or any of the Loan Documents shall be free and clear of any and all tax liabilities whatsoever (other than United States federal income taxation payable by Lender) and, to the extent Lender is required to pay any such tax liabilities, Borrower shall reimburse Lender in respect of any such payment of taxes and, immediately upon request from Lender, shall deliver to Lender copies of receipts evidencing the payment of such taxes.

16. LIENS; ENCUMBRANCES. Borrower acknowledges that, to the extent provided in Section 21, the grant, creation or existence of any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance (a "Lien") on the Mortgaged Property (other than the lien of this Instrument and the Permitted Encumbrances) or on certain ownership interests in Borrower, whether voluntary, involuntary or by operation of law, and whether or not such Lien has priority over the lien of this Instrument, is a "Transfer" which constitutes an Event of Default and subjects Borrower to personal liability under the Note. Borrower shall maintain the lien created by this Instrument as a first mortgage lien upon the Mortgaged Property, subject to no other Liens or encumbrances other than Permitted Encumbrances.

17. PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.

(a) Borrower shall not commit waste or permit impairment or deterioration of the Mortgaged Property, other than ordinary wear and tear.

(b) Borrower shall not abandon the Mortgaged Property.

(c) Borrower shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair.

(d) Borrower shall keep the Mortgaged Property in good repair (normal wear and tear excepted), including the replacement of Personality and Fixtures with items of equal or better function and quality.

(e) Borrower shall provide for professional management of the Mortgaged Property by a residential rental property manager satisfactory to Lender at all times, under a contract approved by Lender, in writing, which contract must be terminable upon not more than thirty (30) days' notice without the necessity of establishing cause and without payment of a penalty or termination fee by Borrower or its successors. There shall be no change in the property manager or any contract for the management of the Mortgaged Property without Lender's prior written approval, not to be unreasonably withheld, conditioned or delayed. Lender shall have the right to require that Borrower and any new

property manager enter into an Assignment of Management Agreement on a form approved by Lender. If required by Lender (whether before or after an Event of Default), Borrower will cause any Affiliate of Borrower to whom fees are payable for the management of the Mortgaged Property to enter into an agreement with Lender, in a form approved by Lender, providing for subordination of those fees and such other provisions as Lender may require.

(f) Borrower shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Instrument. Borrower shall not (and shall not permit any tenant or other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property, including any removal, demolition or alteration occurring in connection with a rehabilitation of all or part of the Mortgaged Property, except (i) in connection with the replacement of tangible Personality and (ii) repairs and replacements in connection with making an individual unit ready for a new occupant.

(g) Unless otherwise waived by Lender in writing, Borrower must have or must establish and must adhere to the MMP. If Borrower is required to have an MMP, Borrower must keep all MMP documentation at the Mortgaged Property or at the management agent's office and available for Lender or its agents to review during any annual assessment or inspection of the Mortgaged Property that is required by Lender.

18. ENVIRONMENTAL HAZARDS.

(a) Except for matters described in Section 18(b), Borrower shall not cause or permit any of the following:

- (i) the presence, use, generation, release, treatment, processing, storage (including storage in above ground and underground storage tanks), handling, or disposal of any Hazardous Materials on or under the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties) or any other property of Borrower that is adjacent to the Mortgaged Property;
- (ii) the transportation of any Hazardous Materials to, from, or across the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties);
- (iii) any occurrence or condition on the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties) or any other property of Borrower that is adjacent to the Mortgaged Property, which occurrence or condition is or may be in violation of Hazardous Materials Laws;
- (iv) any violation of or noncompliance with the terms of any Environmental Permit with respect to the Mortgaged Property or any property of Borrower that is adjacent to the Mortgaged Property;

- (v) the imposition of any environmental lien against the Mortgaged Property; or
- (vi) any violation or noncompliance with the terms of any O&M Program.

The matters described in clauses (i) through (vi) above, except as otherwise provided in Section 18(b), are referred to collectively in this Section 18 as “**Prohibited Activities or Conditions**”.

(b) Prohibited Activities or Conditions shall not include lawful conditions permitted by an O&M Program or the safe and lawful use and storage of quantities of (i) pre-packaged supplies, cleaning materials, petroleum products, household products, paints, solvents, lubricants and other materials customarily used in the construction, renovation, operation, maintenance or use of comparable multifamily properties, (ii) cleaning materials, household products, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential dwelling units in the Mortgaged Property; and (iii) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Mortgaged Property’s parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Hazardous Materials Laws.

(c) Borrower shall take all commercially reasonable actions (including the inclusion of appropriate provisions in any Leases executed after the date of this Instrument) to prevent its employees, agents, and contractors, and all tenants and other occupants from causing or permitting any Prohibited Activities or Conditions. Borrower shall not lease or allow the sublease or use of all or any portion of the Mortgaged Property to any tenant or subtenant for nonresidential use by any user that, in the ordinary course of its business, would cause or permit any Prohibited Activity or Condition.

(d) If and as required by Lender, Borrower shall also establish a written operations and maintenance program with respect to certain Hazardous Materials. Each such operations and maintenance program and any additional or revised operations and maintenance programs established for the Mortgaged Property pursuant to this Instrument must be approved by Lender and shall be referred to herein as an “**O&M Program**.” Borrower shall comply in a timely manner with, and cause all employees, agents, and contractors of Borrower and any other persons present on the Mortgaged Property to comply with each O&M Program. Borrower shall pay all costs of performance of Borrower’s obligations under any O&M Program, and any Beneficiary Party’s out-of-pocket costs incurred by such Beneficiary Party in connection with the monitoring and review of each O&M Program and Borrower’s performance shall be paid by Borrower upon demand by such Beneficiary Party. Any such out-of-pocket costs of such Beneficiary Party which Borrower fails to pay promptly shall become an additional part of the Indebtedness as provided in Section 12.

(e) Without limitation of the foregoing, (i) Borrower hereby agrees to implement and maintain during the entire term of the Loan the O&M Program(s), and (ii) if

asbestos-containing materials are found to exist at the Mortgaged Property, the O&M Program with respect thereto shall be undertaken consistent with the Guidelines for Controlling Asbestos-Containing Materials in Buildings (USEPA, 1985) and other relevant guidelines and applicable Hazardous Materials Laws.

(f) With respect to any O&M Program, Lender may require (i) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify; (ii) amendments to such O&M Program to address changing circumstances, laws or other matters, including, without limitation, variations in response to reports provided by environmental consultants; and (iii) execution of an Operations and Maintenance Agreement relating to such O&M Program satisfactory to Lender.

(g) Borrower represents and warrants to Beneficiary Parties that, except as otherwise disclosed in the Environmental Reports (as defined in the Agreement of Environmental Indemnification):

- (i) Borrower has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions;
- (ii) to the best of Borrower's knowledge after reasonable and diligent inquiry, no Prohibited Activities or Conditions exist or have existed, and Borrower has provided Lender with copies of all reports and information acquired in such inquiries;
- (iii) the Mortgaged Property does not now contain any underground storage tanks and, to the best of Borrower's knowledge, the Mortgaged Property has not contained any underground storage tanks in the past. If there is an underground storage tank located on the Mortgaged Property that has been disclosed in the Environmental Reports, that tank complies with all requirements of Hazardous Materials Laws;
- (iv) Borrower has complied with and will continue to comply with all Hazardous Materials Laws, including all requirements for notification regarding releases of Hazardous Materials. Without limiting the generality of the foregoing, Borrower has obtained all Environmental Permits required for the operation of the Mortgaged Property in accordance with Hazardous Materials Laws now in effect and all such Environmental Permits are in full force and effect;
- (v) no event has occurred with respect to the Mortgaged Property that constitutes, or with the passing of time or the giving of notice would constitute, noncompliance with the terms of any Environmental Permit or Hazardous Materials Law;
- (vi) there are no actions, suits, claims or proceedings pending or, to the best of Borrower's knowledge after reasonable and diligent inquiry,

threatened that involve the Mortgaged Property and allege, arise out of, or relate to any Prohibited Activity or Condition;

- (vii) Borrower has not received any complaint, order, notice of violation or other communication from any Governmental Authority with regard to air emissions, water discharges, noise emissions or Hazardous Materials, or any other environmental, health or safety matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property;
- (viii) no prior Remedial Work (as defined below) has been undertaken, and no Remedial Work is ongoing, with respect to the Mortgaged Property during Borrower's ownership thereof or, to the best of Borrower's knowledge, at any time prior to Borrower's ownership thereof; and
- (ix) Borrower has disclosed in the Agreement of Environmental Indemnification all material facts known to Borrower or contained in Borrower's records the nondisclosure of which could cause any representation or warranty made herein or any statement made in the Agreement of Environmental Indemnification to be false or materially misleading.

The representations and warranties in this Section 18 shall be continuing representations and warranties that shall be deemed to be made by Borrower throughout the term of the Loan, until the Indebtedness has been paid in full or otherwise discharged.

(h) Borrower shall promptly notify Lender in writing upon the occurrence of any of the following events:

- (i) Borrower's discovery of any Prohibited Activity or Condition;
- (ii) Borrower's receipt of or knowledge of any complaint, order, notice of violation or other communication from any tenant, management agent, Governmental Authority or other person with regard to present or future alleged Prohibited Activities or Conditions or any other environmental, health or safety matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property;
- (iii) Borrower's receipt of or knowledge of any personal injury claim, proceeding or cause of action directly or indirectly arising as a result of the presence of asbestos or other Hazardous Materials on or from the Mortgaged Property;
- (iv) Borrower's discovery that any representation or warranty in this Section 18 has become untrue after the date of this Instrument; and

(v) Borrower's breach of any of its obligations under this Section 18.

Any such notice given by Borrower shall not relieve Borrower of, or result in a waiver of, any obligation under this Instrument, the Note, or any other Loan Document.

(i) Borrower shall pay promptly the costs of any environmental inspections, tests or audits ("**Environmental Inspections**") required by Lender or any Beneficiary Party in connection with any foreclosure or deed in lieu of foreclosure, or as a condition of Lender's consent to any Transfer under Section 21, or required by Lender following a determination by Lender that Prohibited Activities or Conditions may exist. Any such costs incurred by Lender (including, without limitation, actual fees and expenses of attorneys, expert witnesses, engineers, technical consultants and investigatory fees, whether incurred in connection with any judicial or administrative process or otherwise) that Borrower fails to pay promptly shall become an additional part of the Indebtedness as provided in Section 12. The results of all Environmental Inspections made by Lender shall at all times remain the property of Lender and Lender shall have no obligation to disclose or otherwise make available to Borrower or any other party such results or any other information obtained by Lender in connection with such Environmental Inspections. Lender hereby reserves the right, and Borrower hereby expressly authorizes Lender, to make available to any party, including any prospective bidder at a foreclosure sale of the Mortgaged Property, the results of any Environmental Inspections made by Lender with respect to the Mortgaged Property. Borrower consents to Lender notifying any party (either as part of a notice of sale or otherwise) of the results of any of Lender's Environmental Inspections. Borrower acknowledges that Lender cannot control or otherwise assure the truthfulness or accuracy of the results of any of its Environmental Inspections and that the release of such results to prospective bidders at a foreclosure sale of the Mortgaged Property may have a material and adverse effect upon the amount which a party may bid at such sale. Borrower agrees that Lender shall have no liability whatsoever as a result of delivering the results of any of its Environmental Inspections to any third party, and Borrower hereby releases and forever discharges Lender from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the results of, the delivery of any of Lender's Environmental Inspections.

(j) If any investigation, site monitoring, containment, clean-up, restoration or other remedial work ("**Remedial Work**") is necessary to comply with or cure a violation of any Hazardous Materials Law or order of any Governmental Authority that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property under any Hazardous Materials Law, or is otherwise required by Lender as a consequence of any Prohibited Activity or Condition or to prevent the occurrence of a Prohibited Activity or Condition, Borrower shall, by the earlier of (i) the applicable deadline required by such Hazardous Materials Law or (ii) thirty (30) days after notice from Lender demanding such action, begin performing the Remedial Work, and thereafter diligently prosecute it to completion, and shall in any event complete the work by the time required by such Hazardous Materials Law. Borrower shall promptly provide Lender with a cost estimate from an environmental consultant acceptable to Lender to complete any required Remedial Work. If required by Lender, Borrower shall promptly establish with Lender a reserve fund in the amount of such estimate. If in Lender's opinion

the amount reserved at any time during the Remedial Work is insufficient to cover the work remaining to complete the Remedial Work or achieve compliance, Borrower shall increase the amount reserved in compliance with Lender's written request. All amounts so held in reserve, until disbursed, are hereby pledged to Lender as security for payment of Borrower's obligations under this Instrument. If Borrower fails to begin on a timely basis or diligently prosecute any required Remedial Work, Lender may, at its option, cause the Remedial Work to be completed, in which case Borrower shall reimburse Lender on demand for the cost of doing so. Any reimbursement due from Borrower to Lender shall become part of the Indebtedness as provided in Section 12.

(k) Borrower shall comply with all Hazardous Materials Laws applicable to the Mortgaged Property. Without limiting the generality of the previous sentence, Borrower shall (i) obtain and maintain all Environmental Permits required by Hazardous Materials Laws and comply with all conditions of such Environmental Permits; (ii) cooperate with any inquiry by any Governmental Authority; and (iii) comply with any governmental or judicial order that arises from any alleged Prohibited Activity or Condition.

(l) BORROWER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND BENEFICIARY PARTIES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, EMPLOYEES, AGENTS, ATTORNEYS, TRUSTEES, HEIRS AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST ALL LOSSES, PROCEEDINGS, CLAIMS, DAMAGES, PENALTIES AND COSTS (WHETHER INITIATED OR SOUGHT BY GOVERNMENTAL AUTHORITIES OR PRIVATE PARTIES), INCLUDING, WITHOUT LIMITATION, ACTUAL FEES AND OUT-OF-POCKET EXPENSES OF ATTORNEYS AND EXPERT WITNESSES, ENGINEERING FEES, ENVIRONMENTAL CONSULTANT FEES, INVESTIGATORY FEES, AND REMEDIATION COSTS (INCLUDING, WITHOUT LIMITATION, ANY FINANCIAL ASSURANCES REQUIRED TO BE POSTED FOR COMPLETION OF REMEDIAL WORK AND COSTS ASSOCIATED WITH ADMINISTRATIVE OVERSIGHT), AND ANY OTHER LIABILITIES OF WHATEVER KIND AND WHATEVER NATURE, WHETHER INCURRED IN CONNECTION WITH ANY JUDICIAL OR ADMINISTRATIVE PROCESS OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY FROM ANY OF THE FOLLOWING:

- (i) ANY BREACH OF ANY REPRESENTATION OR WARRANTY OF BORROWER IN THIS SECTION 18;
- (ii) ANY FAILURE BY BORROWER TO PERFORM ANY OF ITS OBLIGATIONS UNDER THIS SECTION 18;
- (iii) THE EXISTENCE OR ALLEGED EXISTENCE OF ANY PROHIBITED ACTIVITY OR CONDITION;
- (iv) THE PRESENCE OR ALLEGED PRESENCE OF HAZARDOUS MATERIALS ON OR UNDER THE MORTGAGED PROPERTY (WHETHER AS A RESULT OF ACTIVITIES ON THE

MORTGAGED PROPERTY OR ON SURROUNDING PROPERTIES) OR IN ANY OF THE IMPROVEMENTS OR ON OR UNDER ANY PROPERTY OF BORROWER THAT IS ADJACENT TO THE MORTGAGED PROPERTY;

- (v) THE ACTUAL OR ALLEGED VIOLATION OF ANY HAZARDOUS MATERIALS LAW;
- (vi) ANY LOSS OR DAMAGE RESULTING FROM A LOSS OF PRIORITY OF THIS INSTRUMENT OR ANY OTHER LOAN DOCUMENT DUE TO AN IMPOSITION OF AN ENVIRONMENTAL LIEN AGAINST THE MORTGAGED PROPERTY; AND
- (vii) ANY PERSONAL INJURY CLAIM, PROCEEDING OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY ARISING AS A RESULT OF THE PRESENCE OF ASBESTOS OR OTHER HAZARDOUS MATERIALS ON OR FROM THE MORTGAGED PROPERTY.

(m) COUNSEL SELECTED BY BORROWER TO DEFEND INDEMNITEES SHALL BE SUBJECT TO THE APPROVAL OF THOSE INDEMNITEES. IN ANY CIRCUMSTANCES IN WHICH THE INDEMNITY UNDER THIS SECTION 18 APPLIES, ANY BENEFICIARY PARTY MAY EMPLOY ITS OWN LEGAL COUNSEL AND CONSULTANTS TO PROSECUTE, DEFEND OR NEGOTIATE ANY CLAIM OR LEGAL OR ADMINISTRATIVE PROCEEDING AT BORROWER'S EXPENSE, AND SUCH BENEFICIARY PARTY, WITH THE PRIOR WRITTEN CONSENT OF BORROWER (WHICH SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED) MAY SETTLE OR COMPROMISE ANY ACTION OR LEGAL OR ADMINISTRATIVE PROCEEDING. BORROWER SHALL REIMBURSE SUCH BENEFICIARY PARTY UPON DEMAND FOR ALL ACTUAL COSTS AND EXPENSES INCURRED BY SUCH BENEFICIARY PARTY, INCLUDING, WITHOUT LIMITATION, ALL COSTS OF SETTLEMENTS ENTERED INTO IN GOOD FAITH, AND THE ACTUAL FEES AND OUT OF POCKET EXPENSES OF SUCH ATTORNEYS AND CONSULTANTS.

(n) BORROWER SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THOSE INDEMNITEES WHO ARE NAMED AS PARTIES TO A CLAIM OR LEGAL OR ADMINISTRATIVE PROCEEDING (A "CLAIM"), SETTLE OR COMPROMISE THE CLAIM IF THE SETTLEMENT (1) RESULTS IN THE ENTRY OF ANY JUDGMENT THAT DOES NOT INCLUDE AS AN UNCONDITIONAL TERM THE DELIVERY BY THE CLAIMANT OR PLAINTIFF TO BENEFICIARY PARTIES OF A WRITTEN RELEASE OF THOSE INDEMNITEES, SATISFACTORY IN FORM AND SUBSTANCE TO LENDER; OR (2) MAY MATERIALLY AND ADVERSELY AFFECT BENEFICIARY PARTIES, AS DETERMINED BY LENDER IN ITS DISCRETION.

(o) BORROWER'S OBLIGATION TO INDEMNIFY THE INDEMNITEES SHALL NOT BE LIMITED OR IMPAIRED BY ANY OF THE FOLLOWING, OR BY ANY FAILURE OF BORROWER OR ANY GUARANTOR TO RECEIVE NOTICE OF OR CONSIDERATION FOR ANY OF THE FOLLOWING:

- (i) ANY AMENDMENT OR MODIFICATION OF ANY LOAN DOCUMENT;
- (ii) ANY EXTENSIONS OF TIME FOR PERFORMANCE REQUIRED BY ANY LOAN DOCUMENT;
- (iii) ANY PROVISION IN ANY LOAN DOCUMENT LIMITING BENEFICIARY PARTIES' RE COURSE TO PROPERTY SECURING THE INDEBTEDNESS, OR LIMITING THE PERSONAL LIABILITY OF BORROWER OR ANY OTHER PARTY FOR PAYMENT OF ALL OR ANY PART OF THE INDEBTEDNESS;
- (iv) THE ACCURACY OR INACCURACY OF ANY REPRESENTATIONS AND WARRANTIES MADE BY BORROWER UNDER THIS INSTRUMENT OR ANY OTHER LOAN DOCUMENT;
- (v) THE RELEASE OF BORROWER OR ANY OTHER PERSON, BY BENEFICIARY PARTIES OR BY OPERATION OF LAW, FROM PERFORMANCE OF ANY OBLIGATION UNDER ANY LOAN DOCUMENT;
- (vi) THE RELEASE OR SUBSTITUTION IN WHOLE OR IN PART OF ANY SECURITY FOR THE INDEBTEDNESS; AND
- (vii) FAILURE BY BENEFICIARY PARTIES TO PROPERLY PERFECT ANY LIEN OR SECURITY INTEREST GIVEN AS SECURITY FOR THE INDEBTEDNESS.

(p) BORROWER SHALL, AT ITS OWN COST AND EXPENSE, DO ALL OF THE FOLLOWING:

- (i) PAY OR SATISFY ANY JUDGMENT OR DECREE THAT MAY BE ENTERED AGAINST ANY INDEMNITEE OR INDEMNITEES IN ANY LEGAL OR ADMINISTRATIVE PROCEEDING INCIDENT TO ANY MATTERS AGAINST WHICH INDEMNITEES ARE ENTITLED TO BE INDEMNIFIED UNDER THIS SECTION 18;
- (ii) REIMBURSE INDEMNITEES FOR ANY AND ALL ACTUAL EXPENSES PAID OR INCURRED IN CONNECTION WITH ANY MATTERS AGAINST WHICH INDEMNITEES ARE

ENTITLED TO BE INDEMNIFIED UNDER THIS SECTION 18;
AND

(iii) REIMBURSE INDEMNITEES FOR ANY AND ALL ACTUAL EXPENSES, INCLUDING, WITHOUT LIMITATION, ACTUAL FEES AND OUT OF POCKET EXPENSES OF ATTORNEYS AND EXPERT WITNESSES, PAID OR INCURRED IN CONNECTION WITH THE ENFORCEMENT BY INDEMNITEES OF THEIR RIGHTS UNDER THIS SECTION 18, OR IN MONITORING AND PARTICIPATING IN ANY LEGAL OR ADMINISTRATIVE PROCEEDING.

(q) THE PROVISIONS OF THIS SECTION 18 SHALL BE IN ADDITION TO ANY AND ALL OTHER OBLIGATIONS AND LIABILITIES THAT BORROWER MAY HAVE UNDER APPLICABLE LAW OR UNDER ANY OTHER LOAN DOCUMENT, AND EACH INDEMNITEE SHALL BE ENTITLED TO INDEMNIFICATION UNDER THIS SECTION 18 WITHOUT REGARD TO WHETHER ANY OTHER BENEFICIARY PARTY OR THAT INDEMNITEE HAS EXERCISED ANY RIGHTS AGAINST THE MORTGAGED PROPERTY OR ANY OTHER SECURITY, PURSUED ANY RIGHTS AGAINST ANY GUARANTOR, OR PURSUED ANY OTHER RIGHTS AVAILABLE UNDER THE LOAN DOCUMENTS OR APPLICABLE LAW. IF BORROWER CONSISTS OF MORE THAN ONE PERSON OR ENTITY, THE OBLIGATION OF THOSE PERSONS OR ENTITIES TO INDEMNIFY THE INDEMNITEES UNDER THIS SECTION 18 SHALL BE JOINT AND SEVERAL. THE OBLIGATION OF BORROWER TO INDEMNIFY THE INDEMNITEES UNDER THIS SECTION 18 SHALL SURVIVE THE RESIGNATION OR REMOVAL OF THE FISCAL AGENT, ANY REPAYMENT OR DISCHARGE OF THE INDEBTEDNESS, ANY FORECLOSURE PROCEEDING, ANY FORECLOSURE SALE, ANY DELIVERY OF ANY DEED IN LIEU OF FORECLOSURE, AND ANY RELEASE OF RECORD OF THE LIEN OF THIS INSTRUMENT.

(r) Notwithstanding anything herein to the contrary, (i) Borrower shall have no obligation hereunder to indemnify any Indemnitee for any liability under this Section 18 to the extent that the Prohibited Activity or Condition giving rise to such liability resulted solely from the gross negligence or willful misconduct of such Indemnitee, and (ii) Borrower's liability under this Section 18 shall not extend to cover the violation of any Hazardous Materials Laws or Prohibited Activities or Conditions that first arise, commence or occur as a result of actions of Lender, its successors, assigns or designees, after the satisfaction, discharge, release, assignment, termination or cancellation of this Instrument following the payment in full of the Note and all other sums payable under the Loan Documents or after the actual dispossession from the entire Mortgaged Property of Borrower and all Affiliates of Borrower following foreclosure of this Instrument or acquisition of the Mortgaged Property by a deed in lieu of foreclosure. THE FOREGOING INDEMNIFICATIONS SHALL APPLY WHETHER OR NOT THE CLAIMS FOR INDEMNIFICATION ARISE OUT OF (A) NEGLIGENCE (INCLUDING SOLE NEGLIGENCE, SINGLE NEGLIGENCE, CONCURRENT NEGLIGENCE, ACTIVE OR PASSIVE NEGLIGENCE OF AN INDEMNITEE, OR (B) STRICT LIABILITY.

19. PROPERTY AND LIABILITY INSURANCE.

(a) Borrower shall keep the Improvements insured at all times against such hazards as Lender may from time to time require, which insurance shall include but not be limited to coverage against loss by fire and allied perils, general boiler and machinery coverage, business income coverage and extra expense insurance, coverage against acts of terrorism, mold and earthquake coverage. Borrower acknowledges and agrees that Lender's insurance requirements may change from time to time throughout the term of the Indebtedness. If Lender so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Mortgaged Property does not conform to applicable zoning or land use laws, building ordinance or law coverage. If any portion of the Improvements is at any time located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area now or hereafter having special flood hazards, and if flood insurance is available in that area, Borrower shall insure such Improvements against loss by flood in an amount equal to the maximum amount available under the National Flood Insurance Program or any successor thereto.

(b) All premiums on insurance policies required under Section 19(a) shall be paid in the manner provided in Section 7, unless Lender has designated in writing another method of payment. All such policies shall also be in a form approved by Lender. All policies of property damage insurance shall include a non-contributing, non-reporting mortgage clause in favor of, and in a form approved by, Lender. Lender shall have the right to hold the original policies or duplicate original policies of all insurance required by Section 19(a). Borrower shall promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums. At least 30 days prior to the expiration date of a policy, Borrower shall deliver to Lender the original (or a duplicate original) of a renewal policy in form satisfactory to Lender.

(c) All insurance policies and renewals of insurance policies required by this Section 19 shall be in such amounts and for such periods as Lender may from time to time require consistent with Lender's then current practices and standards, and shall be issued by insurance companies satisfactory to Lender.

(d) At all times prior to occupancy of the Project by any tenants following the completion of the construction and/or rehabilitation of the Project in accordance with the Loan Agreement and the Construction Funding Agreement, the following provisions shall apply, in addition to the other provisions of this Section 19 and without limiting the generality of the other provisions of this Section 19:

(i) Borrower shall provide (or cause to be provided), maintain and keep in force, the following insurance coverage:

(A) Builder's "all risk" insurance or the equivalent coverage, including theft, to insure all buildings, machinery, equipment, materials, supplies, temporary structures and all

other property of any nature on-site, off-site and while in transit which is to be used in fabrication, erection, installation and construction and/or rehabilitation of the Project, and to remain in effect until the entire Project has been completed and accepted by Borrower and is first occupied by any tenants (provided that in any event, such coverage shall remain in effect until such time as Borrower has provided Lender with evidence of property insurance covering the Improvements and meeting the requirements of this Section 19). Such insurance shall be provided on a replacement cost value basis and shall include foundations, other underground property, tenant improvements and personal property. If tenant improvements and personal property are not included in the above coverage, they may be insured separately by Borrower provided coverage is acceptable to Lender. Builders "all risk" insurance shall (i) be on a nonreporting, completed value form, (ii) cover soft costs, debris removal expense (including removal of pollutants), resulting loss and damage to property due to faulty or defective workmanship or materials and error in design or specification, loss while the property is in the care, custody and control of others to whom the property may be entrusted, (iii) provide that Borrower can complete and occupy the Mortgaged Property without further written consent from the insurer, and (iv) cover loss of income resulting from delay in occupancy and use of the Mortgaged Property due to loss. During the initial construction and/or rehabilitation of the Project and until such time as the Project is first occupied by any tenants, the Borrower shall not be required to maintain property insurance as required by this Section 19 for so long as Builder's "all risk" insurance or equivalent coverage is maintained in accordance with this paragraph.

(B) If any portion of the Mortgaged Property is or becomes located in an area identified by the United States Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, as amended, Borrower shall also keep the improvements and the equipment located thereon insured against loss by flood in an amount at least equal to the principal amount of the Loan or the maximum limits of coverage available with respect to the Mortgaged Property, whichever is less. All such insurance shall also cover continuing expenses not directly involved in the direct cost of construction,

rehabilitation or renovation, including interest on money borrowed to finance construction, rehabilitation or renovation, continuing interest on the Loan, advertising, promotion, real estate taxes and other assessments, the cost of renegotiating leases, and other expenses incurred as the result of property loss or destruction by the insured peril. Such coverage shall not contain any monthly limitation.

(ii) If Lender fails to receive proof and evidence of the insurance required hereunder, Lender shall have the right, but not the obligation, to obtain or cause to be obtained current coverage and to make a Disbursement, as defined in the Loan Agreement (or, in its sole discretion, advance funds) to pay the premiums for it. If Lender makes an advance for such purpose, Borrower shall repay such advance immediately on demand and such advance shall be considered to be a demand loan to Borrower bearing interest at the Default Rate (as defined in the Note) and secured by the Mortgaged Property.

(e) Borrower shall maintain at all times commercial general liability insurance, workers' compensation insurance and such other liability, errors and omissions and fidelity insurance coverages as Lender may from time to time require, consistent with Lender's then current practices and standards.

(f) Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Mortgaged Property that would invalidate any part of any insurance coverage that this Instrument requires Borrower to maintain.

(g) In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and appoints Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Lender's expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 19 shall require Lender to incur any expense or take any action. Lender may, at Lender's option, (i) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Lender (the "**Restoration**"), or (ii) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Lender determines to apply insurance proceeds to Restoration, Lender shall apply the proceeds in accordance with Lender's then-current policies relating to the restoration of casualty damage on similar multifamily properties.

(h) Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (i) no Event of

Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period); (ii) Lender determines, in its discretion, that there will be sufficient funds to complete the Restoration (and complete construction of the Project in accordance with the Loan Agreement and the Plans and Specifications, as defined therein, if such construction has not been completed at such time); (iii) Lender determines, in its discretion, that the net operating income generated by the Mortgaged Property after completion of the Restoration will be sufficient to meet all operating costs and other expenses, Imposition Deposits, deposits to reserves and loan repayment obligations relating to the Mortgaged Property; (iv) Lender determines, in its discretion, that the Restoration will be completed before the earlier of (A) one year before any mandatory prepayment date set forth in the Note, (B) one year before the Outside Maturity Date, as defined in the Note, or (C) one year after the date of the loss or casualty; and (v) upon Lender's request, Borrower provides Lender evidence of the availability during and after the Restoration of the insurance required to be maintained pursuant to this Instrument.

(i) If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

(j) Unless Lender otherwise agrees in writing, any application of any insurance proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Note, Section 7 of this Instrument or any Collateral Agreement, or change the amount of such installments, except as provided in the Note.

(k) Borrower agrees to execute such further evidence of assignment of any insurance proceeds as Lender may require.

(l) Borrower further agrees that to the extent that Borrower obtains any form of property damage insurance for the Mortgaged Property or any portion thereof that insures perils not required to be insured against by Lender, such policy of property damage insurance shall include a standard mortgagee clause and shall name Lender as loss payee and, within ten (10) days following Borrower's purchase of such additional insurance, Borrower shall cause to be delivered to Lender a duplicate original policy of insurance with respect to such policy. Any insurance proceeds payable to Borrower under such policy shall be additional security for the Indebtedness and Lender shall have the same rights to such policy and proceeds as it has with respect to insurance policies required by Lender pursuant to this Section 19 (except that Lender shall not require that the premium for such additional insurance be included among the Imposition Deposits).

20. CONDEMNATION.

(a) Borrower shall promptly notify Lender in writing of any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a “**Condemnation**”), and shall deliver to the Lender copies of any and all papers served in connection with such Condemnation. Borrower shall appear in and prosecute or defend any action or proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower authorizes and appoints Lender as attorney-in-fact for Borrower to commence, appear in and prosecute, in Lender’s or Borrower’s name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 20 shall require Lender to incur any expense or take any action. Borrower hereby transfers and assigns to Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender may apply such awards or proceeds, after the deduction of Lender’s expenses incurred in the collection of such amounts (including, without limitation, fees and out-of-pocket expenses of attorneys and expert witnesses, investigatory fees, whether incurred in connection with any judicial or administrative process or otherwise), at Lender’s option, to the restoration or repair of the Mortgaged Property or to the payment of the Indebtedness in accordance with the provisions of the Note as to application of payments to the Indebtedness, with the balance, if any, to Borrower. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of payments due under the Note, Section 7 of this Instrument or any Collateral Agreement or any other Loan Document, or change the amount of such payments, except as otherwise provided in the Note. Borrower agrees to execute such further evidence of assignment of any awards or proceeds as Lender may require.

21. TRANSFERS OF THE MORTGAGED PROPERTY OR INTERESTS IN BORROWER.

(a) The occurrence of any of the following events shall constitute an Event of Default under this Instrument:

- (i) other than the lien of this Instrument and the Permitted Encumbrances, a Transfer of all or any part of the Mortgaged Property or any interest in the Mortgaged Property;
- (ii) a Transfer of a Controlling Interest in Borrower;

- (iii) a Transfer of a Controlling Interest in any entity which owns, directly or indirectly through one or more intermediate entities, a Controlling Interest in Borrower;
- (iv) a Transfer of all or any part of a Guarantor's ownership interests in Borrower, or in any other entity which owns, directly or indirectly through one or more intermediate entities, an ownership interest in Borrower (other than a Transfer of an aggregate beneficial ownership interest in Borrower of 49% or less of such Guarantor's original ownership interest in Borrower and which does not otherwise result in a Transfer of the Guarantor's Controlling Interest in such intermediate entities or in Borrower);
- (v) if Guarantor is an entity, (A) a Transfer of a Controlling Interest in Guarantor, or (B) a Transfer of a Controlling Interest in any entity which owns, directly or indirectly through one or more intermediate entities, a Controlling Interest in Guarantor;
- (vi) if Borrower or Guarantor is a trust, the termination or revocation of such trust; unless the trust is terminated as a result of the death of an individual trustor, in which event Lender must be notified and such Borrower or Guarantor must be replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged);
- (vii) if Guarantor is a natural person, the death of such individual; unless the Lender is notified and such individual is replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged);
- (viii) the merger, dissolution, liquidation, or consolidation of
 - (i) Borrower, (ii) any Guarantor that is a legal entity, or (iii) any legal entity holding, directly or indirectly, a Controlling Interest in Borrower or in any Guarantor that is an entity;
- (ix) a conversion of Borrower from one type of legal entity into another type of legal entity (including the conversion of a general partnership into a limited partnership and the conversion of a limited partnership into a limited liability company), whether or not there is a Transfer; if such conversion results in a change in any assets, liabilities, legal rights or obligations of Borrower (or of any Guarantor, or any general partner of Borrower, as applicable), by operation of law or otherwise;

- (x) a Transfer of the economic benefits or right to cash flows attributable to the ownership interests in Borrower and/or, if Guarantor is an entity, Guarantor, separate from the Transfer of the underlying ownership interests, unless the Transfer of the underlying ownership interests would otherwise not be prohibited by this Instrument; and
- (xi) the filing, recording, or consent to filing or recording of any plat or map subdividing, replatting or otherwise affecting the Mortgaged Property or any other replat or subdivision of the Mortgaged Property, whether or not any such action affects the priority of the lien of this Instrument.

Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default in order to exercise any of its remedies with respect to an Event of Default under this Section 21.

(b) The occurrence of any of the following events shall not constitute an Event of Default under this Instrument, notwithstanding any provision of Section 21(a) to the contrary (each a “**Permitted Transfer**”):

- (i) a Transfer to which Lender has consented;
- (ii) except as provided in Section 21(a)(vi) and (vii), a Transfer that occurs by devise, descent, pursuant to the provisions of a trust, or by operation of law upon the death of a natural person;
- (iii) the grant of a leasehold interest in an individual dwelling unit for a term of two years or less not containing an option to purchase;
- (iv) a Transfer of obsolete or worn out Personality or Fixtures that are contemporaneously replaced by items of equal or better function and quality, which are free of liens, encumbrances and security interests other than those created by or permitted pursuant to the Loan Documents or consented to by Lender;
- (v) the grant of an easement, servitude, or restrictive covenant if, before the grant, Lender determines that the easement, servitude, or restrictive covenant will not materially affect the operation or value of the Mortgaged Property or Lender’s interest in the Mortgaged Property, and Borrower pays to Lender, upon demand, all costs and expenses incurred by Lender in connection with reviewing Borrower’s request; provided, however, utility easements of a type usually permitted or required to operate a multifamily project in the Property Jurisdiction (such as, by way of example, gas, sewer and electricity supplier easements and easements to provide cable service) shall be deemed to be Permitted Transfers without the need for Lender’s prior review or determination so long as (A) such

easement does not obligate Borrower to incur any additional costs, (B) such easement does not grant the grantee of the easement the option to acquire any other estate in the Mortgaged Property, and (C) Lender is not obligated to subordinate the lien of this Instrument to the proposed easement;

- (vi) the creation of a mechanic's, materialman's, or judgment lien against the Mortgaged Property which is released of record or otherwise remedied, or bonded to Lender's satisfaction within 45 days after Borrower has actual or constructive notice of the existence of such lien; and
- (vii) the conveyance of the Mortgaged Property at a judicial or non-judicial foreclosure sale under this Instrument.

(c) Lender shall consent to a Transfer that would otherwise violate this Section 21 if, prior to the Transfer, Borrower has satisfied each of the following requirements:

- (i) the submission to Lender of all information required by Lender to make the determination required by this Section 21(c);
- (ii) the absence of any Event of Default;
- (iii) the transferee meets all of the eligibility, credit, management and other standards (including any standards with respect to previous relationships between Lender and the transferee and the organization of the transferee) customarily applied by Lender at the time of the proposed Transfer to the approval of borrowers in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Lender in exchange for such additional conditions as Lender may require;
- (iv) the Mortgaged Property, at the time of the proposed Transfer, meets all standards as to its physical condition that are customarily applied by Lender at the time of the proposed Transfer to the approval of properties in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Lender in exchange for such additional conditions as Lender may require;
- (v) if the transferor or any other person has obligations under any Loan Document, the execution by the transferee or one or more individuals or entities acceptable to Lender of an assumption agreement that is acceptable to Lender and that, among other things, requires the transferee to perform all obligations of transferor or such person set forth in the Loan Documents, and may require that

the transferee comply with any provisions of this Instrument or any other Loan Document which previously may have been waived by Lender;

- (vi) if a guaranty has been executed and delivered by the transferor in connection with the Note, this Instrument or any of the other Loan Documents, Borrower causes one or more individuals or entities acceptable to Lender to execute and deliver to Lender a substitute guaranty in a form acceptable to Lender;
- (vii) Lender's receipt of all of the following:
 - (A) a non-refundable review fee in the amount of \$3,000, and a transfer fee equal to one percent (1%) of the outstanding Indebtedness immediately prior to the Transfer; and
 - (B) Borrower's reimbursement of all of Lender's out-of-pocket costs (including, actual attorneys' fees) incurred in reviewing the Transfer request, to the extent such expenses exceed \$3,000;
- (viii) Borrower has agreed to Lender's conditions to approve such Transfer, which may include, but are not limited to (A) providing additional collateral, guaranties, or other credit support to mitigate any risks concerning the proposed transferee or the performance or condition of the Mortgaged Property, and (B) amending the Loan Documents to (1) delete any specially negotiated terms or provisions previously granted for the exclusive benefit of transferor and (2) restore to original provisions of the standard Lender forms of multifamily loan documents, to the extent such provisions were previously modified; and
- (ix) Lender's receipt of evidence of consent to the Transfer, to the extent required pursuant to the terms of the Regulatory Agreement.

(d) For purposes of this Section, the following terms shall have the meanings set forth below:

- (i) A Transfer of a "**Controlling Interest**" shall mean:
 - (A) with respect to any entity, the following:
 - (1) if such entity is a general partnership or a joint venture, a Transfer of any general partnership interest or joint venture interest which would cause the Initial Owners to own less than a Controlling Percentage of all general partnership or joint venture interests in such entity;

(2) if such entity is a limited partnership, (A) a Transfer of any general partnership interest, or (B) a Transfer of any partnership interests which would cause the Initial Owners to own less than a Controlling Percentage of all limited partnership interests in such entity;

(3) if such entity is a limited liability company or a limited liability partnership, (A) a Transfer of any membership or other ownership interest which would cause the Initial Owners to own less than a Controlling Percentage of all membership or other ownership interests in such entity, (B) a Transfer of any membership, or other interest of a manager, in such entity that results in a change of manager, or (C) a change of the non-member manager;

(4) if such entity is a corporation (other than a Publicly-Held Corporation) with only one class of voting stock, a Transfer of any voting stock which would cause the Initial Owners to own less than a Controlling Percentage of voting stock in such corporation;

(5) if such entity is a corporation (other than a Publicly-Held Corporation) with more than one class of voting stock, a Transfer of any voting stock which would cause the Initial Owners to own less than a sufficient number of shares of voting stock having the power to elect the majority of directors of such corporation; and

(6) if such entity is a trust (other than a Publicly-Held Trust), the removal, appointment or substitution of a trustee of such trust other than (A) in the case of a land trust, or (B) if the trustee of such trust after such removal, appointment, or substitution is a trustee identified in the trust agreement approved by Lender; and/or

(B) any agreement (including provisions contained in the organizational and/or governing documents of Borrower or Guarantor) or Transfer not specified in clause (A), the effect of which, either immediately or after the passage of time or occurrence of a specified event or condition, including the failure of a specified event or condition to occur or be satisfied, would (i) cause a change in or replacement of the Person that controls the management and operations of the Borrower or Guarantor or (ii) limit or otherwise modify the extent of such Person's control over the management and operations of Borrower or Guarantor.

(ii) **“Controlling Percentage”** shall mean (i) greater than 50% of the ownership interests in an entity, or (ii) a percentage ownership interest in an entity of 50% or less if the owner(s) of that interest

actually direct(s) the business and affairs of the entity without requirement of consent of any other party.

(iii) **“Publicly-Held Corporation”** shall mean a corporation the outstanding voting stock of which is registered under Section 12(b) or 12(g) of the Securities and Exchange Act of 1934, as amended.

(iv) **“Publicly-Held Trust”** shall mean a real estate investment trust the outstanding voting shares or beneficial interests of which are registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended.

(e) Lender shall be provided with written notice of all Transfers under this Section 21, whether or not such Transfers are permitted under Section 21(b) or approved by Lender under Section 21(c), no later than 10 days prior to the date of the Transfer.

22. EVENTS OF DEFAULT. The occurrence of any one or more of the following shall constitute an Event of Default under this Instrument:

(a) (i) any failure by Borrower to pay or deposit any payment of principal, interest, principal reserve fund deposit, any payment with a specified due date, or any other scheduled payment or deposit required by the Note, this Instrument or any other Loan Document when such payment or deposit is due or (ii) any failure by Borrower to pay or deposit any unscheduled payment or deposit, or other payment or deposit without a specified due date, required by the Note, this Instrument or any other Loan Document, within five (5) days after written notice from Lender;

(b) any failure by Borrower to maintain the insurance coverage required by Section 19;

(c) any failure by Borrower to comply with the provisions of Section 32;

(d) fraud or material misrepresentation or material omission by Borrower or Guarantor, any of their respective officers, directors, trustees, general partners, managing members, managers, agents or representatives in connection with (i) the application for the Loan, (ii) any financial statement, rent roll, or other report or information provided to Lender during the term of the Indebtedness, or (iii) any request for Lender’s consent to any proposed action, including a request for disbursement of funds under any Collateral Agreement;

(e) any of Borrower’s representations and warranties in this Instrument is false or misleading in any material respect;

(f) any Event of Default under Section 21;

(g) the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender’s judgment, could result in a forfeiture of the Mortgaged

Property or otherwise materially impair the lien created by this Instrument or Lender's interest in the Mortgaged Property;

(h) any failure by Borrower to perform or comply with any of its obligations under this Instrument (other than those specified in this Section 22), as and when required, which continues for a period of thirty (30) days after written notice of such failure by Lender to Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period, not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in Lender's judgment, absent immediate exercise by Lender of a right or remedy under this Instrument, result in harm to Lender, impairment of the Note or this Instrument or any other security given under any other Loan Document;

(i) any failure by Borrower or any Guarantor to perform any of its obligations as and when required under any Loan Document other than this Instrument which continues beyond the applicable notice and cure period, if any, specified in that Loan Document;

(j) any exercise by the holder of any debt instrument secured by a mortgage, deed of trust or deed to secure debt on the Mortgaged Property of a right to declare all amounts due under that debt instrument immediately due and payable;

(k) the occurrence of a Bankruptcy Event;

(l) any Event of Default (as defined in any of the Loan Documents), which continues beyond the expiration of any applicable cure period;

(m) any breach of, or event of default by Borrower under, any other document or agreement relating to the Loan or the provision of low income housing tax credits to the Mortgaged Property to which Borrower is a party, which continues beyond the expiration of any applicable notice and cure period thereunder;

(n) any failure by Borrower or the Project to qualify for low income housing tax credits pursuant to the provisions of Section 42 of the Internal Revenue Code;

(o) any failure by the Borrower to satisfy the Conditions to Conversion (as defined in the Construction Funding Agreement) on or before the Outside Conversion Date (as such date may be extended in accordance with the Construction Funding Agreement);

(p) any amendment, modification, waiver or termination of any of the provisions of Borrower's Organizational Documents without the prior written consent of Lender, other than (i) modifications necessary to reflect the occurrence of a Permitted Transfer or (ii) modifications that do not: (A) impose any additional or greater obligations on Borrower or any of the partners, managers or members of Borrower, (B) reduce or relieve Borrower or any of the partners, managers or members of Borrower of any of their

obligations, (C) modify the timing, amounts, number, conditions or other terms of the installments or other payment obligations of the partners or members of Borrower or (D) impair the collateral for the Loan; provided, however, that Borrower shall promptly provide to Lender a copy of any modifications to Borrower's Organizational Documents that do not require Lender's consent;

(q) (i) any breach of any Material Property Agreement by Borrower or its officers, directors, employees, agents or tenants that continues beyond any applicable notice and cure period; (ii) any failure by Borrower or its officers, directors, employees or agents or any other party to deliver concurrently (in case of notices given) or promptly (in case of notices received) copies of any and all notices received or given thereby to Lender with respect to any Material Property Agreement; or (iii) any breach of the representations, warranties, or covenants set forth in Section 6.1.15 of the Construction Funding Agreement;

(r) if Borrower or any Guarantor is a trust, the termination or revocation of any such trust; unless the trust is terminated as a result of the death of an individual trustor, in which event Lender must be notified and such Borrower or Guarantor must be replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged); or

(s) if any Guarantor is a natural person, the death of such individual; unless the Lender is notified and such individual is replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged).

23. REMEDIES CUMULATIVE. Each right and remedy provided in this Instrument is distinct from all other rights or remedies under this Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

24. FORBEARANCE.

(a) Lender may (but shall not be obligated to) agree with Borrower, from time to time, and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of, any guarantor or other third party obligor, to take any of the following actions: extend the time for payment of all or any part of the Indebtedness; reduce the payments due under this Instrument, the Note, or any other Loan Document; release anyone liable for the payment of any amounts under this Instrument, the Note, or any other Loan Document; accept a renewal of the Note; modify the terms and time of payment of the Indebtedness; join in any extension or subordination agreement; release any Mortgaged Property; take or release other or additional security; modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note; and otherwise modify this Instrument, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy, or the subsequent exercise of any right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender's receipt of any awards or proceeds under Sections 19 and 20 shall not operate to cure or waive any Event of Default.

25. WAIVER OF STATUTE OF LIMITATIONS. BORROWER HEREBY WAIVES THE RIGHT TO ASSERT ANY STATUTE OF LIMITATIONS AS A BAR TO THE ENFORCEMENT OF THE LIEN OF THIS INSTRUMENT OR TO ANY ACTION BROUGHT TO ENFORCE ANY LOAN DOCUMENT.

26. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Instrument, the Note, any other Loan Document or applicable law. Lender shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies. Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Instrument.

27. FURTHER ASSURANCES. Borrower shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Instrument and the Loan Documents. In furtherance thereof, on the request of Lender, Borrower shall re-execute or ratify any of the Loan Documents or execute any other documents or take such other actions as may be necessary to effect the assignment, pledge or other transfer of the Loan to any party that may purchase, insure, credit enhance or otherwise finance all or any part of the Loan, including, without limitation, any Credit Enhancer (including Freddie Mac or Fannie Mae), the U.S. Department of Housing and Urban Development, or any insurance company, conduit lender or any other lender or investor. Notwithstanding the foregoing sentence, in no event shall Borrower be required to execute and deliver any document or perform any act otherwise required pursuant to the foregoing sentence to the extent such document or act imposes a material additional obligation or liability on Borrower or materially adversely affects the rights of Borrower under any Loan Document.

28. ESTOPPEL CERTIFICATE. Within 10 days after a request from Lender, Borrower shall deliver to Lender a written statement, signed and acknowledged by Borrower, certifying to Lender or any person designated by Lender, as of the date of such statement, (i) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (ii) the unpaid principal balance of the Note; (iii) the date to which interest under the Note has been paid; (iv) that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Instrument or any of the other Loan Documents (or, if Borrower is in default, describing such default in reasonable detail); (v) whether or not there are then existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents; and (vi) any additional facts requested by Lender.

29. GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.

(a) This Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the Property Jurisdiction.

(b) Borrower agrees that any controversy arising under or in relation to the Note, this Instrument, or any other Loan Document may be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have jurisdiction over all controversies that shall arise under or in relation to the Note, any security for the Indebtedness, or any other Loan Document. Borrower 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 in this Section 29 is intended to limit Lender's right to bring any suit, action or proceeding relating to matters arising under this Instrument in any court of any other jurisdiction.

30. NOTICE.

(a) All notices, demands and other communications ("notice") under or concerning this Instrument shall be in writing and addressed as set forth below. Each notice shall be deemed given on the earliest to occur of (i) the date when the notice is received by the addressee; (ii) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (iii) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

If to Borrower:	SDC Corinth III, LP 3030 LBJ Freeway, Suite 1350 Dallas, Texas 75234 Attention: Jay O. Oji Email: jay@sdcus.com
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With a copy to:

Shackelford, Bowen, McKinley & Norton, LLP
9201 N. Central Expressway, Fourth Floor
Dallas, Texas 75231
Attention: John C. Shackelford, Esq.
Facsimile: (214) 780-1401

If to Lender:

Stellar Bank
If By US Mail:
PO Box 41314
Houston, Texas 77241-1314
Attention: Stephen W. Rose
If by Hand or Overnight Delivery:
9 Greenway Plaza, Suite 110
Houston, Texas 77046
Attention: Stephen W. Rose

With a copy to Servicer:

Citibank, N.A.
388 Greenwich Street, Trading 4th Floor
New York, New York 10013
Attention: Transaction Management Group
Re: Fiji Lofts Deal ID No. 60001032
Facsimile: (212) 723-8209

With a copy to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: Fiji Lofts Deal ID No. 60001032
Facsimile: (805) 557-0924

With a copy to:

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
Attention: Director of Multifamily Bonds
Facsimile: (512) 475-0764

with a copy to:

Citibank, N.A.
388 Greenwich Street, Trading 4th Floor
New York, New York 10013
Attention: Account Specialist
Re: Fiji Lofts Deal ID No. 60001032
Facsimile: (212) 723-8209

And a copy of any notices of default sent to: Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Re: Fiji Lofts Deal ID No. 60001032
Facsimile: (646) 291-5754

(b) Any notice party identified above may change the address to which notices intended for it are to be directed by means of notice given to the other notice parties in accordance with this Section 30. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 30, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 30 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

(c) Any notice under the Note and any other Loan Document that does not specify how notices are to be given shall be given in accordance with this Section 30.

31. **CHANGE IN SERVICER.** If there is a change of the Servicer, Borrower will be given notice of the change.

32. **SINGLE ASSET BORROWER.** Until the Indebtedness is paid in full, Borrower (a) shall not acquire any real or personal property other than the Mortgaged Property and personal property related to the operation and maintenance of the Mortgaged Property; (b) shall not operate any business other than the management and operation of the Mortgaged Property; and (c) shall not maintain its assets in a way difficult to segregate and identify.

33. **SUCCESSORS AND ASSIGNS BOUND.** This Instrument shall bind, and the rights granted by this Instrument shall inure to, the successors and assigns of Lender and the permitted successors and assigns of Borrower.

34. **JOINT AND SEVERAL LIABILITY.** If more than one person or entity signs this Instrument as Borrower, the obligations of such persons and entities shall be joint and several.

35. **RELATIONSHIP OF PARTIES; NO THIRD PARTY BENEFICIARY.**

(a) The relationship between Lender and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Instrument shall create any other relationship between Lender and Borrower.

(b) No creditor of any party to this Instrument and no other person (other than a holder of the Note and Servicer) shall be a third party beneficiary of this Instrument or any other Loan Document. Without limiting the generality of the preceding sentence, (i) any arrangement (a "Servicing Arrangement") between Lender and any Servicer for loss sharing or interim advancement of funds shall constitute a contractual obligation of such Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower shall not be a third party beneficiary of any Servicing

Arrangement, and (iii) no payment by Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

36. SEVERABILITY; AMENDMENTS. The invalidity or unenforceability of any provision of this Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Instrument. This Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought; provided, however, that in the event of a Transfer, any or some or all of the Modifications to Instrument set forth in Exhibit B (if any) may be modified or rendered void by Lender at Lender's option by notice to Borrower or such transferee.

37. CONSTRUCTION. The captions and headings of the sections of this Instrument are for convenience only and shall be disregarded in construing this Instrument. Any reference in this Instrument to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Instrument or to a Section of this Instrument. All Exhibits attached to or referred to in this Instrument are incorporated by reference into this Instrument. Any reference in this Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Instrument includes the plural and use of the plural includes the singular. As used in this Instrument, the term "including" means "including, but not limited to."

38. SERVICER.

(a) Borrower further acknowledges that Lender may from time to time and in accordance with the terms of the Loan Agreement, appoint a Servicer or a replacement servicer to collect payments, escrows and deposits, to give and receive notices under the Note, this Instrument, or the other Loan Documents, and to otherwise service the Loan. Borrower hereby acknowledges and agrees that, unless Borrower receives written notice from Lender to the contrary, any action or right which shall or may be taken or exercised by Lender may be taken or exercised by Servicer with the same force and effect, including, without limitation, the collection of payments, the giving of notice, the holding of escrows, inspection of the Mortgaged Property, inspections of books and records, the request for documents or information, and the granting of consents and approvals. Borrower further agrees that, unless Lender instructs Borrower to the contrary in writing, (i) any notices, books or records, or other documents or information to be delivered under this Instrument, the Note, or any other Loan Document shall also be simultaneously delivered to the Servicer at the address provided for notices to Servicer pursuant to Section 30 hereof, and (ii) any payments to be made under the Note or for escrows under Section 7 of this Instrument or under any of the other Loan Documents shall be made to Servicer. In the event Borrower receives conflicting notices regarding the identity of the Servicer or any other subject, any such notice from Lender shall govern.

(b) Borrower further acknowledges and agrees that, for the purpose of determining whether a security interest is created or perfected under the Uniform Commercial Code of the Property Jurisdiction, any escrows or other funds held by Servicer pursuant to the Loan Documents shall be deemed to be held by Lender.

39. DISCLOSURE OF INFORMATION. Lender may furnish information regarding Borrower or the Mortgaged Property to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including but not limited to trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Without limiting the generality of the foregoing, without notice to or the consent of Borrower, Lender may disclose to any title insurance company which insures any interest of Lender under this Instrument (whether as primary insurer, coinsurer or reinsurer) any information, data or material in its possession relating to Borrower, the Loan, the Improvements or the Mortgaged Property. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including but not limited to any right of privacy.

40. NO CHANGE IN FACTS OR CIRCUMSTANCES. Borrower warrants that all information in Borrower's application for the Loan and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with Borrower's application for the Loan are complete and accurate in all material respects. There has been no material adverse change in any fact or circumstance that would make any such information incomplete or inaccurate.

41. SUBROGATION. If, and to the extent that, the proceeds of the Loan are used to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property (a "Prior Lien"), such loan proceeds shall be deemed to have been advanced by Lender at Borrower's request, and Lender shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

42. FINANCING STATEMENT. As provided in Section 2, this Instrument constitutes a financing statement with respect to any part of the Mortgaged Property which is or may become a Fixture and for the purposes of such financing statement: (a) the Debtor shall be Borrower and the Secured Party shall be Lender; (b) the addresses of Borrower as Debtor and of Lender as Secured Party are as specified above in the first paragraph of this Instrument; (c) the name of the record owner is Borrower; (d) the types or items of collateral consist of any part of the Mortgaged Property which is or may become a Fixture; and (e) the organizational identification number of Borrower (if any) as Debtor is set forth on Exhibit C.

43. STATE SPECIFIC PROVISIONS (TEXAS).

(a) Acceleration; Remedies.

(i) Except as otherwise expressly provided in the Loan Documents, at any time during the existence of an Event of Default and the continuance thereof (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), Lender, at Lender's option, may declare the Indebtedness to be immediately due and payable without further demand, notice of intent to

accelerate, notice of acceleration, or any other notice of or any other action, all of which are hereby waived by Borrower and all other parties obligated in any manner whatsoever on the Indebtedness, and upon such declaration, the entire unpaid balance of the Indebtedness shall be immediately due and payable. Lender may invoke the power of sale and any other remedies permitted by Texas law or provided in this Instrument, the Loan Agreement or in any other Loan Document. Borrower acknowledges that the power of sale granted in this Instrument may be exercised by Lender without prior judicial hearing. Lender will be entitled to collect all costs and expenses incurred in pursuing such remedies, including actual attorneys' fees and costs, costs of documentary evidence, abstracts and title reports.

- (ii) If Lender invokes the power of sale, Lender may, by and through the Trustee, or otherwise, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Lender may determine, with or without having first taken possession of the Mortgaged Property, to the highest bidder for cash at public auction. Such sale will be made at the county courthouse door or other area of the courthouse designated by the Commissioners Court of the county in which all or any part of the Land to be sold is situated (whether the parts or parcel, if any, situated in different counties are contiguous or not, and without the necessity of having any Personality present at such sale) on the first Tuesday of any month between the hours of 10:00 a.m. and 4:00 p.m., after advertising the time, place and terms of sale and that portion of the Mortgaged Property to be sold by posting or causing to be posted written or printed notice of sale at least 21 days before the date of the sale at the courthouse door of the county in which the sale is to be made and at the courthouse door of any other county in which a portion of the Land may be situated, and by filing such notice with the County Clerk(s) of the county(s) in which all or a portion of the Land may be situated, which notice may be posted and filed by the Trustee acting, or by any person acting for the Trustee, and Lender has, at least 21 days before the date of the sale, served written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the Indebtedness according to Lender's records by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor's most recent address as shown by Lender's records, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed will be *prima facie* evidence of the fact of service.
- (iii) Trustee will deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold

in fee simple with covenants of general warranty. Borrower covenants and agrees to defend generally the purchaser's title to the Mortgaged Property against all claims and demands. The recitals in Trustee's deed will be *prima facie* evidence of the truth of the statements contained in those recitals. Trustee will apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including reasonable Trustee's fees not to exceed 5% of the gross sales price (unless higher fees are customary in the jurisdiction where the Mortgaged Property is located), actual attorneys' fees and costs of title evidence; (ii) to the Indebtedness in such order as Lender, in Lender's discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled to the excess.

- (iv) If all or any part of the Mortgaged Property is sold pursuant to this Section, Borrower will be divested of any and all interest and claim to the Mortgaged Property, including any interest or claim to all insurance policies, utility deposits, bonds, loan commitments and other intangible property included as a part of the Mortgaged Property. Additionally, after a sale of all or any part of the Land, Improvements, Fixtures and Personality, Borrower will be considered a tenant at sufferance of the purchaser of the same, and the purchaser will be entitled to immediate possession of such property. If Borrower will fail to vacate the Mortgaged Property immediately, the purchaser may and will have the right, without further notice to Borrower, to go into any justice court in any precinct or county in which the Mortgaged Property is located and file an action in forcible entry and detainer, which action will lie against Borrower or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have under this Instrument or otherwise.
- (v) In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale Borrower agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Borrower agrees that Lender will be entitled to seek a deficiency judgment from Borrower and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Mortgaged Property was sold pursuant to judicial or nonjudicial foreclosure sale. Borrower expressly recognizes that this Section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Borrower and other persons against whom a recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value

of the Mortgaged Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Borrower further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Property for purposes of calculating deficiencies owed by Borrower, Guarantor, and others against whom recovery of a deficiency is sought. Alternatively, in the event the waiver provided for in this Section is determined by a court of competent jurisdiction to be unenforceable, in any action for a deficiency after a foreclosure under this Instrument, if any person against whom recovery is sought requests the court in which the action is pending to determine the fair market value of the Mortgaged Property, as of the date of the foreclosure sale, the following will be the basis of the court's determination of fair market value:

- (A) The Mortgaged Property will be valued "as is" and in its condition as of the date of foreclosure, and no assumption of increased value because of post-foreclosure repairs, refurbishment, restorations or improvements will be made.
- (B) Any adverse effect on the marketability of title because of the foreclosure or because of any other title condition not existing as of the date of this Instrument will be considered.
- (C) The valuation of the Mortgaged Property will be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Mortgaged Property for cash within a 6 month-period after foreclosure.
- (D) Although the Mortgaged Property may be disposed of more quickly by the foreclosure purchaser, the gross valuation of the Mortgaged Property as of the date of foreclosure will be discounted for a hypothetical reasonable holding period (not to exceed 6 months) at a monthly rate equal to the average monthly interest rate on the Note for the 12 months before the date of foreclosure.
- (E) The gross valuation of the Mortgaged Property as of the date of foreclosure will be further discounted and reduced by reasonable estimated costs of disposition, including brokerage commissions, title policy premiums, environmental assessment and clean-up costs, tax and assessment, prorations, costs to comply with legal requirements and attorneys' fees and costs.

(F) Expert opinion testimony will be considered only from a licensed appraiser certified by the State of Texas and, to the extent permitted under Texas law, a member of the Appraisal Institute, having at least 5 years' experience in appraising property similar to the Mortgaged Property in the county where the Mortgaged Property is located, and who has conducted and prepared a complete written appraisal of the Mortgaged Property taking into considerations the factors set forth in this Instrument; no expert opinion testimony will be considered without such written appraisal.

(G) Evidence of comparable sales will be considered only if also included in the expert opinion testimony and written appraisal referred to in subsection (F), above.

(H) An affidavit executed by Lender to the effect that the foreclosure bid accepted by Trustee was equal to or greater than the value of the Mortgaged Property determined by Lender based upon the factors and methods set forth in subsections (A) through (G) above before the foreclosure will constitute *prima facie* evidence that the foreclosure bid was equal to or greater than the fair market value of the Mortgaged Property on the foreclosure date.

(vi) Lender may, at Lender's option, comply with these provisions in the manner permitted or required by Title 5, Section 51.002 of the Texas Property Code (relating to the sale of real estate) or by Chapter 9 of the Texas Business and Commerce Code (relating to the sale of collateral after default by a debtor), as those titles and chapters now exist or may be amended or succeeded in the future, or by any other present or future articles or enactments relating to same subject. Unless expressly excluded, the Mortgaged Property will include Rents collected before a foreclosure sale, but attributable to the period following the foreclosure sale, and Borrower will pay such Rents to the purchaser at such sale.

(vii) At any such sale, all of the following will be true:

(A) Whether made under the power contained in this Instrument, Section 51.002 of the Texas Property Code, Chapter 9 of the Texas Business and Commerce Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it will not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property. Borrower will deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed

by Trustee immediately upon demand by Trustee and the title to and right of possession of any such property will pass to the purchaser as completely as if the property had been actually present and delivered to the purchaser at the sale.

- (B) Each instrument of conveyance executed by Trustee will contain a general warranty of title, binding upon Borrower.
- (C) The recitals contained in any instrument of conveyance made by Trustee will conclusively establish the truth and accuracy of the matters recited in the Instrument, including nonpayment of the Indebtedness and the advertisement and conduct of the sale in the manner provided in this Instrument and otherwise by law and the appointment of any successor Trustee.
- (D) All prerequisites to the validity of the sale will be conclusively presumed to have been satisfied.
- (E) The receipt of Trustee or of such other party or officer making the sale will be sufficient to discharge to the purchaser or purchasers for such purchaser(s)' purchase money, and no such purchaser or purchasers, or such purchaser(s)' assigns or personal representatives, will thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication of such purchase money.
- (F) To the fullest extent permitted by law, Borrower will be completely and irrevocably divested of all of Borrower's right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale will be a perpetual bar to any claim to all or any part of the property sold, both at law and in equity, against Borrower and against any person claiming by, through or under Borrower.
- (G) To the extent and under such circumstances as are permitted by law, Lender may be a purchaser at any such sale.

(b) Release. Upon payment of the Indebtedness, Lender will release this Instrument. Borrower will pay Lender's reasonable costs incurred in releasing this Instrument.

(c) Trustee.

(i) Trustee may resign by giving of notice of such resignation in writing to Lender. If Trustee will die, resign or become disqualified from

acting under this Instrument or will fail or refuse to act in accordance with this Instrument when requested by Lender or if for any reason and without cause Lender will prefer to appoint a substitute trustee to act instead of the original Trustee named in this Instrument or any prior successor or substitute trustee, Lender will have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who will succeed to all the estate, rights, powers and duties of the original Trustee named in this Instrument. Such appointment may be executed by an authorized officer, agent or attorney-in-fact of Lender (whether acting pursuant to a power of attorney or otherwise), and such appointment will be conclusively presumed to be executed with authority and will be valid and sufficient without proof of any action by Lender.

- (ii) Any successor Trustee appointed pursuant to this Section will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of the predecessor Trustee with like effect as if originally named as Trustee in this Instrument; but, nevertheless, upon the written request of Lender or such successor Trustee, the Trustee ceasing to act will execute and deliver an instrument transferring to such successor Trustee, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and will duly assign, transfer and deliver any of the property and monies held by the Trustee ceasing to act to the successor Trustee.
- (iii) Trustee may authorize one or more parties to act on Trustee's behalf to perform the ministerial functions required of Trustee under this Instrument, including the transmittal and posting of any notices.
- (iv) The Trustee shall not be liable for any error of judgment or act done by the Trustee or be otherwise responsible or accountable under any circumstances whatsoever other than its own gross negligence, willful misconduct, violation of law or fraud. The Trustee shall not be personally liable for any damages resulting from entry on the Mortgaged Property by the Trustee or anyone acting by virtue of the powers granted the Trustee under this Instrument, or for debts contracted or liability or damages incurred in the management or operation of the Mortgaged Property. The Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder and believed by it in good faith to be genuine. The Trustee shall be entitled to reimbursement for reasonable expenses incurred by it in the performance of the Trustee's duties under this Instrument and to reasonable compensation for services rendered under this Instrument. Borrower will, from time to time, reimburse the Trustee for, save, and hold the Trustee harmless from and against any and

all loss, cost, liability, damage and expense whatsoever incurred by it in the performance of the Trustee's duties other than those arising from its own gross negligence, willful misconduct, violation of law or fraud. THE INDEMNIFICATION PROVISIONS IN THIS SECTION SHALL BE ENFORCEABLE REGARDLESS OF WHETHER ANY PERSON (INCLUDING THE PERSON FROM WHOM INDEMNIFICATION IS SOUGHT) ALLEGES OR PROVES THE SOLE, CONCURRENT, CONTRIBUTORY OR COMPARATIVE NEGLIGENCE OF THE TRUSTEE, OR OTHER SOLE OR CONCURRENT STRICT LIABILITY IMPOSED ON THE PERSON SEEKING INDEMNIFICATION.

(d) Vendor's Lien. To the extent a vendor's lien is retained in that certain deed conveying the Mortgaged Property to Borrower and dated on or about the date of this Instrument, such vendor's lien has been assigned to Lender, the Note is primarily secured by said vendor's lien, and this Instrument is additional security therefore.

(e) No Fiduciary Duty. Lender owes no fiduciary or other special duty to Borrower.

(f) Fixture Filing. This Instrument is also a fixture filing under the Uniform Commercial Code of Texas.

(g) Additional Provisions Regarding Assignment of Rents. Section 3 will not be construed to require a *pro tanto* or other reduction of the Indebtedness resulting from the assignment of Rents. If the provisions of Section 3 and the preceding sentence cause the assignment of Rents in Section 3 to be deemed to be an assignment for additional security only, Lender will be entitled to all rights, benefits and remedies attendant to such collateral assignment. The assignment of Rents contained in Section 3 will terminate upon the release of this Instrument.

(h) Loan Charges. Borrower and Lender intend at all times to comply with the laws of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the Indebtedness, including Chapter 1204 of the Texas Government Code (or applicable United States federal law to the extent that it permits Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under the Note, this Instrument or any other Loan Document, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or if acceleration of the maturity of the Indebtedness, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Lender expressly intend that all excess amounts collected by Lender will be applied to reduce the unpaid principal balance of the Indebtedness (or, if the Indebtedness has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of the Note, this Instrument and the other Loan Documents immediately will be deemed reformed and the amounts thereafter collectible under the Loan Documents reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law,

but so as to permit the recovery of the fullest amount otherwise payable under the Loan Documents. The right to accelerate the maturity of the Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Lender does not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid to Lender for the use, forbearance or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in the Note, this Instrument or any other Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of the Indebtedness, the total amount of interest that Borrower is obligated to pay and Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Instrument or any other Loan Document (such as for the payment of Impositions and similar expenses or costs).

(i) ENTIRE AGREEMENT. THIS INSTRUMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

(j) Notice of Additional Provisions Regarding Insurance. Any terms to the contrary contained in this Instrument notwithstanding, the following requirements are hereby imposed pursuant to Section 307.052 of the Texas Finance Code:

- (i) BORROWER IS REQUIRED TO: (i) KEEP THE MORTGAGED PROPERTY INSURED AGAINST DAMAGE IN AN AMOUNT EQUAL TO THE INDEBTEDNESS, (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER, AND (iii) NAME THE LENDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS.
- (ii) IF BORROWER FAILS TO COMPLY WITH SUBSECTION (a) ABOVE, LENDER MAY, BUT WILL NOT BE OBLIGATED TO, OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF BORROWER AT BORROWER'S EXPENSE.

44. WAIVER OF TRIAL BY JURY. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER, LENDER AND THE BENEFICIARY PARTIES EACH (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

45. ATTACHED EXHIBITS. The following Exhibits are attached to this Instrument and are incorporated by reference herein as if more fully set forth in the text hereof:

- Exhibit A Description of the Land.
- Exhibit B Modifications to Instrument.
- Exhibit C Financing Statement Information.
- Exhibit D Modifications to Instrument (Ground Lease).
- Exhibit E Description of Ground Lease.
- Exhibit F Ground Lessor Subordination and Joinder.

The terms of this Instrument are modified and supplemented as set forth in said Exhibits. To the extent of any conflict or inconsistency between the terms of said Exhibits and the text of this Instrument, the terms of said Exhibits shall be controlling in all respects.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Instrument or caused this Instrument to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

BORROWER:

SDC CORINTH III, LP,
a Texas limited partnership

By: Fiji Mixed Development, LLC,
a Texas limited liability company,
its general partner

By: XXXX, LLC,
a Texas limited liability company,
its sole member

By: Dallas County Housing Finance Corporation
2025,
a Texas public housing finance corporation,
its sole member and manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS)
) SS: _____
COUNTY OF _____)

On this _____ day of _____, 2026, before me, _____, personally appeared _____, known to me or proven on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his authorized capacity as the _____ of Dallas County Housing Finance Corporation 2025, a Texas public housing finance corporation, the sole member and manager of XXXX, LLC, a Texas limited liability company, the sole member of Fiji Mixed Development, LLC, a Texas limited liability company, the general partner of SDC Corinth III, LP, a Texas limited partnership, and that by his/her signature on the instrument the entity on behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary

My Commission expires:

(SEAL)

EXHIBIT A

DESCRIPTION OF THE LAND

Real property in the City and County of Dallas, State of Texas, described as follows:

BEING surveyed as a 2.26 acre (98,232 square foot) tract or parcel of land situated in the WILLIAM S. BEATTY SURVEY, ABSTRACT No. 57, City of Dallas, Dallas County, Texas, and all of Lot 1, Block 4719, Lots 17-24, Block 4720, Lot 25, Block 4717, a portion of Lots 5, 6, Block 4719, and Lot 26, Block 4717, OAK CLIFF HEIGHTS ADDITION, an addition to the City of Dallas, Dallas County, Texas, and being that portion of land as abandoned by City Ordinance 28685, being the old right-of-way for Avenues A, B, D, and E as described in deed to SDC Mixed Development, L.L.C., as recorded in Instrument No. 201500230672, Official Public Records, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at set 5/8" capped iron rod stamped "ADAMS SURVEYING COMPANY LLC" hereinafter referred to as (CIRS), for the Southeast corner of Fran Way having a right-of-way of 40 feet and the South line of a right-of-way dedication for Eleventh Street having a right-of-way of 56 feet as shown on Phase 1, Sphinx at Fiji as recorded in Instrument No. 201000127675, Plat Records, Dallas County, Texas;

THENCE South 89° 51' 36" East, departing the East line of said Fran Way with the South line of said Eleventh Street, a distance of 161.82 feet to a CIRS for the Northern most corner of a corner clip at the Southwest corner of the intersection of said Eleventh Street and South Corinth Street having a variable width right-of-way;

THENCE South 48° 56' 24" East, a distance of 12.36 feet to a CIRS for the Southern most corner of said corner clip;

THENCE along the arc of a curve to the left and with the West line of said South Corinth Street, having a central angle of 02° 20' 29", a radius of 2133.70 feet, an arc length of 87.19 feet and a chord which bears South 06° 04' 20" East, a distance of 87.19 feet to a CIRS;

THENCE South 07° 14' 35" East, continuing along the West line of said South Corinth Street, a distance of 140.58 feet to a CIRS;

THENCE South 07° 08' 24" East, continuing along the West line of said Corinth Street, a distance of 153.61 feet to a CIRS for the Southeast corner of said Lot 5 and being the Northeast corner of Lot 2, Block 4719, Oak Cliff Heights Addition, described by deed to Cedrick Bolden as recorded in Instrument No. 20080022695, Official Public Records, Dallas County, Texas;

THENCE North 89° 27' 44" West, with the common line of said Lots 2 and 5, Block 4719, a distance of 38.07 feet to a CIRS for the Northwest corner of said Lot 2 and being the Northeast corner of said Lot 1;

THENCE South $00^{\circ} 32' 16''$ West, along the common line of said Lots 1 and 2, Block 4719, a distance of 100.00 feet to a CIRS for the Southeast corner of said Lot 1, for the Southwest corner of said Lot 2;

THENCE South $00^{\circ} 32' 16''$ West, 7.98 feet to a CIRS being in the North right-of-way of said Avenue B;

THENCE with the North line of Avenue B, same being the South line of said right-of-way abandonment as recorded in Instrument No. 201300265727, Official Public Records, Dallas County, Texas, the following courses and distances:

South $81^{\circ} 30' 13''$ West, a distance of 128.49 feet to a CIRS;

North $88^{\circ} 53' 44''$ West, a distance of 49.91 feet to a CIRS;

North $43^{\circ} 57' 23''$ West, a distance of 14.16 feet to a CIRS for the Northeast corner of the intersection of said Avenue B and said Fran Way;

THENCE North $00^{\circ} 58' 59''$ East, along the East line of said Fran Way and Lots 17-21, Block 4720 of said Oak Cliff Heights Addition, a distance of 228.09 feet to a CIRS;

THENCE North $01^{\circ} 00' 00''$ East, along the East line of said Fran Way and Lots 21-24, Block 4720 and Lots 25, 26, Block 4717 of said Oak Cliff Heights Addition, a distance of 274.52 feet to the POINT OF BEGINNING and containing 2.26 acres (98,232 square feet) of land, more or less.

EXHIBIT B

MODIFICATIONS TO INSTRUMENT

The following modifications are made to the text of the Instrument that precedes this Exhibit:

1. Section 21(a) of the Instrument is amended by adding the following at the end of such Section:

“(xii) notwithstanding anything to the contrary herein or in Borrower’s Organizational Documents, a Transfer or pledge of a general partnership interest in Borrower or an interest in any general partner of Borrower to a 501(c)(3) nonprofit corporation, or a limited liability company whose sole member is a 501(c)(3) nonprofit corporation, without the prior written consent of Lender following full review and underwriting by Lender of the proposed transferee.”

2. Section 21(b) of the Instrument is amended by adding the following at the end of such Section:

“(viii) Provided that (i) SDC Corinth III, LP owns the Mortgaged Property and remains the borrower under the Note, (ii) Fiji Mixed Development, LLC, a Texas limited liability company (“**General Partner**”) is the sole general partner in Borrower and (iii) AHP Housing Fund 303, LLC, a Delaware limited liability company, or its permitted transferee (the “**Equity Investor**”), has not less than a 99% limited partnership interest in Borrower:

- (A) the removal by Equity Investor of General Partner as general partner of Borrower and its replacement as general partner by Affordable Housing Partners, Inc., a Delaware corporation (“**Equity Investor Sponsor**”), or by a wholly-owned affiliate of Equity Investor Sponsor, which removal shall be in accordance with the terms of the limited partnership agreement of Borrower, provided that (i) the entity replacing the removed General Partner must be a single purpose entity, (ii) after such replacement, Equity Investor Sponsor or the Initial Owners of Equity Investor Sponsor must own directly or indirectly not less than a Controlling Percentage of the general partnership or managing membership interests, as applicable, in the entity which replaced the removed General Partner and (iii) each Guarantor shall be replaced as Guarantor by an individual or entity that is approved by Lender and satisfies Lender’s mortgage credit standards for guarantors; or
- (B) For the sole purpose of effecting the initial sale of limited partnership interests to a purchaser of low income housing tax credits allocated to the Mortgaged Property in either a one or two-step transaction: (i) a Transfer of limited partnership interests of Equity Investor in Borrower to (A) a wholly-owned affiliate of Equity Investor or a wholly-owned affiliate of Equity Investor

Sponsor, or (B) an entity whose management is controlled by Equity Investor, by a wholly-owned affiliate of Equity Investor or by Equity Investor Sponsor, or (ii) so long as Equity Investor Sponsor remains the sole managing member, sole manager or sole general partner, as applicable, of Equity Investor, the transfer of non-managing membership interests or limited partnership interests, as applicable, in Equity Investor.

(ix) a Transfer of the interests of Equity Investor in Borrower to the General Partner or to an Affiliate of the General Partner at any time following the expiration of, for each building in the Project, the applicable credit period of ten (10) taxable years described in Code Section 42(f)(1), provided that at the time of such Transfer (A) Lender shall be provided with advance written notice of any proposed Transfer permitted under this Section 21(b)(ix) no later than 30 days before the date of the proposed Transfer, (B) the transferee, if other than the General Partner or any Guarantor, shall be subject to the satisfactory completion by Lender of due diligence with respect to such transferee, including without limitation, financial, credit, U.S Treasury Department Office of Foreign Assets Control (OFAC), know-your-customer (KYC) and similar reviews, (C) no Event of Default shall have occurred and be continuing (provided the Lender shall have no obligation to accept a cure of an Event of Default if such cure was not timely resolved within the applicable notice and cure period), and (D) Borrower shall pay to Lender a \$10,000 transfer fee and the reasonable costs and expenses of Lender in connection with such Transfer, including reasonable legal fees.

Borrower must provide Lender with: (i) advance written notice of the identity of any entity replacing the General Partner or a Guarantor pursuant to this Section 21(b), and (ii) upon request by Lender from time to time, the names of all owners of interests in Borrower, whether such interests are owned directly or indirectly.”

3. Section 30(a) of the Instrument is amended to add the following at the end of such Paragraph:

“Lender agrees that, so long as Equity Investor has a continuing ownership interest in Borrower, effective notice to Borrower under the Loan Documents shall require delivery of a copy of such notice to Equity Investor. Such notice shall be given in the manner provided in this Section 30(a), at Equity Investor’s address set forth below:

AHP Housing Fund 303, LLC
1314 Douglas Street, Suite 1400
Omaha, NE 68102-1944
Attention: Legal Notices
Email: notices@berkahp.com

with a copy to:

Kutak Rock LLP
1801 California Street, Suite 3000
Denver, Colorado 80202-5596
Attention: Ellen K. O'Brien
Email: ellen.obrien@kutakrock.com

Kutak Rock LLP
2001 16th Street, Suite 1800
Denver, Colorado 80202
Attention: Ellen K. O'Brien
Email: ellen.obrien@kutakrock.com

Lender agrees that, notwithstanding its rights to invoke the remedies permitted by Section 43 of this Instrument, upon the breach of any covenant or agreement by Borrower in this Instrument (including, but not limited to, the covenants to pay when due sums secured by this Instrument) or any other Loan Document, Lender shall not, so long as Equity Investor has a continuing ownership interest in Borrower, conduct a foreclosure sale of the Mortgaged Property or receive a deed-in-lieu of foreclosure, until such time as Equity Investor has first been given 30 days written notice of such default and has failed, within such 30-day period to cure such default; provided, however, that Lender shall be entitled, during such 30-day period, to continue to accelerate the Note and to pursue its remedies. Any cure tendered by Equity Investor will be accepted or rejected on the same basis as cures tendered by Borrower.”

4. The following new Sections are added to the Instrument after the last numbered Section:

“46. (Reserved)

47. EXTENDED LOW-INCOME HOUSING COMMITMENT. Lender agrees that the lien of this Instrument shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the “**Extended Use Agreement**”) recorded against the Mortgaged Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Instrument or upon a transfer of the Mortgaged Property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code.

48. ANNUAL LIHTC REPORTING REQUIREMENTS. Borrower must submit to Lender each year at the time of annual submission of Borrower’s financial analysis of operations,

a copy of the following sections of Borrower's federal tax return: Internal Revenue Forms 1065, 8586, 8609 and Form 8609, Schedule A, which must reflect the total low-income housing tax credits ("LIHTCs") allocated to the Mortgaged Property and the LIHTCs claimed for the Mortgaged Property in the preceding year.

49. CROSS-DEFAULT. Borrower acknowledges and agrees that (a) any failure by Borrower or the Project to qualify for low income housing tax credits pursuant to the provisions of Section 42 of the Internal Revenue Code and (b) any default, event of default, or breach (however such terms may be defined) after the expiration of any applicable notice and/or cure periods under the Extended Use Agreement shall be an Event of Default under this Instrument and that any costs, damages or other amounts, including reasonable attorney's fees incurred by Lender as a result of such an Event of Default by Borrower, including amounts paid to cure any default or event of default, under the Extended Use Agreement shall be an obligation of Borrower and become a part of the Indebtedness secured by this Instrument.

50. ANNUAL COMPLIANCE. Borrower shall submit to Lender on an annual basis, evidence that the Mortgaged Property is in ongoing compliance with all income, occupancy and rent restrictions under the Extended Use Agreement relating to the Mortgaged Property. Such submissions shall be made contemporaneously with Borrower's reports required to be made to the regulator under the Extended Use Agreement.

51. TAX EXEMPTION OR ABATEMENT.

(a) Borrower represents, warrants and covenants to Lender that the Mortgaged Property is eligible for and will receive a tax exemption or abatement (the "Tax Abatement") under Chapter 394 of the Texas Local Government Code (the "Program").

(b) Borrower must file or cause to be filed on a timely basis all documentation necessary to maintain the Tax Abatement.

(c) Borrower must comply or cause compliance fully with all of the Program requirements in order to obtain and maintain the Tax Abatement.

(d) Borrower shall promptly provide Lender with a copy of any notice Borrower may receive alleging that Borrower is in breach of the requirements of the Program or that the Mortgaged Property is not being maintained as required by the Program.

(e) In any application for a Transfer of the Mortgaged Property, any interest in the Mortgaged Property or any interest in Borrower, Borrower shall notify Lender if the completion of such Transfer without the consent of the agency administering the Tax Abatement would result in the termination of the Tax Abatement.

(f) Borrower shall avail itself of all rights and opportunities to renew or extend the Tax Abatement.

(g) Borrower shall not voluntarily take or cause to be taken any action that would threaten the Tax Abatement or cause the Tax Abatement to terminate without the prior written consent of Lender.

(h) Borrower represents and warrants that:

(1) Borrower has not received any notice indicating that the Tax Abatement will be terminated or will not be obtained.

(2) Borrower has adhered to any income, rent or other restrictions imposed by the Tax Abatement.

(i) Each of the following shall constitute an Event of Default:

(1) Any breach of any of the representations and warranties in Subsection (h).

(2) Any transfer of the Mortgaged Property, any interest in the Mortgaged Property, or any interest in Borrower that would cause the Tax Abatement to terminate.

(j) In addition to the foregoing:

(1) The Borrower shall notify Lender if it receives any notice indicating that the Tax Abatement will be terminated before its scheduled expiration date.

(2) The Borrower shall notify Lender if a Transfer of the Mortgaged Property or any interest in Borrower would result in the termination of the Tax Abatement.

52. REGULATORY AGREEMENT. Notwithstanding anything in this Instrument to the contrary, the Lender hereby acknowledges and consents to the lien of the Regulatory Agreement and agrees that, irrespective of the order of recordation or date of effectiveness, the lien of this Instrument shall be subordinate to the Regulatory Agreement. Borrower acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) after the expiration of any applicable notice and/or cure periods under the Regulatory Agreement shall be an Event of Default under this Instrument and that any costs, damages or other amounts, including reasonable attorney's fees incurred by the Lender as a result of such an Event of Default by Borrower, including amounts paid to cure any default or event of default, under the Regulatory Agreement shall be an obligation of Borrower and become a part of the Indebtedness secured by this Instrument.

53. LIEN PRIORITY. This instrument shall be co-equal in lien priority with the Original Borrower Loan Security Instrument and that certain Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas), dated as of December 1, 2021, by Borrower to Funding Lender, in the principal amount not to exceed \$9,750,000.

54. INTENTIONALLY OMITTED.

55. AFFORDABILITY RESTRICTIONS.

(a) Borrower shall not use the Mortgaged Property for any purpose other than Affordable Housing until the later of (i) the expiration of the term of the Affordability Restriction or (ii) 15 years from the date of this Instrument.

(b) Borrower's tenant selection procedure shall be conducted in accordance with all applicable state and federal laws including but not limited to fair housing laws, rules and regulations. If any Affordable Unit in the Mortgaged Property is occupied by a Qualifying Tenant(s) at the time of initial occupancy, and such Qualifying Tenant's income should subsequently exceed 140 percent of the applicable income limit, Borrower shall, after such determination of income, rent the next available residential unit of comparable or smaller size in the Mortgaged Property to another Qualified Tenant.

(c) A family, who, at the commencement of occupancy of a unit in the Mortgaged Property, was of low or moderate income, shall be treated as continuing to meet the low and moderate income requirement.

(d) For purposes of this Section:

Affordable Housing means a multifamily housing project in which 20 percent or more of the residential units are both rent-restricted and occupied by families whose incomes are 50 percent or less of the area median income as determined by HUD, with adjustments for household size, or in which 40 percent (25 percent in New York City) or more of the residential units are both rent-restricted and occupied by families whose incomes are 60 percent or less of the area median income as determined by the HUD Commissioner with adjustments for household size. A residential unit is rent-restricted if the Gross Rent with respect to such unit does not exceed 30 percent of the Imputed Income Limitation (as defined herein) applicable to such unit.

Affordability Restriction means a contractual agreement or covenant prohibiting the use of the Mortgaged Property for any purpose other than Affordable Housing.

Affordable Units means those units which are designated by Borrower for occupancy by Qualifying Tenants.

Gross Rent means the rental charge for an Affordable Unit in the Mortgaged Property including any utility allowance determined by HUD in accordance with Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) ("Section 8"). Gross Rent does not include any subsidy payment under Section 8 or any comparable rental assistance program (with respect to such unit or the tenant(s) thereof), nor does it include any fee for a basis of the low income status of the tenant(s) of the unit by any governmental program of assistance (or by an organization described in Section 501(c)(3) and exempt from tax under Section 501(a) of the Code (26 U.S.C. 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services. Gross Rent does not

include any rental payment to the owner of a unit if the owner pays an equivalent amount to the Farmers Home Administration under Section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

“Imputed Income Limitation” has the meaning as defined in Section 42(g)(2)(C) of the Code (26 U.S.C. 42(g)(2)(C)).

“Qualifying Tenant” means persons or family whose income at time of initial occupancy does not exceed 50 percent or 60 percent as applicable, of the area median income, as determined by HUD with adjustments for family size.

56. FAIR HOUSING; EQUAL OPPORTUNITY. Borrower shall: (a) comply with the provisions of Title VIII of the Civil Rights Act of 1968, as amended, and any regulations or administrative procedures issued pursuant thereto. These laws and regulations prohibit discrimination in the rental or financing of housing on the basis of race, color, national origin, religion (creed), or sex. Borrower agrees to administer the Property and related activities in a manner to affirmatively further fair housing. Borrower also agrees to comply with similar state and local fair housing laws and ordinances; and (b) comply with the provisions of Executive Order 11063 on Equal Opportunity in Housing and all regulations issued pursuant thereto. This order and related regulations prohibit discrimination on the basis of race, color, religion (creed), national origin, or sex in housing and related facilities provided through Federal financial assistance.

57. AFFORDABILITY RESTRICTION. The Affordability Restriction is incorporated into and made a part of this Instrument and a default under such Agreement shall constitute an Event of Default under this Instrument and Lender may exercise all of its rights under this Instrument.

All capitalized terms used in this Exhibit not specifically defined herein shall have the meanings set forth in the text of the Instrument that precedes this Exhibit.

EXHIBIT C

FINANCING STATEMENT INFORMATION

1. Name and Address of Debtor: SDC Corinth III, LP
3030 LBJ Freeway, Suite 1350
Dallas, Texas 75234
Attention: Joseph Agumadu
2. Debtor's State of Organization and Organizational I.D.#:
State of Formation: Texas
Type of Entity: limited partnership
Organizational I.D.#: 0801231472
3. Name and Address of Secured Party: Texas Department of Housing and
Community Affairs
P.O. Box 13941
Austin, Texas 78711
4. Name and Address of Assignee Secured Party: Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 200
Dallas, Texas 75248
5. The Collateral is: Fixtures (as that term is described in the
Uniform Commercial Code of Texas)
attached to the Land described in
Exhibit A attached to this Instrument.

EXHIBIT D

MODIFICATIONS TO INSTRUMENT (Ground Lease)

The following modifications are made to the text of the Instrument that precedes this Exhibit:

1. The granting clause on page 1 is deleted in its entirety and the following new granting clause is inserted in its place:

“Granting Clause. Borrower, in consideration of the Indebtedness and the trust created by this Instrument, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, the Mortgaged Property, including the Leasehold Estate in the Land located in Dallas County, Texas and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee’s successor in trust and Trustee’s assigns forever.”

2. The definition of Mortgaged Property in Section 1 is amended by deleting paragraph (i) and inserting the following new paragraph in its place: “(i) the Ground Lease and the Leasehold Estate;”

3. The definition of Mortgaged Property in Section 1 is amended by deleting the word “Land” from paragraph (viii) and inserting the words “Leasehold Estate” in its place.

4. Section 1 is amended by adding the following new definitions:

“Event of Ground Lessor Bankruptcy” means either of the following actions taken by or with respect to Ground Lessor: (i) Ground Lessor pursuant to or within the meaning of the United States Bankruptcy Code (x) commences a voluntary case, or (y) consents to the entry of an order for relief against it in an involuntary case; or (ii) a court of competent jurisdiction enters an order or decree under the United States Bankruptcy Code that is for relief against Ground Lessor in an involuntary case.

“Ground Lease” means the lease described in Exhibit E pursuant to which Borrower leases the Land, as such lease may from time to time be amended, modified, supplemented, renewed and extended.

“Ground Lessee Default” means (i) a default by Borrower in making any payment of rent, additional rent or other sum of money payable by Borrower to Ground Lessor under the Ground Lease on the date such payment is due and payable, or (ii) a default by Borrower in performing or observing any of the terms, covenants or conditions of the Ground Lease (other than the payments referred to in clause (i)) required to be performed or observed by Ground Lessee.

“Ground Lessor” means the lessor from time to time under the Ground Lease.

“Ground Lessor Default” means a default by Ground Lessor in performing or observing any of the terms, covenants or conditions of the Ground Lease required to be performed or observed by Ground Lessor.

“Ground Rent” means the base or minimum rent payable in fixed monthly or other periodic installments under the Ground Lease.

“Leased Premises” means the Land and any other real property leased by Borrower pursuant to the Ground Lease.

“Leasehold Estate” means Borrower’s interest in the Land and any other real property leased by Borrower pursuant to the Ground Lease, including (i) all rights of Borrower to renew or extend the term of the Ground Lease, (ii) all amounts deposited by Borrower with Ground Lessor under the Ground Lease, (iii) Borrower’s right or privilege to terminate, cancel, surrender, modify or amend the Ground Lease, and (iv) all other options, privileges and rights granted and demised to Borrower under the Ground Lease and all appurtenances with respect to the Ground Lease.

5. Section 22(d) is amended in its entirety to read as follows:

“(d) fraud or material misrepresentation or material omission by Borrower or Guarantor, any of their respective officers, directors, trustees, general partners, managing members, managers, agents or representatives in connection with (i) the application for the Loan, (ii) any financial statement, rent roll, or other report or information provided to Lender during the term of the Indebtedness, (iii) any request for Lender’s consent to any proposed action, including a request for disbursement of funds under any Collateral Agreement or (iv) any of the representations and warranties contained in Section 58;”

6. Section 22 is amended by inserting the following new provision as additional subsection (t):

“any failure by Borrower to comply with the provisions of Sections 58, 59, 60, 62, 63(b), 64(a) or 65;”

7. The following new Sections are added at the end of the Instrument after the last numbered Section:

58. REPRESENTATIONS AND WARRANTIES REGARDING GROUND LEASE. Borrower warrants and represents to Lender that, as of the date of this Instrument: (i) the Ground Lease is in full force and effect in accordance with its terms; (ii) Borrower has not waived, canceled or surrendered any of its rights under the Ground Lease; (iii) Borrower is the sole owner of, and has good and marketable title to, the Leasehold Estate; (iv) the Leasehold Estate, the Leased Premises and the Mortgaged Property are free and clear of all liens, encumbrances and other matters affecting title, other than the lien of this Instrument and the Permitted Encumbrances; (v) there is no existing Ground Lessee Default and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a Ground Lessee Default; and (vi) to the best of Borrower’s knowledge, there is no existing Ground Lessor Default and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a Ground Lessor Default.

59. NOTICES UNDER GROUND LEASE. Borrower shall deliver to Lender, within ten (10) days after Borrower's receipt, a true and correct copy of each notice, demand, complaint or request from Ground Lessor under, or with respect to, the Ground Lease.

60. BORROWER'S OBLIGATIONS TO COMPLY WITH GROUND LEASE.

Borrower shall (i) pay the Ground Rent and all other sums of money due and payable at any time and from time to time under the Ground Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Ground Lease for the payment of any such sum, and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Ground Lease to be performed, observed or complied with by Borrower as lessee under the Ground Lease. If the Ground Lease does not provide for a grace period for the payment of a sum of money, Borrower shall make the payment on or before the date on which the payment becomes due and payable. Borrower shall deliver evidence of the payment to Lender within ten (10) days after receipt of a written request from Lender for evidence of the payment.

61. LENDER'S RIGHT TO CURE GROUND LESSEE DEFAULTS. At any time after Lender receives notice of a Ground Lessee Default, (i) Lender may (but shall not be obligated to do so), make any payment, perform any obligation and take any other action Borrower would have the right to pay, perform or take under the Ground Lease which Lender deems necessary or desirable to cure the Ground Lessee Default, and (ii) Lender and its authorized agents shall have the right at any time or from time to time to enter the Land and Improvements, or any part thereof, to such extent and as often as Lender, in its discretion, deems necessary or desirable in order to cure the Ground Lessee Default, subject to the rights of the tenants and occupants of the Mortgaged Property. Lender may exercise its rights under this Section immediately after receipt of notice of a Ground Lessee Default and without regard to any grace period provided to Borrower in the Ground Lease to cure the Ground Lessee Default. For purposes of exercising its rights under this Section, Lender shall be fully protected for any action taken or omitted to be taken by Lender, in good faith, in reliance on any written notice from Ground Lessor stating that a Ground Lessee Default has occurred and is continuing even though Borrower may question or deny the existence or nature of the Ground Lessee Default. All expenditures made by Lender pursuant to this Section to cure a Ground Lessee Default shall become an additional part of the Indebtedness as provided in Section 12.

62. COVENANTS TO PROTECT LEASEHOLD ESTATE. Borrower shall not, without the written consent of Lender (which may be given or withheld by Lender in its discretion), (i) surrender the Leasehold Estate to Ground Lessor or terminate or cancel the Ground Lease, (ii) amend, modify or change the Ground Lease, either orally or in writing, or waive any of Borrower's rights under the Ground Lease, (iii) subordinate the Ground Lease or the Leasehold Estate to any mortgage, deed of trust or other lien on Ground Lessor's fee title to the Leased Premises, or (iv) except as otherwise provided in Section 63(b), reject or assume the Ground Lease or assign the Leasehold Estate pursuant to Section 365(h) of the United States Bankruptcy Code. Borrower absolutely and unconditionally transfers and assigns to Lender all of Borrower's rights to surrender, terminate, cancel, modify and change the Ground Lease, and any such surrender, termination, cancellation, modification or change made without the prior written consent of Lender shall be void and have no legal effect.

63. GROUND LESSEE'S BANKRUPTCY.

(a) Borrower assigns to Lender, as additional security for the Indebtedness, Borrower's right to reject the Ground Lease under Section 365 of the United States Bankruptcy Code after the occurrence of a Bankruptcy Event, subject to Section 63(b).

(b) If, after the occurrence of a Bankruptcy Event, Borrower decides to reject the Ground Lease, Borrower shall give Lender written notice, at least ten (10) days in advance, of the date on which Borrower intends to apply to the Bankruptcy Court for authority and permission to reject the Ground Lease. Lender shall have the right, but not the obligation, within ten (10) days after receipt of Borrower's notice, to deliver to Borrower a notice ("Lender's Assumption Notice") in which (i) Lender demands that Borrower assume the Ground Lease and assign the Ground Lease to Lender, or its designee, in accordance with the United States Bankruptcy Code, and (ii) Lender agrees to cure or provide adequate assurance of prompt cure of all Ground Lessee Defaults reasonably susceptible of being cured by Lender and of future performance under the Ground Lease. If Lender timely delivers Lender's Assumption Notice to Borrower, Borrower shall not reject the Ground Lease and shall, within fifteen (15) days after receipt of Lender's notice, comply with the demand contained in clause (i) of Lender's notice. If Lender does not timely deliver Lender's Assumption Notice to Borrower, Borrower shall have the right to reject the Ground Lease.

64. GROUND LESSOR'S BANKRUPTCY.

(a) If, after the occurrence of an Event of Ground Lessor Bankruptcy, Ground Lessor rejects the Ground Lease pursuant to Section 365(h) of the United States Bankruptcy Code (i) Borrower, immediately after obtaining notice of the rejection, shall deliver a copy of the notice to Lender, (ii) Borrower shall not, without Lender's prior written consent (which may be given or withheld in Lender's discretion), elect to treat the Ground Lease as terminated pursuant to Section 365(h) or any other applicable provision of the United States Bankruptcy Code, and (iii) this Instrument and the lien created by this Instrument shall extend to and encumber Borrower's retained rights under the Ground Lease that are appurtenant to the Leased Premises for the balance of the term of the Ground Lease and for any renewal or extension of those rights under the Ground Lease. Borrower transfers and assigns to Lender, as additional security for the Indebtedness, Borrower's rights, after Ground Lessor's rejection of the Ground Lease, to treat the Ground Lease as terminated, and any termination of the Ground Lease made by Borrower without Lender's prior written consent shall be void and have no legal effect.

(b) Borrower transfers and assigns to Lender, as additional security for the Indebtedness, all of Borrower's rights to damages caused by Ground Lessor's rejection of the Ground Lease after the occurrence of an Event of Ground Lessor Bankruptcy and all of Borrower's rights to offset such damages against rent payable under the Ground Lease. As long as no Event of Default has occurred and is continuing, Lender agrees that it will not enforce its rights under the preceding sentence, but will permit Borrower to exercise such rights with Lender's prior written consent. Any amounts received by Lender as damages arising out of Ground Lessor's rejection of the Ground Lease shall be applied in the manner set forth in Section 9.

65. OPTION TO RENEW OR EXTEND GROUND LEASE. Borrower shall give Lender written notice of Borrower's intention to exercise each option to renew or extend the term of the Ground Lease at least ninety (90) days, but not more than one hundred fifty (150) days, before the last day on which the option may be timely exercised. If Borrower intends to renew or extend the term of the Ground Lease, it shall deliver to Lender, together with the notice of such decision, a copy of the notice of renewal or extension it delivers to Ground Lessor. If Borrower does not intend to renew or extend the term of the Ground Lease or, if Borrower fails to deliver its written notice of exercise of its option to renew or extend the term of the Ground Lease at least ninety (90) days before the last day on which the option may be timely exercised, Lender shall have the right, but shall not be obligated, to renew or extend the term of the Ground Lease for and on behalf of Borrower.

66. NO MERGER OF ESTATES. If Borrower acquires the fee estate of Ground Lessor under the Ground Lease (the "Fee Estate") (i) there shall be no merger between the Fee Estate and the Leasehold Estate unless all persons, including Lender, having an interest in the Ground Lease consent in writing to the merger, and (ii) simultaneously with Borrower's acquisition of the Fee Estate, the lien of this Instrument shall automatically, without the necessity of any further conveyance, be spread to cover the Fee Estate and as so spread shall be prior to the lien of any mortgage, deed of trust or other lien placed on the Fee Estate after the date of this Instrument. Promptly after Borrower's acquisition of the Fee Estate, Borrower, at its sole cost and expense, including payment of Lender's attorneys' fees and out-of-pocket disbursements, shall execute and deliver all documents and instruments necessary to subject the Fee Estate to the lien of this Instrument, and shall provide to Lender a title insurance policy insuring the lien of this Instrument as a first lien on the Fee Estate and the Leasehold Estate. If Lender acquires the Fee Estate and the Leasehold Estate (whether pursuant to the provisions of the Ground Lease, by foreclosure of this Instrument, or otherwise), the Fee Estate and the Leasehold Estate shall not merge as a result of such acquisition and shall remain separate and distinct for all purposes after such acquisition unless and until Lender shall elect to merge the Fee Estate and the Leasehold Estate.

67. NEW LEASE. If (i) the Ground Lease is canceled or terminated for any reason before the natural expiration of its term, and (ii) Lender (or its designee) obtains from Ground Lessor a new lease in accordance with the term of the Ground Lease, Borrower shall have no right, title or interest in and to the new lease or the leasehold estate created by the new lease.

68. APPOINTMENT OF LENDER AS BORROWER'S ATTORNEY-IN-FACT. Borrower makes, constitutes and appoints Lender as Borrower's attorney-in-fact, in Borrower's name, place and stead, with full power of substitution, to take all actions and to sign all documents and instruments which Lender, in its discretion, considers to be necessary or desirable to (i) prevent or cure a Ground Lessee Default pursuant to Section 61, (ii) perform or carry out any of Borrower's covenants under Section 60, (iii) renew or extend the term of the Ground Lease pursuant to Section 65, (iv) appoint arbitrators and conduct arbitration proceedings pursuant to the Ground Lease, and (v) request and obtain estoppel certificates from Ground Lessor pursuant to the Ground Lease. Borrower gives and grants to Lender, as Borrower's attorney-in-fact, full power and authority to do and perform every act and sign every document and instrument necessary and proper to be done in the exercise of the foregoing power as fully as Borrower might or could do, and Borrower hereby ratifies and confirms all acts that Lender, as Borrower's attorney-in-fact, shall lawfully do or cause

to be done by virtue of this power of attorney. This power of attorney, being coupled with an interest, shall be irrevocable as long as any of the Indebtedness remains unpaid."

All capitalized terms used in this Exhibit not specifically defined herein shall have the meanings set forth in the text of the Instrument that precedes this Exhibit.

EXHIBIT E

DESCRIPTION OF GROUND LEASE

Amended & Restated Ground Lease dated as of December 12, 2022, by and between Dallas County Housing Finance Corporation 2025 (as successor-in-interest to The Cameron County Housing Finance Corporation), as Landlord and SDC Corinth III, LP, a Texas limited partnership, as Tenant.

EXHIBIT F

GROUND LESSOR SUBORDINATION AND JOINDER [Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing]

THIS **GROUND LESSOR SUBORDINATION AND JOINDER** (this "Subordination"), dated as of the 1st day of _____, 2026, is made by **DALLAS COUNTY HOUSING FINANCE CORPORATION 2025**, a Texas public housing finance corporation (as successor-in-interest to the Cameron County Housing Finance Corporation, the "Ground Lessor") and **SDC CORINTH III, LP**, a Texas limited partnership ("Borrower"), for the benefit of **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State of Texas, whose address is P.O. Box 13941, Austin, Texas 78711, as beneficiary, and its successors and assigns ("Governmental Lender"). The date of this Subordination as set forth above is for reference purposes only, and this Subordination will not be effective and binding until the Closing Date (as defined by the Loan Agreement).

R E C I T A L S

A. Ground Lessor is leasing certain real property located in Dallas County, Texas, as described on Exhibit A attached hereto (the "Leased Premises") to Borrower, pursuant to that certain Ground Lease dated as of the Closing Date, with respect to which a Memorandum of Lease shall be or has been recorded with the Dallas County Recorder's Office (as the same has been amended, assigned, modified, substituted or extended, hereinafter the "Ground Lease").

B. Governmental Lender has made a loan (the "Loan") to Borrower in the original principal amount of \$6,000,000, for the construction of improvements upon a 204-unit multifamily residential project located on the Leased Premises from funds made available to the Governmental Lender by Stellar Bank, a Texas state charted bank (the "Funding Lender" and together with Governmental Lender, the "Lender"), pursuant to the terms of a Funding Loan Agreement dated as of January 1, 2026 (the "Funding Loan Agreement"), among the Governmental Lender, Wilmington Trust National Association, as fiscal agent (the "Fiscal Agent"), and the Funding Lender.

C. The Loan is evidenced by that certain Multifamily Note, dated as of the date hereof, in the aggregate original principal amount of \$6,000,000 made by Borrower, secured by, among other things, that certain Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas) (the "Security Instrument"), dated as of the date hereof, encumbering the property described on Exhibit A attached thereto, and incorporated by reference herein, and will be advanced to Borrower pursuant to that certain Borrower Loan Agreement ("Loan Agreement") dated as of the date hereof between Borrower and Governmental Lender (the Note, the Security Instrument, the Loan Agreement, and all other documents executed in connection with the Loan, including this Instrument, are collectively referred to as the "Loan Documents").

D. As a condition to the making of the Loan, Borrower is required to obtain this Subordination from Ground Lessor, for Lender's benefit.

E. Immediately upon the execution and delivery of the Note, the Security Instrument and the other Loan Documents, it is contemplated and intended that Lender will assign its rights under the Loan to Fiscal Agent, for the benefit of Stellar Bank, a Texas state charted bank (“**Funding Lender**”), pursuant to the Funding Loan Agreement and that certain Assignment of Deed of Trust and Loan Documents, dated as of the date hereof, from Lender to Fiscal Agent.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Ground Lessor and Borrower hereby certify to and agree with Lender as follows:

1. Capitalized terms not defined herein shall have the meanings ascribed thereto in the Security Instrument.

2. Ground Lessor hereby grants, conveys, mortgages and assigns to Trustee for the benefit of Lender, in trust, with power of sale, Ground Lessor’s fee simple title to the Leased Premises as security for the indebtedness secured thereby.

3. Ground Lessor hereby joins in the Security Instrument, with the same intent and consequence as if Ground Lessor were originally a party thereto, for the purpose of imposing the lien of the Security Instrument on the fee simple estate in the Leased Premises; provided, however, that there shall be no personal liability on the part of Ground Lessor under the Security Instrument, and Lender shall look solely to Borrower and the collateral (including the fee interest in the Leased Premises encumbered hereby) and guaranties provided in Loan Documents.

4. All of the leasehold mortgagee protection provisions contained in the Ground Lease, and all other provisions inuring to the benefit of leasehold mortgagees or their successors and assigns contained in the Ground Lease, are hereby incorporated into this Instrument by reference and restated and confirmed by Ground Lessor for the benefit of Lender, its successors and assigns.

5. Ground Lessor hereby represents and warrants that Ground Lessor is the owner of the fee simple estate in the Leased Premises and is the landlord under the Ground Lease. Ground Lessor further represents and warrants that it has not assigned, conveyed, transferred, sold, encumbered or mortgaged its interest in the Ground Lease or the Leased Premises, there are currently no mortgages, deeds of trust or other security interests encumbering Ground Lessor’s fee interest in the Leased Premises and no third party has an option or preferential right to purchase all or any part of the Leased Premises. Ground Lessor covenants and agrees that it shall not assign, convey, transfer, sell, encumber or mortgage its interest in the Ground Lease or the Leased Premises without the prior written consent of Lender.

6. This Subordination and the representations and agreements made herein are given with the understanding that it constitutes a condition to the making of the Loan, and that the Beneficiary Parties will rely hereon. This Subordination and the representations and agreements made herein shall inure to the benefit of Lender and its successors and assigns, and shall be binding on Ground Lessor and Borrower and their respective successors and assigns.

7. This Subordination may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which

shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page.

8. Borrower acknowledges that the lien of the Security Instrument to the extent it encumbers the fee estate, shall be prior and superior to the Ground Lease, to the leasehold estate created thereby and to all rights and privileges of Borrower thereunder, and the Ground Lease, the leasehold estate created thereby and all rights and privileges of Borrower thereunder, are hereby subjected and made subordinate to the lien of the Security Instrument to the extent it encumbers the fee estate.

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IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Ground Lessor Subordination and Joinder or caused this Ground Lessor Subordination and Joinder to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intend that this instrument shall be deemed to be signed and delivered as a sealed instrument.

GROUND LESSOR:

DALLAS COUNTY HOUSING FINANCE CORPORATION 2025,
a Texas public housing finance corporation

By: _____
Name:
Title:

BORROWER:

SDC CORINTH III, LP,
a Texas limited partnership

By: Fiji Mixed Development, LLC,
a Texas limited liability company,
its general partner

By: XXXX, LLC,
a Texas limited liability company,
its sole member

By: Dallas County Housing Finance Corporation 2025,
a Texas public housing finance corporation,
its sole member and manager

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF TEXAS)
) SS: _____
COUNTY OF _____)

On this ____ day of _____, 2026, before me, _____, personally appeared Sergio Gonzalez, known to me or proven on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his authorized capacity as the President of The Cameron County Housing Finance Corporation, and that by his/her signature on the instrument the entity on behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary

My Commission expires:

(SEAL)ACKNOWLEDGMENT

STATE OF TEXAS)
) SS: _____
COUNTY OF)

On this _____ day of _____, 2026, before me, _____, personally appeared Sergio Gonzalez, known to me or proven on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his authorized capacity as the President of Dallas County Housing Finance Corporation 2025, a Texas public housing finance corporation, the sole member and manager of XXXX, LLC, a Texas limited liability company, the sole member of Fiji Mixed Development, LLC, a Texas limited liability company, the general partner of SDC Corinth III, LP, a Texas limited partnership, and that by his/her signature on the instrument the entity on behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary

My Commission expires:

(SEAL)