

## RIDER TO REGULATORY AGREEMENT

### Borrower's Obligation to Maintain Project's Energy Performance as Consideration for MIP Reduction

This Rider ("Rider") is attached to and amends the Regulatory Agreement entered into between [Borrower] ("Borrower") and the United States Department of Housing and Urban Development, acting by and through the Secretary, his or her successors, assigns or designates ("HUD"), dated as of [Date] ("Regulatory Agreement") concerning a Project known as [Project Name] located at:

Street: \_\_\_\_\_

City/State/ZIP: \_\_\_\_\_

For and in consideration of the reduction in mortgage insurance premiums and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and HUD agree as follows:

To the extent that any provisions of the Rider conflict with any provisions of the Regulatory Agreement, the provisions of this Rider shall prevail. Any terms in the Regulatory Agreement not in conflict with this Rider remain in full force and effect.

Notwithstanding anything else in the Regulatory Agreement to which this Rider is attached:

#### 1. Definitions

The following terms shall be added to Section 1 (Definitions) of the Regulatory Agreement

- (a) Any capitalized terms not defined in this Rider shall have the meaning given in the Regulatory Agreement.
- (b) "**Green Standard**" means an industry recognized standard of building design, construction, renovation and/or maintenance that results in minimized consumption of non-renewable energy sources and optimum use of sustainable materials, resources and methods and is acceptable to HUD.
- (c) "**Portfolio Manager**" means the free software tool provided by the US Environmental Protection Agency (EPA) for the purpose of reporting and scoring utility consumption for common types of facilities in the built environment including multifamily properties, and any successor or amended tool as EPA may from time to time provide.
- (d) "**Statement of Energy Performance (SEP)**" means a particular report produced by Portfolio Manager<sup>®</sup> available in various formats providing utility consumption data for 12 month periods with stabilized operations and comparing the energy consumption per square foot of a subject property to a fixed sample of similar properties by means of an index score, and any successor or amended report providing an index score for multifamily properties.

- (e) **“ENERGY STAR® Score”** means the 1 to 100 index score produced by Portfolio Manager and reported on the SEP comparing the energy performance of the subject property to a sample of other similar properties.
- (f) **“HUD Custom SEP”** is a machine readable format of the SEP which may be a required format for an SEP when HUD enables electronic or automated reporting.
- (g) **“Qualified Energy Professional”** is a person or firm qualified by education and experience as described in the Multifamily Accelerated Processing Guide, Chapter 5, or amended Program Obligations.

2. Borrower’s Election to Achieve a Green Standard for the Project

Borrower has elected and hereby agrees to diligently pursue and achieve a Green Standard in accordance with HUD’s Announcement and waiver published on March 31, 2016 (81 FR 18473) and entitled “Changes in Certain Multifamily Mortgage Insurance Premiums and Regulatory Waiver for the 542(c) Risk-Sharing Program”.

The selected Green Standard is: (choose one, X)

|          |   |
|----------|---|
| <b>X</b> | <b>Choose One:</b>  |
|          | Enterprise Green Communities Criteria   |
|          | U.S. Green Building Council’s LEED-H  |
|          | U.S. Green Building Council’s LEED-H Midrise  |
|          | U.S. Green Building Council’s LEED-NC   |
|          | LEED for Existing Buildings: Operations & Maintenance   |
|          | ENERGY STAR Certification   |
|          | EarthCraft House  |
|          | EarthCraft Multifamily  |
|          | Earth Advantage New Homes   |
|          | Greenpoint Rated New Home   |
|          | Greenpoint Rated Existing Home (Whole House or Whole Building label)  |
|          | National Green Building Standard (NGBS)   |
|          | Passive Building Certification or EnerPHit Retrofits certification from the Passive House Institute US (PHIUS), International Passive House Association, or the Passive House Institute |

|  |  |
|--|--|
|  | Living Building Challenge Certification from the International Living Future Institute |
|  | Other (Specify):   |

Each Green Standard establishes milestones and/or performance levels to be met and procedures to evidence successful completion or achievement of the milestones or levels of performance. Lender or HUD may request from time to time and Borrower shall provide status reports of the completion or achievement of the milestones or levels of performance. When all requirements are met the Borrower shall provide the Lender and ensure that HUD receives evidence satisfactory to HUD of the achievement of the selected Green Standard. When such achievement is contingent on completion of construction, repairs or alterations, then evidence, as defined by the Green Standard, that the completion of work is consistent with the Green Standard must be provided to Lender and HUD within three months of the completion of work.

3. 1-100 ENERGY STAR® Score

After, and in addition to, meeting the selected Green Standard, Borrower agrees to pursue, achieve and maintain a minimum score of 75 or better on the 1-100 ENERGY STAR® score, using a Statement of Energy Performance from EPA's Portfolio Manager®. Borrower agrees that each score shall be verified in writing by the independent conclusion of a Qualified Energy Professional and promptly provided to Lender and HUD. When achievement of the Green Standard is contingent on completion of construction, the time when the first SEP must be delivered varies as follows:

- (a) For new construction or substantial rehabilitation projects, the required ENERGY STAR® score shall be provided to HUD not later than 15 months following the achievement of sustaining occupancy.
- (b) For projects acquired or refinanced under Section 223(f) of the National Housing Act with repairs and alterations, the required ENERGY STAR® score shall be provided to HUD not later than 15 months following completion of the repairs and alterations.

4. Borrower's Obligation to Maintain Energy Performance after Initial Achievement

After meeting the requirements of Sections 2 and 3 above, evidencing the achievement of the selected Green Standard and the first SEP, Borrower agrees to provide to HUD annually on the anniversary date of the first SEP, without request, evidence of the continuing energy performance of the property by submitting an SEP, each prepared or verified by a Qualified Energy Professional. Borrower covenants and agrees to achieve a score of 75 or better on each SEP. If and when HUD enables submission of machine readable SEPs then the HUD Custom SEP shall be provided. If and when the utility provider(s) for the Project deliver whole building utility consumption data directly to Portfolio Manager® by means of automatic electronic data transfer protocols, then the resulting SEP for the Project does not require verification by a Qualified Energy Professional.

5. Projects of Less than 20 Units

For Projects of less than 20 units, the Borrower has elected and hereby agrees to diligently pursue and achieve the Green Standard indicated above, but the Borrower is exempt from requirements to provide an SEP and to evidence an ENERGY STAR® Score of 75 or more.

**BORROWER**

Entity: \_\_\_\_\_

Individual: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_