Project Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

GRRP Loan No.

GRRP Loan: $

REMS No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Recording requested by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

After recording return to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**GREEN AND RESILIENT RETROFIT PROGRAM MORTGAGE (DEED OF TRUST, DEED TO SECURE DEBT, OR OTHER DESIGNATION AS APPROPRIATE IN JURISDICTION) AND SECURITY AGREEMENT**

**(STATE)**

This Green and Resilient Retrofit Program Loan Mortgage [Deed of Trust, Deed to Secure Debt, Or Other Designation as Appropriate in Jurisdiction] and Security Agreement (**“Security Instrument”**) is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_, 20\_\_, by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a [limited/general partnership][limited liability company][corporation] organized and existing under the laws of \_\_\_\_\_\_\_\_\_, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as grantor and borrower (the “**Borrower**”), [if applicable, insert name and address of TRUSTEE (“**Trustee**”)] and the SECRETARY OF HOUSING AND URBAN DEVELOPMENT as Lender (the “**Lender**,” “**Secretary**,” or “**HUD**,” including any successors or assigns thereof).

[**ALTERNATIVE A DEED OF TRUST GRANTING CLAUSE; DELETE IF NOT APPLICABLE.** Borrower, in consideration of the Indebtedness and the trust created by this Security Instrument, irrevocably grants, conveys and assigns to Trustee and Trustee’s successors and assigns, in trust, with power of sale, the Mortgaged Property, including the Land located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, State of \_\_\_\_\_\_\_\_\_\_\_ and described in Exhibit A attached to this Security Instrument, to have and to hold the Mortgaged Property unto Trustee and Trustee’s successors and assigns.]

[**ALTERNATIVE B MORTGAGE GRANTING CLAUSE; DELETE IF NOT APPLICABLE.** Borrower, in consideration of the Indebtedness and the security interest created by this Security Instrument, irrevocably mortgages, grants, conveys and assigns to HUD and HUD’s successors and assigns, with power of sale, the Mortgaged Property, including the Land located in \_\_\_\_\_\_\_\_\_\_\_\_\_County, State of \_\_\_\_\_\_\_\_\_\_\_ and described in Exhibit A attached to this Security Instrument, to have and to hold the Mortgaged Property unto HUD and HUD’s successors and assigns. ]

[**ALTERNATIVE C DEED TO SECURE DEBT – GEORGIA ONLY – GRANTING CLAUSE; DELETE IF NOT APPLICABLE.**  Borrower, in consideration of the Indebtedness and the security interest created by this Security Instrument, irrevocably grants, conveys and assigns to HUD and HUD’s successors and assigns, with power of sale, the Mortgaged Property, including the Land located in \_\_\_\_\_\_\_\_\_\_\_\_\_County, State of \_\_\_\_\_\_\_\_and described in Exhibit A attached to this Security Instrument, to have and to hold the Mortgaged Property unto HUD and HUD’s successors and assigns. As used in this Security Instrument, the term “**Mortgaged** **Property**” is synonymous with the term “**Secured** **Property**,” and the term “**lien**” is synonymous with the term “security interest and title.”]

THIS SECURITY INSTRUMENT IS EXECUTED TO SECURE TO HUD the repayment of the Indebtedness evidenced by a Note payable to HUD dated as of the date of this Security Instrument, and maturing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, , in the principal amount of

$ (“**Loan**”), and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower contained in this Security Instrument and the Note.

Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to mortgage, grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered except for easements, indebtedness, and restrictions listed in a schedule of exceptions to coverage in any title insurance policy issued to HUD contemporaneously with the execution and recordation of this Security Instrument and insuring HUD's interest in the Mortgaged Property. Borrower covenants that Borrower shall warrant and defend generally such title to the Mortgaged Property against all claims and demands, subject to said easements and restrictions.

**RECITALS:**

1. Section 30002 of Title III of the Inflation Reduction Act of 2022, (Public Law 117-169) (the **“IRA”**), titled “**Improving Energy Efficiency or Water Efficiency or Climate Resilience of Affordable Housing**,” authorizes the Secretary to make grants and loans to improve the housing quality and resilience of certain existing HUD-assisted multifamily properties for residents to facilitate utility-saving and climate hazard-mitigating investments (the **“Green and Resilient Retrofit Program”** or **“GRRP”**).
2. The Borrower received approval from HUD to participate in the GRRP and is receiving this Loan pursuant to an/a [Elements Award **OR** Leading Edge Award **OR** Comprehensive Award] under the IRA for such purpose.

**Covenants.** Borrower and HUD covenant and agree as follows:

**1. Definitions.** The definition of any capitalized term or word used herein can be found in this Security Instrument, and then if not found in this Security Instrument, then found in the GRRP Loan Agreement between Borrower and HUD, and/or in the Note. The following terms, when used in this Security Instrument (including when used in the above recitals), shall have the following meanings:

1. **“Assistance Contract”** is defined in the GRRP Use Agreement.
2. **“Borrower”** means all entities identified as “Borrower” in the first paragraph of this Security Instrument, together with any successors and assigns (jointly and severally). Borrower shall include any entity taking title to the Mortgaged Property whether or not such entity assumes the Note. Whenever the term “Borrower” is used herein, the same shall be deemed to include the obligor of the debt secured by the Security Instrument.
3. **“Business Day”** is defined in Section 28.
4. **“Event of Default”** means the occurrence of any event listed in Section 19.
5. **“Fixtures”** means all property or goods that become so related or attached to the Land or the Improvements that an interest arises in them under real property law, whether acquired now or in the future, excluding all tenant owned goods and property, and including but not limited to: 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, computers, 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 disposals, 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; playground and exercise equipment and classroom furnishings and equipment.
6. **“Governmental Authority”** means any board, commission, department or body of any municipal, county, state, tribal or federal governmental unit, including any U.S. territorial government, and any public or quasi-public authority, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property, including the use, operation or improvement of the Mortgaged Property.
7. **“GRRP Affordability Period”** is defined in the GRRP Use Agreement.
8. “**GRRP Loan Agreement”** means the agreement between the Borrower and the Secretary that obligates the Borrower to undertake and complete timely the Scope of Work contained therein.
9. **“GRRP Use Agreement”** means the agreement between the Borrower and HUD establishing Borrower’s obligations with respect to the extended period of affordability required by the IRA in the operation of the Mortgaged Property and the rights and powers of HUD.
10. **“HUD” or “Lender”** means the United States Department of Housing and Urban Development acting by and through the Secretary in the capacity as holder of the Loan under the authority of the IRA.
11. **“Improvements”** means the buildings, structures, and alterations now constructed or at any time in the future constructed or placed upon the Land, including any future replacements and additions.
12. **“Indebtedness”** means the principal of, interest on, and all other amounts due at any time under the Note, this Security Instrument, and any other Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of this Security Instrument.
13. **“Land”** means the estate in realty described in Exhibit A.
14. **“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 but not limited to proprietary leases, non-residential leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals. Ground leases that create a leasehold interest in the Land and where the Borrower’s leasehold is security for the Loan are not included in this definition.
15. **“Lien”** is defined in Section 14.
16. **“Loan”** is defined in the opening paragraphs of this Security Instrument.
17. **“Loan Documents”** means the Note, this Security Instrument, the GRRP Use Agreement, GRRP Loan Agreement, Assistance Contract, and all other agreements, instruments and documents which are now existing or are in the future required by, delivered to and/or assigned to HUD and/or HUD in connection with or related to the Loan, as such documents may be amended from time to time.
18. **“Mortgaged Property”** means all of Borrower's present and future right, title and interest in and to all of the following whether now held or later acquired:

(1) the Land;

(2) the Improvements;

(3) the Fixtures;

(4) the Personalty;

(5) 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;

(6) all insurance policies covering the Mortgaged Property, and all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained such insurance policies pursuant to HUD’s requirement;

(7) all awards, payments and other compensation made or to be made by any Governmental Authority with respect to the Land, the Improvements, the Fixtures, the Personalty 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 Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;

(8) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty 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;

(9) all proceeds (cash or non-cash), liquidated claims or other consideration from the conversion, voluntary or involuntary, of any of the Mortgaged Property and the right to collect such proceeds, liquidated claims or other consideration;

(10) all Rents and Leases;

(11) all earnings, royalties, instruments, accounts, accounts receivable, supporting obligations, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the Loan and, if Borrower is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents;

(12) all ~~I~~imposition ~~D~~deposits;

(13) all refunds or rebates of ~~I~~impositions by any Governmental Authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);

(14) all forfeited tenant security deposits under any Lease;

(15) 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; and

(16) all awards, payments, settlements or other compensation resulting from litigation involving the Project.

1. **“Note”** means the Note executed by Borrower described in this Security Instrument, including all schedules, riders, allonges and addenda, as such Note may be amended from time to time.
2. **“Notice”** is defined in Section 28.
3. **“Personalty”** means all equipment, inventory, and general intangibles. The definition of “Personalty” includes furniture, furnishings, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible or electronically stored personal property (other than Fixtures) that are owned, leased or used by Borrower 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, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements, choses in action and all other intangible property and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all certifications, approvals and governmental permits relating to any activities on the Land. Intangibles shall also include all cash and cash escrow funds related to the Project, such as but not limited to: Reserve for Replacement accounts, bank accounts, Residual Receipts accounts, and investments.
4. **“Project”** and **“Project Assets”** mean the Mortgaged Property.
5. **“Property Jurisdiction”** is defined in Section 27.
6. **“Rents”** means all rents (whether from residential or non-residential space), revenues, issues, profits, (including carrying charges, maintenance fees, and other cooperative revenues, and fees received from leasing space on the Mortgaged Property), and other income of the Land or the Improvements, gross receipts, receivables, parking fees, laundry and vending machine income and fees and charges for food and other services provided at the Mortgaged Property, whether now due, past due, or to become due, Residual Receipts, and escrow accounts, however and whenever funded and wherever held.
7. **“Residual Receipts”** is defined in the Note.
8. “**Senior Lender**” means the lender of the Senior Loan.
9. “**Senior Loan**” means any and all indebtedness of the Borrower approved by HUD that is secured by an encumbrance against the Mortgaged Property that has lien priority over the Security Instrument.
10. “**Senior Loan Document(s)**” means the documents that evidence or secure the Senior Loan, and those other documents that were executed previously by Borrower in connection with the Senior Loan.
11. “**Surplus Cash**” is defined in the Note.
12. **“Taxes”** means 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, could become a lien on the Land or the Improvements.
13. **“Waste”** means a failure to keep the Mortgaged Property in decent, safe and sanitary condition and in good repair. During any period in which HUD insures this Loan or holds a security interest on the Mortgaged Property, Waste is committed when, without HUD’s express written consent, Borrower:

(1) physically changes the Mortgaged Property, whether negligently or intentionally, in a manner that reduces its value;

(2) fails to maintain and repair the Mortgaged Property;

(3) fails to pay before delinquency any Taxes secured by a lien having priority over this Security Instrument; or

(4) materially fails to comply with covenants in the Note, this Security Instrument or the GRRP Use Agreement respecting physical care, maintenance, construction, abandonment, demolition, or insurance against casualty of the Mortgaged Property.

1. **“UCC Collateral”** is defined in Section 2.

**2. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.**

This Security Instrument is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the Uniform Commercial Code, whether acquired now or in the future, and all products and cash proceeds and non-cash proceeds thereof (collectively, **“UCC Collateral”**), and Borrower hereby grants to HUD a security interest in the UCC Collateral. Borrower hereby authorizes HUD to file financing statements, continuation statements and amendments, in such form as HUD may require to perfect or continue the perfection of this security interest. Borrower agrees to enter into any agreements, in form as HUD may require, that the Uniform Commercial Code requires to perfect and continue perfection of HUD’s security interest in the portion of UCC Collateral that requires HUD control to attain such perfection. Borrower shall pay all filing costs and all costs and expenses of any record searches for financing statements that HUD may require. Without the prior written consent of HUD, Borrower shall not create or permit to exist any other lien or security interest in any of the UCC Collateral. Except for such UCC filings disclosed to HUD that are to be released in connection with the financing of the Loan or that are otherwise consented to in writing by HUD, Borrower represents and warrants to HUD that Borrower has taken and shall take no action that would give rise to such UCC filings, except for any UCC filings in connection with the acquisition of any Personalty that has been approved in writing by HUD. Borrower also represents and warrants to HUD that it has not entered into, and will not enter into, any agreement with any party other than HUD in conjunction with the present Loan transaction that allows for the perfection of a security interest in any portion of the UCC Collateral. Borrower may enter into such agreement for financing that is senior to this Loan as part of the Senior Loan Documents. Borrower will promptly notify HUD of any change in its business or principal location, name, or other organizational change that would require a filing under the UCC to continue perfection of HUD’s interest, and hereby authorizes HUD to file, and will assist HUD in filing, any forms necessary to continue the effectiveness of existing financing statements or for perfection of HUD’s security interest. If an Event of Default has occurred and is continuing, HUD shall have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Security Instrument or existing under applicable law. In exercising any remedies, HUD may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of HUD's other remedies. This Security Instrument constitutes a fixture filing financing statement with respect to any part of the Mortgaged Property which is or may become a Fixture and which shall be filed in the local real estate records.

**3.** **ASSIGNMENT OF LEASES; LEASES AFFECTING THE MORTGAGED PROPERTY.**

a) As part of the consideration for the Indebtedness, but subject to the rights, if any, of the Senior Lender, Borrower absolutely and unconditionally assigns and transfers to HUD 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 HUD of all of Borrower’s right, title and interest in, to and under the Leases. Borrower and HUD 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. However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the Property Jurisdiction, then the Leases shall be included as a part of the Mortgaged Property and it is the intention of Borrower that in this circumstance this Security Instrument create and perfect a lien on the Leases in favor of HUD, which lien shall be effective as of the date of this Security Instrument.

b) Until HUD gives Notice to Borrower of HUD's exercise of its rights under this Section 3, 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 Security Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default and throughout its continuation, 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 HUD, either directly or by a receiver, of any of the rights conferred under this Section 3 shall not be construed to make HUD a lender-in-possession of the Mortgaged Property so long as HUD, or an authorized agent of HUD, has not entered into actual possession of the Land and the Improvements. The acceptance by HUD of the assignment of the Leases pursuant to Section 3(a) shall not at any time or in any event obligate HUD to take any action under this Security Instrument or to expend any money or to incur any expenses. HUD 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 unless HUD is a lender-in-possession. Prior to HUD's actual entry into and taking possession of the Mortgaged Property, HUD shall not (1) 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); (2) be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property; or (3) 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 Security 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 HUD to Borrower of HUD's exercise of HUD's rights under this Section 3 at any time after the occurrence of an Event of Default, and without the necessity of HUD 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, HUD 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 HUD's request, deliver to HUD an executed copy of each residential Lease then in effect. All Leases for residential dwelling units shall be acceptable to HUD.

f) Borrower shall not enter into any Lease for any portion of the Mortgaged Property for non-residential use except with the prior written consent of HUD, and HUD'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 Security Instrument) without the prior written consent of HUD. Borrower shall, without request by HUD, deliver an executed copy of each non-residential Lease to HUD 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 Security Instrument, except when approved in writing by HUD, and (ii) the tenant shall, upon receipt after the occurrence of an Event of Default of a written request from HUD, pay all Rents payable under the Lease to HUD.

g) Borrower shall not receive or accept Rent under any Lease (whether residential or non-residential) for more than two months in advance.

**4.** **PAYMENT OF INDEBTEDNESS; PERFORMANCE UNDER LOAN DOCUMENTS.** Borrower shall pay the Indebtedness when due in accordance with the terms of the Note and this Security Instrument and shall perform, observe and comply with all other provisions of the Note and this Security Instrument.

**5.** **EXCULPATION.** In the Event of Default, the holder of the Note shall look solely to the Mortgaged Property in satisfaction of the Indebtedness and will not seek or obtain any deficiency or personal judgment against Borrower, except as such judgment or decree as may be necessary to foreclose or bar its interest in the Mortgaged Property and all other property mortgaged, pledged, conveyed or assigned to secure payment of the Indebtedness.

**6. DEPOSITS FOR TAXES, IMPOSITIONS, AND OTHER CHARGES.**  Borrower shall comply with the obligations of the Senior Loan Documents for taxes, impositions, and other charges as detailed therein, or if not so directed by a Senior Lender, then as otherwise directed by HUD.

**7. APPLICATION OF PAYMENTS.** If at any time HUD receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, HUD must apply that payment to amounts then due and payable in the manner and in the order as follows:

(i) ground rents, if HUD has required them to be escrowed with HUD, Taxes, special assessments, water rates, municipal/government utility charges, fire and other property insurance premiums;

(ii) interest on the Note; and

(iii) principal of the Note

Neither HUD's acceptance of an amount that is less than all amounts then due and payable nor HUD'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 Security Instrument and the Note shall remain unchanged.

**8.** **COMPLIANCE WITH LAWS.** Borrower shall comply with all applicable: laws; ordinances; regulations; requirements of any Governmental Authority; lawful covenants and agreements recorded against the Mortgaged Property; including but not limited to those of the foregoing pertaining to: health and safety; construction of Improvements on the Mortgaged Property; fair housing; civil rights; zoning and land use; Leases; and maintenance and disposition of tenant security deposits; and, with respect to all of the foregoing, all subsequent amendments, revisions, promulgations or enactments. Borrower shall at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 8. Borrower shall take appropriate measures to prevent, and shall not engage in or knowingly permit, any illegal activities at the Mortgaged Property, including those that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise impair the lien created by this Security Instrument or HUD's interest in the Mortgaged Property. Borrower represents and warrants to HUD that no portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

**9. USE OF PROPERTY.** Unless permitted by applicable law and approved by HUD, 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 Security Instrument was executed, (b) convert any individual dwelling units or common areas to commercial use, (c) initiate or acquiesce in a change in the zoning classification of the Mortgaged Property that results in any change in permitted use that was in effect at the time of closing, (d) establish any condominium or cooperative regime with respect to the Mortgaged Property, (e) materially change any unit configurations or change the number of units in the Mortgaged Property, (f) 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, (g) subdivide or otherwise split any tax parcel constituting all or any part of the Mortgaged Property, or (h) so long as the Note is held by HUD, permit the Mortgaged Property to be used as transient housing or as a hotel in violation of Section 513 of the National Housing Act, as amended.

**10.** **PROTECTION OF HUD'S SECURITY.**

* 1. If Borrower fails to perform any of its obligations under this Security Instrument, Note, GRRP Loan Agreement, or GRRP Use Agreement, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, HUD’s security or HUD’s rights under this Security Instrument, including eminent domain, insolvency, Waste, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then HUD at HUD’s option may make such appearances, advance such sums and take such actions as HUD reasonably deems necessary to perform such obligations of Borrower and to protect HUD’s interest, including (1)  payment of fees and out-of-pocket expenses of attorneys (including fees for litigation at all levels), accountants, inspectors and consultants, (2) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (3) procurement of the insurance required by Section 16, and (4) payment of amounts which Borrower has failed to pay under Section 14 or any other Section of this Security Instrument.
  2. Any amounts advanced by HUD for taxes, special assessments, or water rates (which are liens prior to the Security Instrument), or for insuring the Project, which amounts are paid after an Event of Default, shall be added to, and become part of the Indebtedness, and shall be immediately due and payable and shall bear interest from the date of the advance until paid at the Interest Rate specified in the Note.

**11.** **INSPECTION.** Upon reasonable notice, HUD, its agents, representatives, and designees, may make or cause to be made entries upon and inspections of the Mortgaged Property (including any environmental inspections and tests) during normal business hours, or at any other reasonable time.

**12.** **BOOKS AND RECORDS; FINANCIAL REPORTING.**

1. Borrower shall keep and maintain at all times at the Mortgaged Property or the management agent’s offices, and upon HUD’s request 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 that affect the Mortgaged Property. The books, records, contracts, Leases and other instruments shall be subject to examination and inspection at any reasonable time by HUD.
2. If an Event of Default has occurred and is continuing, Borrower shall, at Borrower’s expense, deliver to HUD upon written demand copies of all books and records relating to the Mortgaged Property or its operation, which shall be maintained at the Mortgaged Property.
3. Borrower authorizes HUD to obtain a credit report on Borrower, at Borrower’s expense, at any time.
4. Within 90 days,or such longer period established in writing by HUD, following the end of each fiscal year of Borrower, Borrower shall furnish to HUD a statement of income and expenses of Borrower’s operation of the Mortgaged Property for that fiscal year, a statement of changes in financial position of Borrower relating to the Mortgaged Property for that fiscal year and, when requested by HUD, a balance sheet showing all assets and liabilities of Borrower relating to the Mortgaged Property as of the end of that fiscal year. If Borrower’s fiscal year is other than the calendar year, Borrower must also submit to HUD a year-end statement of income and expenses within 90 days after the end of the calendar year. HUD also may require that any statements, schedules, or reports required to be delivered to HUD under this Section 12 be audited at Borrower’s expense by independent certified public accountants acceptable to HUD. If Borrower fails to provide in a timely manner the statements, schedules and reports required by this Section 12, HUD shall have the right to have Borrower’s books and records audited, at Borrower’s expense, by independent certified public accountants selected by HUD in order to obtain such statements, schedules and reports, and all related costs and expenses of HUD shall become immediately due and payable and shall become an additional part of the Indebtedness. Notwithstanding the foregoing, however, so long as the Loan is held by HUD, Borrower’s obligation under this subsection (d) shall be satisfied by the delivery to HUD of a copy of the Annual Financial Statement.
5. Borrower shall deliver to HUD, within 15 days, copies of all operating budgets, capital budgets, and other records or documents concerning the Mortgaged Property or Borrower, when requested by HUD.

**13.** **TAXES; OPERATING EXPENSES**

1. Subject to the provisions of Section 13(c), Borrower shall pay, or cause to be paid, all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.
2. Borrower shall pay 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.
3. Borrower, at its own expense, and, so long as the Loan is held by HUD, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (1) Borrower notifies HUD of the commencement or expected commencement of such proceedings, (2) the Mortgaged Property is not in danger of being sold or forfeited, (3) Borrower deposits with HUD, or the Senior Lender if required by the Senior Loan Documents, reserves sufficient to pay the contested Imposition, if requested by HUD, and (4) Borrower furnishes whatever additional security is required in the proceedings or is reasonably requested by HUD, which may include the delivery to HUD of the reserves established by Borrower to pay the contested Imposition.
4. Borrower shall promptly deliver to HUD a copy of all Notices of, and invoices for, Impositions, and if Borrower pays any Imposition directly, Borrower shall promptly furnish to HUD receipts evidencing such payments.

**14.** **LIENS; ENCUMBRANCES.**

1. Except as approved by HUD, Borrower shall not permit the grant, creation or existence of any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance (“**Lien**”) on the Mortgaged Property (other than the lien of this Security Instrument, any tax liens which are imposed before payment is due, or any inferior liens which are approved in writing by HUD), whether voluntary, involuntary or by operation of law, and whether or not such Lien has priority over the lien of this Security Instrument.
2. Borrower shall not repay any HUD-approved inferior Lien from proceeds of the Loan nor from Project Assets other than from Surplus Cash (as defined in the Note) or Residual Receipts (as defined in the Note), except, with the prior written approval of HUD.

**15.** **PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.** Borrower (a) shall not commit Waste, (b) shall not abandon the Mortgaged Property, (c) 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 HUD may approve in writing, whether or not litigation or insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair, (d) shall keep the Mortgaged Property in decent, safe, and sanitary condition and good repair, including the replacement of Personalty and Fixtures with items of equal or better function and quality, (e) shall provide for management of the Mortgaged Property by a residential rental property manager that is satisfactory to HUD, (f) shall give Notice to HUD of and, unless otherwise directed in writing by HUD, shall appear in and defend, any action or proceeding that could impair the Mortgaged Property, HUD's security or HUD's rights under this Security Instrument, (g) 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 except that Borrower may dispose of obsolete or deteriorated Fixtures or Personalty if the same are replaced with like items of the same or greater quality or value, or make minor alterations which do not impair the Mortgaged Property, and (h) so long as the Loan is held by HUD, shall not expend any Project funds except from permissible withdrawals of Surplus Cash and except for Reasonable Operating Expenses and necessary repairs without the prior written approval of HUD. So long as the Loan is held by HUD, all expenses incurred by Borrower in connection with the Mortgaged Property shall be incurred in compliance with applicable requirements.

**16.** **PROPERTY AND LIABILITY INSURANCE.**

1. Borrower shall keep the Mortgaged Property insured at all times against hazards as is required by the Senior Lender or is commercially reasonable, which insurance shall include but not be limited to coverage against loss by fire and allied perils, general boiler and machinery coverage, builders all-risk and business income coverage. If HUD 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 of the Improvements are located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area having special flood hazards, Borrower shall maintain flood insurance covering such Improvements and any machinery, equipment, Fixtures and furnishings contained therein that are funded, in whole or in part, with Loan proceeds in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, as amended, or its successor statute, whichever is less, provided that the amount of flood insurance need not exceed the outstanding principal balance of the Note, and flood insurance need not be maintained beyond the term of the Note. If HUD determines that flood insurance has not been obtained in the required amount, it will notify Borrower of Borrower’s obligations to obtain the proper flood insurance. If Borrower does not obtain such insurance within 45 days of the date of this notification, HUD shall purchase such flood insurance on behalf of Borrower and may charge Borrower for the cost of premiums and fees incurred by HUD in purchasing the flood insurance.
2. All premiums on insurance policies required under Section 16(a) shall be paid in the manner provided in the Senior Loan Documents. All policies of property damage insurance shall include a non-contributing, non-reporting mortgage clause in favor of HUD and shall name as loss payee HUD, its successors and assigns. Upon request, Borrower shall deliver to HUD evidence of continuing coverage in form satisfactory to HUD.
3. 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 is commercially reasonable.
4. All insurance policies and renewals of insurance policies required by this Section 16 shall be in such amounts and for such periods as is commercially reasonable.
5. 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 Security Instrument requires Borrower to maintain.
6. In the event of loss, Borrower shall give immediate written Notice to the insurance carrier, Senior Lender, and to HUD. Borrower hereby authorizes and appoints Senior 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 Senior Lender’s expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. Borrower shall notify HUD of any payment received from any insurer. Senior Lender shall (1) 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 Senior Lender and HUD, or only if restoration is infeasible (2) apply the balance of such proceeds to the payment of the outstanding indebtedness, whether or not‑ then due. No amount applied to the reduction of the principal amount of the Indebtedness in accordance with this Section 16(f) shall be considered an optional prepayment as the term is used in this Security Instrument and the Note secured hereby, nor relieve Borrower from continuing to make regular monthly payments in the amount required by the Note. To the extent Senior Lender determines to apply insurance proceeds to restoration, Senior Lender shall consult HUD and do so in accordance with HUD’s then-current policies relating to the restoration of casualty damage on similar multifamily properties. If restoration is infeasible, payment will first be made to the Senior Lender, in the manner prescribed under the Senior Loan Documents, and then, subject to availability of funds, to HUD followed by any junior lender(s).
7. Senior Lender and HUD shall not exercise the option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (1) 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; (2) Senior Lender and HUD determine, in their discretion, that there will be sufficient funds to complete the restoration; (3) Senior Lender and HUD determine, in their discretion, that the rental income from 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 Senior Loan and Mortgaged Property; and (4) Senior Lender and HUD determine, in their discretion, that the restoration will be completed before the earlier of (A) one year before the maturity date of the Senior Loan Note and Note or (B) one year after the date of the loss or casualty.
8. If the Mortgaged Property is sold at a foreclosure sale or HUD acquires title to the Mortgaged Property, HUD shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds of property damage insurance resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

**17.** **CONDEMNATION.**

1. Borrower shall promptly notify the Senior Lender and HUD of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirectcondemnation. The terms of the Senior Loan Documents shall control. HUD will pursue any and all actions available under the Assistance Contract.
2. Following satisfaction of the Senior Lender’s requirements, awards of compensation in connection with condemnation for public use of or a taking of any of the Mortgaged Property, if any, shall be paid to HUD to be applied (1) to fees, costs and expenses (including reasonable attorneys’ fees) incurred by HUD; and (2) to the amount due under the Note secured hereby in (i) amounts equal to the next maturing installment or installments of principal and (ii) with any balance to be credited to the next payment due under the Note. To the extent that no award is paid to HUD, HUD shall, after payment to HUD of all fees, costs and expenses (including reasonable attorneys’ fees) incurred by HUD under this Section 17, all awards of damages in connection with any condemnation for public use of or damage to the Mortgaged Property, shall be paid to HUD to be applied to an account held for and on behalf of Borrower, which account shall, at the option of HUD, either be applied to the amount due under the Note as specified in the preceding sentence, or be disbursed for the restoration. No amount applied to the reduction of the principal amount due in accordance with this Section 17(b) shall be considered an optional prepayment as the term is used in this Security Instrument and the Note secured hereby, nor relieve Borrower from making regular monthly payments commencing on the first day of the first month following the date of receipt of the award. HUD is hereby authorized in the name of Borrower to execute and deliver necessary releases or approvals or to appeal from such awards.

**18. TRANSFERS OF THE MORTGAGED PROPERTY OR INTERESTS IN BORROWER.** So long as the Loan is held by HUD, Borrower shall not, without the prior written approval of HUD, convey, assign, transfer, pledge, hypothecate, encumber or otherwise dispose of the Mortgaged Property or any interest therein or permit the conveyance, assignment or transfer of any interest in Borrower (if the effect of such conveyance, assignment or transfer is the creation or elimination of a Principal), unless permitted with HUD approval. Borrower need not obtain the prior written approval of HUD for: (1) a conveyance of the Mortgaged Property at a judicial or non-judicial foreclosure sale under this Security Instrument, (2) inclusion of the Mortgaged Property in a bankruptcy estate by operation of law under the United States Bankruptcy Code, or (3) acquisition of an interest by inheritance or by Court decree.

**19.** **EVENTS OF DEFAULT.** The occurrence of any one or more of the following shall constitute either a Monetary Event of Default or a Covenant Event of Default under this Security Instrument:

1. Monetary Event of Default: Any failure by Borrower to pay or deposit when due any amount required by the Note or Section 7 of this Security Instrument.
2. Covenant Events of Default shall include:
3. fraud or material misrepresentation or material omission by Borrower, any of its officers, directors, trustees, general partners, members, managers or any guarantor in connection with (i) the Closing Package for or creation of the Indebtedness, (ii) any financial statement, rent roll, or other report or information provided to HUD, or (iii) any request for HUD’s consent to any proposed action under this Security Instrument or the Note;
4. the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in HUD’s reasonable judgment, could result in a forfeiture of the Mortgaged Property or otherwise materially impair the lien created by this Security Instrument or HUD’s interest in the Mortgaged Property;
5. any material failure by Borrower to perform or comply with any of its obligations under this Security Instrument (other than those specified in Section 19(a) and Section 19(b)(1) and (b)(2)), as and when required, which continues for a period of 30 days after Notice of such failure by HUD to Borrower. However, no such Notice shall apply in the case of any such material failure which could, in HUD’s judgment, absent immediate exercise by HUD of a right or remedy under this Security Instrument, result in harm to HUD or impairment of the Note or this Security Instrument; and,
6. so long as the Loan is held by HUD, any failure by Borrower to perform any of its obligations as and when required under the GRRP Use Agreement, which failure continues beyond the applicable cure period, if any, specified in the GRRP Use Agreement.
7. HUD shall deliver Notice to any Principal(s) of Borrower identified in Section 28, in each case where HUD has delivered Notice to Borrower of an Event of Default, in order to provide such Principal(s) an opportunity to cure either a Monetary Event of Default or a Covenant Event of Default. Borrower shall notify HUD of any changes to Principal(s) or the addresses in accordance with Section 28.

**20.** **REMEDIES CUMULATIVE.** Each right and remedy provided in this Security Instrument is distinct from all other rights or remedies under this Security Instrument, the Note, or so long as the Loan is held by HUD, HUD’s remedies afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

**21.** **FORBEARANCE.**

1. So long as the Loan is held by HUD, HUD may 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 Security Instrument or the Note; release anyone liable for the payment of any amounts under this Security Instrument or the Note; 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 Security Instrument or the Note.
2. Any forbearance by HUD in exercising any right or remedy under the Note, this Security Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by HUD of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount that is less than the required payment, shall not be a waiver of HUD’s right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any right or remedy for any failure to make prompt payment. Enforcement by HUD of any security for the Indebtedness shall not constitute an election by HUD of remedies so as to preclude the exercise of any other right available to HUD. HUD’s receipt of any proceeds or awards under Section 16 and Section 17 shall not operate to cure or waive any Event of Default.

**22.** **LOAN CHARGES.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to HUD in excess of the permitted amounts shall be applied by HUD to reduce the principal of the Indebtedness. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

**23.** **WAIVER OF STATUTE OF LIMITATIONS.** To the extent permitted by law, Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce any of the Loan Documents.

**24.** **WAIVER OF MARSHALLING.**  Notwithstanding the existence of any other security interests in the Mortgaged Property held by HUD or by any other party, HUD 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 Security Instrument and the Note or applicable law. HUD 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 Security 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 Security Instrument.

**25.** **FURTHER ASSURANCES.** Borrower shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as HUD may require from time to time in order to better assure, grant, and convey to HUD the rights intended to be granted, now or in the future, to HUD under this Security Instrument and the Note.

**26.** **ESTOPPEL CERTIFICATE.** Within ten (10) days after a request from HUD, Borrower shall deliver to HUD a written statement, signed and acknowledged by Borrower, certifying to HUD or any person designated by HUD, as of the date of such statement, (a) that the Note, GRRP Use Agreement and this Security Instrument are unmodified and in full force and effect (or, if there have been modifications, that the Note, GRRP Use Agreement and this Security Instrument are in full force and effect as modified and setting forth such modifications); (b) the unpaid principal balance of the Note; (c) the date to which interest under the Note has been paid; (d) that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in the Note, GRRP Use Agreement and this Security Instrument (or, if Borrower is in default, describing such default in reasonable detail); (e) whether or not there are then existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of HUD under the Note, GRRP Use Agreement and this Security Instrument; and (f) any additional facts requested by HUD.

**27.** **GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.**

1. This Security Instrument and the Note, if it does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the jurisdiction in which the Land is located (**“Property Jurisdiction”**), except that such local or state laws may be preempted by federal law.
2. Borrower agrees that any controversy arising under or in relation to the Note or this Security Instrument shall be litigated exclusively in the Property Jurisdiction except that federal jurisdiction may be appropriate pursuant to any federal requirements. The state courts, and with respect to HUD’s rights and remedies, federal courts, and Governmental Authorities in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Note, any security for the Indebtedness, or this Security Instrument. 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.

**28.** **NOTICE.**

1. All notices, demands and other communications (**“Notice”**) under or concerning this Security Instrument shall be in writing. Each Notice shall be addressed to the intended recipients at their respective addresses set forth in this Security Instrument, and shall be deemed given on the earliest to occur of (1) the date when the Notice is received by the addressee; (2) 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 (3) the third Business Day after the Notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section 28, the term (**“Business Day”**) means any day other than a Saturday or a Sunday, a federal holiday or holiday in the state where the Project is located or other day on which the federal government or the government of the state where the Project is located is not open for business. When not specifically designated as a Business Day, the term “**day**” shall refer to a calendar day. Failure of HUD to send Notice to Borrower or its Principal(s) shall not prevent the exercise of HUD’s rights or remedies under this Security Instrument or under the Loan Documents.
2. Any party to this Security Instrument may change the address to which Notices intended for it are to be directed by means of Notice given to the other party in accordance with this Section 28. Each party agrees that it shall not refuse or reject delivery of any Notice given in accordance with this Section 28, that it shall 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 28 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.
3. Any Notice under the Note which does not specify how Notice is to be given shall be given in accordance with this Section 28.

**BORROWER:**

**PRINCIPAL(S)/RELATED PARTIES:** [*add any principals or related entities Borrower requests*]

**LENDER:**

**U.S. Department of Housing and Urban Development**

451 7th Street, SW, Room 6230

Washington, DC 20410

Attn: Office of Recapitalization, Multifamily Investments Division

**29.** **SINGLE ASSET BORROWER.** Until the Indebtedness is paid in full or unless otherwise approved in writing by HUD (a) Borrower shall be a single purpose entity and shall maintain the assets of the Mortgaged Property in segregated accounts and (b) Borrower (1) 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 and (2) shall not own or operate any business other than the management and operation of the Mortgaged Property.

**30.** **SUCCESSORS AND ASSIGNS BOUND.** This Security Instrument shall bind, and the rights granted by this Security Instrument shall inure to, the respective successors and assigns of HUD and Borrower.

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

**32.** **RELATIONSHIP OF PARTIES; NO THIRD-PARTY BENEFICIARY.**

1. The relationship between HUD and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Security Instrument shall create any other relationship between HUD and Borrower.
2. No creditor of any party to this Security Instrument and no other person (the term **“person”** includes, but is not limited to, any commercial or governmental entity or institution) shall be a third-party beneficiary of this Security Instrument, the Note, or the GRRP Use Agreement. Without limiting the generality of the preceding sentences, (1) any servicing arrangement between HUD and any loan servicer for loss sharing or interim advancement of funds shall constitute a contractual obligation of such loan servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (2) Borrower shall not be a third-party beneficiary of any servicing arrangement, and (3) no payment by the loan servicer under any servicing arrangement shall reduce the amount of the Indebtedness.

**33.** **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Security Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Security Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Security Instrument. This Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

**34.** **RULES OF CONSTRUCTION.** The captions and headings of the Sections of this Security Instrument are for convenience only and shall be disregarded in construing this Security Instrument. Any reference in this Security Instrument to an **“Exhibit”** or a **“Section”** shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Security Instrument or to a Section of this Security Instrument. All Exhibits attached to or referred to in this Security Instrument are incorporated by reference into this Security Instrument. Use of the singular in this Security Instrument includes the plural and use of the plural includes the singular. As used in this Security Instrument, the term **“including”** means **“including, but not limited to.”**

**35.** **LOAN SERVICING.** All Loan servicing will be performed by HUD or its designee.

**36.** **NO CHANGE IN FACTS OR CIRCUMSTANCES.** Borrower certifies that all information in the Closing Package for the Loan submitted to HUD (the **“Closing Package”**) and in all reports, certificates and other documents submitted in connection with the Loan are complete and accurate in all material respects and that there has been no material adverse change in any fact or circumstance that would make any such information incomplete or inaccurate. The submission of false or incomplete information shall be a Covenant Event of Default.

**37. ACCELERATION; REMEDIES.** If a Monetary Event of Default occurs and is continuing for a period of thirty (30) days, HUD, at HUD's option, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by applicable law or provided in this Security Instrument or in the Note. Following a Covenant Event of Default, HUD, at HUD's option, but so long as the Loan is held by HUD, only after receipt of the prior written approval of HUD, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by applicable law or provided in this Security Instrument or in the Note. Borrower acknowledges that the power of sale granted in this Security Instrument may be exercised by HUD without prior judicial hearing. HUD shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including reasonable attorneys' fees (including but not limited to appellate litigation), costs of documentary evidence, abstracts and title reports.

**38. FEDERAL REMEDIES.** In addition to any rights and remedies set forth in the GRRP Loan Agreement, HUD has all available rights and remedies under federal law so long as HUD is holder of the Loan.

**39.** **REMEDIES FOR WASTE.** In addition to any other rights and remedies set forth in the Note and this Security Instrument or those available under applicable law, including exemplary damages where permitted, the following remedies for Waste by Borrower are available to HUD as necessary to give redress to HUD for HUD’s loss or damage:

1. Section 38. The exercise of the remedies available to HUD during the existence of a Covenant Event of Default, as set forth in Section 38 of this Security Instrument;
2. Injunction. An injunction prohibiting future Waste or requiring correction of Waste already committed, but only to the extent that Waste has impaired or threatens to impair HUD’s security; and
3. Recovery of damages. So long as the Loan is held by HUD, any recovery of damages by HUD for Waste shall be applied, at the sole discretion of HUD, (1) to fees, costs and expenses (including reasonable attorneys’ fees) incurred by HUD; (2) to remedy Waste of the Mortgaged Property, (3) to the Indebtedness or (4) for any other purpose designated by HUD.

**40.** **CONSTRUCTION FINANCING [IF APPLICABLE].** The Indebtedness represents funds to be used in the construction of certain Improvements on the Land, in accordance with the GRRP Loan Agreement which is incorporated herein by reference to the same extent and effect as if fully set forth and made herein (provided, however, that if and to the extent that the GRRP Loan Agreement is inconsistent herewith, this Security Instrument shall govern). If the construction of the Improvements to be made pursuant to the GRRP Loan Agreement are not made in accordance with the terms of said GRRP Loan Agreement, or Borrower otherwise defaults under the GRRP Loan Agreement, HUD, after due Notice to Borrower, or any subsequent owner, is hereby vested with full and complete authority to enter upon the Land to employ watchmen to protect such Improvements from depredation or injury and to preserve and protect the Personalty therein, to continue any and all outstanding contracts for the erection and completion of said Improvements, to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of Borrower, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by HUD (exclusive of advances of the principal of the Indebtedness) shall be added to the principal of the Indebtedness secured hereby and all shall be secured by this Security Instrument and shall be due and payable on demand with interest at the rate provided in the Note. The Indebtedness shall, at the option of HUD or holder of this Security Instrument and the Note, become due and payable on the failure of Borrower, or other owner, to keep and perform any of the covenants, conditions and agreements of the GRRP Loan Agreement. This covenant shall be terminated upon the completion of the Improvements to the satisfaction of HUD and the making of the final advance as provided in the GRRP Loan Agreement.

**41. GRRP Obligations; Representations and Warranties.**

1. **Obligations.** As a condition of the Loan, Borrower agrees to perform or otherwise permit all of the Obligations, specifically including, without limitation, those set forth below.

**GRRP Loan Agreement.** Borrower will comply with all terms and covenants of the GRRP Loan Agreement, including but not limited to:

Completion of Scope of Work. Borrower shall cause installation and completion of the Scope of Work as described in the GRRP Loan Agreement in accordance with the terms of the GRRP Loan Agreement, and will prosecute such effort with due diligence, complete same on or before the date of completion specified therein.

Renewal of HAP Contract. Borrower shall cause the existing HUD assistance contract to be renewed through the full term of the GRRP Affordability Period as specified in the GRRP Loan Agreement and GRRP Use Agreement.

Benchmarking. Borrower shall generate, submit, and share a Portfolio Manager score with a full year of post-completion data within eighteen (18) months of submitting a Completion Certification and again each year thereafter for a total of least five post-construction years, unless the benchmarking requirement has been waived by HUD due to exceptional barriers to data collection.

Disaster Preparedness Plan. Borrower shall develop, maintain and update a Property-wide Disaster Preparedness Plan for the Affordability Period as described in the GRRP Loan Agreement.

Additional Information Requests. Borrower shall fully cooperate with all reasonable information gathering requests made by HUD or contractors of HUD in the course of authorized evaluations of GRRP and submit details with respect to the metrics described in the GRRP Notice or any other metrics that may HUD prescribe.

Additional Covenants. Borrower shall comply with all additional provisions or special conditions listed in Exhibit E of the Loan Agreement.

**Performance of Other Agreements**. Without limiting the foregoing, Borrower agrees not to violate any of the terms, provisions, covenants, agreements or restrictions and will timely comply with, abide by and perform all of the terms, agreements, obligations, covenants, restrictions and warranties expressed as binding upon it under the Senior Loan Documents, any lease, easement, or other lien on the Mortgaged Property (without hereby implying HUD's consent to any such other lien), or other agreement affecting the Mortgaged Property or any part thereof. In the event a default shall occur under any Senior Loan Document or any such other agreement, and shall continue beyond applicable grace periods, Borrower shall give HUD written notice within five (5) days of such default.

**Affordability Period.** Compliance with the GRRP Use Agreement is required during the GRRP Affordability Period.

**Further Assurances.** Borrower shall, upon five (5) days' written notice from HUD, execute and deliver such additional financing statements, mortgages, deeds of trust, or other documents, instruments and security agreements which may from time to time be reasonably required to protect and preserve Secretary's security for the Loan.

1. **Representations and Warranties**. Borrower makes and gives to HUD the representations and warranties set forth below.

**Organization.** Borrower is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

**Validity of GRRP Loan Documents**.

The execution, delivery and performance by Borrower of the Note and the other GRRP Loan Documents, and the borrowing by Borrower as evidenced by the Note, (i) are within the legal powers of Borrower, (ii) have been duly authorized by all requisite legal action, (iii) have received all necessary governmental approval, and (iv) will not violate any provision of law, any order of any court or other agency of government, the corporate charter or bylaws of Borrower, any indenture, agreement or other instrument to which Borrower is a party or by which it or the Mortgaged Property is bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets, except as contemplated by the provisions of the GRRP Loan Documents.

The Note and the GRRP Loan Documents, when executed and delivered by Borrower, will constitute the legal, valid and binding obligations of Borrower in accordance with their respective terms.

**Reaffirmation.** All information, financial statements, certifications, reports, papers and data given to HUD by or on behalf of Borrower with respect to the Loan, including, without limitation, those items delivered to HUD along with the application for the Loan, were true and correct when given, and remain accurate, true and correct in all material respects as of the date of this Mortgage.

NOTICE - THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY SECURED HEREBY.

1. **Miscellaneous Provisions.**

**(1) Severability.** In case any one or more to the terms, provisions, agreements, or Obligations shall be invalid, illegal or unenforceable in any respect, the validity of the remaining terms, provisions, agreements and Obligations shall be in no way affected, prejudiced or disturbed thereby.

**(2) Modification.** The Note, the GRRP Loan Documents, and the terms of each and all of them may not be changed, waived, discharged or terminated orally, but only by an instrument in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted. HUD may take any modification actions with respect to the Loan that HUD determines is in its’ interest, in the interests of the residents, and/or in the interests of the preservation of affordable housing at the Property.

**(3) Remedies: Cumulative and Concurrent.** The rights and remedies of HUD as provided in the Note and/or in the GRRP Loan Documents shall be cumulative and concurrent and may be pursued separately, successively or together against Borrower or against the Mortgaged Property, or any one or more of them, at the sole discretion of HUD, and may be exercised as often as occasion therefor shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

**42.** BORROWER AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS SECURITY INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND 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 GIVEN KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

**43**. [Add state requirements for future advances, credit line or open-end mortgages if not otherwise addressed by an attached form state Addendum.]

**ATTACHED EXHIBITS.** The following Exhibits are attached to this Security Instrument:

|X| Exhibit A Description of the Land (required).

| | Exhibit B Addendum to Security Instrument

WARNING: The below parties hereby certify that the information provided on this form and in any supporting documentation submitted herewith is true and accurate. The undersigned understand that any misrepresentations may be subject to civil and/or criminal penalties including, but not limited to, fine or imprisonment, or both under the provisions of Title 18, United States Code, Sections 1001 and 1010. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by HUD as a true statement of facts contained therein.

**IN WITNESS WHEREOF,** Borrower has signed and delivered this Security Instrument or has caused this Security Instrument to be signed and delivered by its duly authorized representative, as a sealed instrument.

**BORROWER:**

**[NOTICE:   THIS DOCUMENT MUST BE EXECUTED WITH ALL FORMALITIES REQUIRED FOR RECORDING A DEED TO REAL ESTATE (e.g., NOTARY/ACKNOWLEDGEMENT, SEAL, WITNESS OR OTHER APPROPRIATE FORMALITIES) AND HAVE AN EFFECTIVE LEGAL DESCRIPTION ATTACHED.**]

**EXHIBIT A**

**{Deed of Trust/Mortgage}**

**LEGAL DESCRIPTION**

[attached]