

FHA FORM NO. 3254-B
Dec. 1964

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION
REGULATORY AGREEMENT
Section 234(d), Condominium Projects

Project No. _____

Mortgagee _____

Amount of Mortgage Note _____

Date _____

Mortgage Recorded: _____

State _____

County _____

Date _____

Book _____

Page _____

THIS REGULATORY AGREEMENT, made and entered into this _____ day of _____, 19____, by and between the FEDERAL HOUSING COMMISSIONER (hereinafter referred to as the "Commissioner") acting pursuant to the authority granted to him by the National Housing Act, as amended, (which Act, as amended, is hereinafter referred to as the "Act"), with the FHA Regulations issued by the Commissioner pursuant to the Act being hereinafter referred to as the "Regulations") and _____, whose address is _____, their successors, heirs, and assigns (jointly and severally, hereinafter referred to as Mortgagor.

WITNESSETH THAT:

WHEREAS, the Mortgagor is seized and possessed of fee simple title of certain real property located in the County of _____, State of _____, on which there is to be constructed a housing project, designated among the records of the Federal Housing Administration (hereinafter called the "FHA") as FHA Project No. _____ (hereinafter called the "Project"), which certain real property (hereinafter called the "Property") is more particularly described in Exhibit A attached hereto and hereby made a part hereof; and

WHEREAS, Mortgagor desires to develop and construct the Project, and to establish within two (2) years after its completion a plan of apartment ownership under which each family unit in the Project will be eligible for individual mortgage insurance under Section 234(c) of the Act, and

WHEREAS, Mortgagor desires to finance the construction and development of the Project with a mortgage (hereinafter called the "Mortgage") given by the Mortgagor to secure the payment of a credit instrument (hereinafter called the "Note") issued or made by the Mortgagor to evidence moneys advanced or loaned to it to finance the development and construction of the Project and to have such Note endorsed by the Commissioner for insurance pursuant to Section 234(d) of the Act, and

WHEREAS, the Mortgagor has requested a financial institution (hereinafter called the "Mortgagee") to advance and lend moneys to finance the development and construction of the Project, and

WHEREAS, the Mortgagee is unwilling to advance and lend such moneys to the Mortgagor without a contract of mortgage insurance evidenced by such endorsement of the Note by the Commissioner for insurance, and

WHEREAS, the Mortgagor and the Mortgagee have requested the Commissioner to endorse said Note for mortgage insurance pursuant to Section 234 of the Act, and

WHEREAS, the Mortgagor has been approved by the Commissioner and has certified to the Commissioner, as a condition of obtaining such contract of mortgage insurance, (i) that upon completion of the Project covered by such Mortgage it intends to establish a plan of apartment ownership and to sell family units in the Project to purchasers approved by the Commissioner, (ii) that it will faithfully and diligently make and carry out all reasonable efforts to establish a plan of apartment ownership and to sell the family units in the Project to approved purchasers, and (iii) that it shall be regulated or restricted by the Commissioner as to rents, sales, charges, capital structure, rate of return, and methods of operation during any period while it holds the Project subject to such Mortgage, and

WHEREAS, the Commissioner is unwilling to endorse the Note for insurance unless and until the Mortgagor, by entering into the covenants and agreements contained in this Agreement, has agreed to be regulated and restricted as aforesaid:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) in hand paid, and other good and valuable considerations by each party to the other, the receipt of which is hereby acknowledged, and in order to induce the Commissioner to endorse for mortgage insurance the Note secured by said Mortgage, and in order that the Mortgagor may be regulated and restricted by the Commissioner as aforesaid, BE IT AGREED by and between Mortgagor and the Commissioner as follows:

Section 1. Mortgage Obligations. Mortgagor, except as limited by section 29 hereof, assumes and agrees to make promptly all payments due under the Note and Mortgage and to perform each and every one of the covenants, conditions and provisions required to be observed and performed under the terms of the Mortgage.

Section 2. Construction of Project. Mortgagor shall construct the Project, or cause the Project to be constructed, in accordance with the applicable Regulations prescribed by the Commissioner pursuant to Section 234(d) of the Act, and shall observe and perform each and every one of the covenants, conditions, and provisions required to be observed and performed by them pursuant to said Act and under the terms of the commitment of the Commissioner to insure the mortgage loan, the Building Loan Agreement referred to in the Mortgage and the contract for the construction of the Project.

Section 3. Reserve for Replacements. Mortgagor shall establish and maintain a reserve fund for replacements by the allocation to such reserve fund in a separate account with the Mortgagee or in a safe and responsible depository designated by the Mortgagee, concurrently with the beginning of payments towards amortization of the principal of the Mortgage of an amount equal to \$ _____ per month unless a different date or amount is approved in writing by the Commissioner.

PROVIDED THAT, so long as the Mortgagor maintains in force a contract, approved by the Commissioner, for the maintenance and replacement of elevator equipment, the amount of such monthly payment may be reduced by \$ _____. (This proviso is applicable only where an elevator contract is executed.)

Such fund, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America shall at all times be under the control of the Mortgagee. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements, and mechanical equipment of the Project or for any other purpose, may be made only after receiving the consent in writing of the Commissioner. In the event of a default in the terms of the Mortgage, pursuant to which the loan has been accelerated, the Commissioner may apply or authorize the application of the balance in such fund to the amount due on the mortgage debt as accelerated.

Section 4. Conversion to Apartment Ownership. Mortgagor shall faithfully and diligently make and carry out all reasonable efforts to establish a plan of apartment ownership under which each family unit in the Project will be eligible for individual mortgage insurance under Section 234 (c) of the Act, and to sell the family units to purchasers approved by the Commissioner within two years from the completion date. "Completion date" as used in this Agreement shall mean the date when all improvements constituting a part of the Project are completed and all buildings constituting a part of such improvements are ready for occupancy, as determined by the FHA.

Section 5. Distributions.

(a) **Definition of Distribution.** For the purposes of this Regulatory Agreement, the term "distribution" shall mean any withdrawal (whether in the form of loans, dividends, stock redemption, payments on account of interest and principal of any outstanding obligations, notes, or otherwise) of cash or other assets (other than proceeds of the loan secured by the Mortgage or funds made available for financing the construction of the Project) of the Mortgagor other than for the payment of expenses incident to the operation and maintenance of the Project at such rate as is fair and reasonable in the locality for similar services.

(b) **Definition of Surplus Cash.** For the purposes of this Regulatory Agreement, the term "surplus cash" shall mean any cash belonging to the Mortgagor remaining after the payment of the following:

(i) all sums currently due or currently required to be paid under the Mortgage;

(ii) all amounts currently due to the Reserve Fund for Replacements provided for in Section 3 hereof;

(iii) the segregation of funds in the trust account provided for in the next to the last sentence of Section 12 hereof in an amount equal to the aggregate of all valid outstanding claims on such trust account;

(iv) the segregation of funds in an amount equal to the aggregate of any special funds required to be established and maintained in connection with the Project, including but not limited to the deposits for net receipts provided for in Section 6 hereof;

(v) the segregation of funds in an amount equal to the aggregate of all expenses incurred by the Mortgagor in connection with the Project which are unpaid (exclusive of future obligations under any installment contracts).

(c) **Distributions to be Made Only from Surplus Cash.** The Mortgagor shall make no distribution except from surplus cash.

(d) **Other Limitations on Distributions.** The Mortgagor shall not make any distributions except as of and after the end of an annual fiscal period, and only as permitted by law and this Regulatory Agreement. The Mortgagor shall not make any distribution from borrowed funds nor during the period of a default under this Agreement or under the Mortgage or during any period when there is outstanding any notice from the Commissioner to the Mortgagor of failure to maintain the Property in good condition and repair.

(e) **Prohibition Against Distributions Pending Conversion to Apartment Ownership.** Any other provisions of this Agreement to the contrary notwithstanding, during the period commencing on the date of initial endorsement of the Note by the Commissioner for insurance and ending on (i) the second anniversary of the Completion Date or (ii) the date the mortgage insurance is terminated, whichever shall first occur, the Mortgagor shall not make any distribution.

(f) **Retention in Trust.** Any distribution of any funds of the Project, which the party receiving such funds is not entitled to retain hereunder, shall be held in trust separate and apart from any other funds.

Section 6. Depository Requirements. During the period commencing on the date of the initial endorsement of the Note by the Commissioner for insurance and ending (i) two years from the Completion Date or (ii) on the date the mortgage insurance is terminated, whichever shall first occur, the Mortgagor shall, in a manner satisfactory to the Commissioner, cause all net receipts (as defined in this Section) to be deposited monthly with a depository satisfactory to the Commissioner under an escrow agreement approved by the Commissioner. The term "net receipts" as used herein shall mean the amount by which the income of the Project exceeds the expenditures for the operation and maintenance of the Project, including debt service requirements and payments to the Reserve Fund for Replacements. Expenditures for operations shall in no event exceed the sums set forth in an estimated budget submitted by the Mortgagor prior to the opening of the Project for occupancy and approved by the Commissioner, except as the Commissioner may have approved specific increased items of expense based upon evidence of actual costs satisfactory to the Commissioner.

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Section 7. Occupancy of Project Pending Establishment of Plan of Apartment Ownership. Prior to the date that a plan of apartment ownership is established or in the event a plan of apartment ownership is not established, until the second anniversary of the Completion Date, completed dwelling units in the Project may be occupied with the prior written approval of the Commissioner on a rental basis by prospective purchasers of family units in the Project and by other tenants if approved by the Commissioner all in accordance with and pursuant to terms, rentals, sales agreements, information bulletins and occupancy agreements approved in writing by the Commissioner.

Section 8. Submission and Approval of Dwelling and Non-Dwelling Rental Schedules. Prior to the opening of all or any part of the Project for rental, the Mortgagor shall obtain the Commissioner's prior written approval of the following:

(a) a rental schedule establishing the maximum rental average per dwelling unit room per month based upon the specific number of dwelling unit rooms stated in such rental schedule and including, as a part of such rental schedule, a written statement of the accommodations, facilities and services to be offered by the Project and included in such maximum rental average, (together with a schedule of the maximum monthly charges to be made for garage or other parking spaces which are to be reserved for tenant parking). Said rental schedule, including the written statement (when approved by the Commissioner), as the same may be amended from time to time with the written consent of the Commissioner, is hereinafter referred to as the "Dwelling Rental Schedule"; and

(b) a rental schedule establishing the minimum monthly charges for all store, office, commercial or other non-dwelling accommodations (including garage or other parking spaces which are not to be reserved for tenant parking) included in the Project. Said rental schedule (when approved by the Commissioner), as the same may be amended from time to time with written consent of the Commissioner, is hereinafter referred to as the "Non-Dwelling Rental Schedule".

Section 9. Rental Provisions. The Dwelling Rental Schedule shall not be exceeded, nor shall any charges be made by the Mortgagor or by any other person for any dwelling accommodations, facilities or services offered by the Project (including the charges for garage or other parking spaces which are to be reserved for tenant parking) in excess of the charges therefor set forth in said Dwelling Rental Schedule. Without the prior written approval of the Commissioner, the dwelling accommodations in the Project shall not be rented for periods of less than one (1) month nor in excess of three (3) years. No part of the Property shall be rented to any person or organization for the purpose of subrenting without the prior written approval of the FHA, nor shall the Property be rented or leased as an entirety without the prior written approval of the Commissioner. Except with the prior written approval of the Commissioner, the monthly charges made by the Mortgagor for any non-dwelling accommodations, facilities or services offered by the Project shall not be less than the minimum monthly charges therefor set forth in said Non-Dwelling Rental Schedule.

Section 10. Increases in Dwelling Rental Schedule. Within a reasonable time after receipt of a request from the Mortgagor, properly supported by substantiating data, for an increase in the Dwelling Rental Schedule, the FHA shall cause the same to be processed and:

(i) shall consent, in writing, to such increase therein and amendment thereof as may be necessary to compensate for increased taxes (other than income taxes) and other costs of the operation and maintenance of the Project over which the Mortgagor has no effective control and to provide for not less than the net return established at original processing; or

(ii) if such consent is denied, shall advise the Mortgagor in writing of the reasons for such denial. The items to be considered in the processing of any such request shall include any increases, together with offsetting decreases, if any, in such taxes or other costs of the operation and maintenance of the Project in excess of those estimated by the FHA in connection with original processing or the last written consent by the FHA to an increase in the Dwelling Rental Schedule.

Section 11. Charges for Additional Facilities or Services. The Mortgagor shall have the right to charge to and receive from any tenant such amounts as, from time to time, may be mutually agreed upon between the tenant and the Mortgagor for any facilities or services which may be furnished by the Mortgagor or others to such tenant, upon his request, in addition to the facilities and services included in the Dwelling Rental Schedule. Such services may include, but are not limited to, furniture or furnishings, telephone operator and switchboard and message services, electric current, gas, air cooling and conditioning, master television antenna, laundry equipment, furnished by the Mortgagor or others in connection with the operation of the Project: Provided, That, in the case of furniture or other equipment or facilities to be made available for use within the tenant's dwelling unit, the same shall be owned by the Mortgagor unless the Commissioner shall otherwise agree by giving prior consent in writing: And provided further, That, no such additional facilities or services shall be offered by the Mortgagor except:

(i) pursuant to a prior written agreement between the Mortgagor and the tenant (in a form approved in writing, by the Commissioner) that the use of such facilities or services (whether furnished by the Mortgagor or by others) and payment therefor by tenants shall be completely voluntary by the tenant and shall not be made a condition of occupancy;

(ii) if the furniture or equipment to be rented or the facilities to be installed to provide additional services shall be owned by the Mortgagor, the same not thereafter be encumbered, sold or otherwise disposed of without the prior written consent of the Commissioner; and

(iii) all income received by the Mortgagor as a result of any such additional facilities or services so furnished by the Mortgagor or by others shall be deposited in the bank accounts of the Mortgagor and shall be properly recorded in its books and records. Any other provisions hereof to the contrary notwithstanding, until (i) the second anniversary of the Completion Date, or (ii) the date mortgage insurance is terminated, whichever date shall first occur, no additional facilities or services shall be furnished, installed or provided, by the Mortgagor or others without the prior written approval of the Commissioner.

Section 12. Prepayment of Rent; Security Deposits. The Mortgagor shall not, without prior written approval of the Commissioner, require as a condition of the occupancy or leasing of any dwelling unit in the Project the purchase of any stock of the Mortgagor either from the Mortgagor or from any stockholder, or the payment to or deposit with the Mortgagor,

or any other person or persons, of any amount other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of one month's rent to guarantee the performance of the covenants of the lease in respect of such dwelling unit. Funds collected as security deposits shall be kept separate and apart from all other funds of the Mortgagor and deposited in a trust account which shall at all times equal or exceed the aggregate of all valid outstanding claims on such trust account. Any other provisions hereof to the contrary notwithstanding until (i) the second anniversary of the Completion Date or (ii) the date mortgage insurance is terminated, whichever date shall first occur, the Mortgagor may require, as a condition of occupancy of any completed dwelling unit in the Project the execution of an agreement to purchase a dwelling unit in the Project if a plan of apartment ownership is established.

Section 13. Other Limitations. Without prior written approval of the Commissioner, the Mortgagor shall not:

(a) **Sale or Encumbrance.** Sell, assign, transfer, dispose of or encumber any real or personal property or rents in respect of the Project, except as permitted by the terms of the Mortgage and this Regulatory Agreement;

(b) **Remodeling and Uses.** Remodel, reconstruct, demolish or subtract from the premises constituting the Project and subject to the Mortgage, or permit the use of the Project or any part thereof for purposes other than those approved by the Commissioner;

(c) **Consolidation or Mergers.** Consolidate or merge into or with any corporation; or voluntarily dissolve or liquidate, carry into effect any plan of reorganization, or effect any changes whatsoever in its capital structure except as provided herein;

(d) **Investments.** Invest any funds (except surplus cash) in any property, real, personal, or mixed, other than in obligations of the character specified in Section 3 hereof: Provided, That until (i) the second anniversary of the Completion Date or (ii) the date the mortgage is terminated, whichever date shall first occur, no funds shall be invested without the prior written approval of the Commissioner;

(e) **Contracts for Supervisory or Managerial Services.** Enter into any contracts for supervisory or managerial services in connection with the Project except those terminable at the option of the Commissioner;

(f) **Compensation for Services During Period of Defaults.** During the period of any default under this Agreement or of any default by the Mortgagor of its obligation to make any payment required by the terms of the Mortgage, pay any compensation for services except for services necessary for the operation and maintenance of the Project and at such rate as, in the locality where the Project is situated, is fair and reasonable for similar services;

(g) **Disbursements During Period of Defaults.** During the period of any default by the Mortgagor under this Agreement, or of any default by the Mortgagor of its obligation to make any payment required by the terms of the Mortgage, pay any compensation, or make any disbursements, to any of its directors, officers, stockholders, or to any other persons having an identity with the Mortgagor;

(h) **Disposition of Mortgage Proceeds.** Dispose or encumber in any manner whatsoever any funds derived from the proceeds of the Mortgage in excess of the sums required to pay the applicable statutory percentage of the actual cost of the Project as certified by the Mortgagor and approved by the Commissioner pursuant to Section 227 of the Act, nor fail to apply any such excess funds to reduction of the principal obligation of the Note, or in such other manner as shall be approved in advance by the Commissioner, in writing;

(i) **Not Amend Agreement of Incorporation, By-Laws or Organizational Documents.** Alter or amend its certificate or articles of incorporation or its by-laws if the Mortgagor is a corporation, or any other organizational documents if the Mortgagor is other than a corporation;

(j) **Not Engage in Other Business.** Not engage in any other business than the development, construction, and operation of the Project including the conversion of the Project to Apartment ownership and the sale of the apartments to individual owners.

Section 14. Maintenance and Repairs. The Mortgagor shall maintain the Project and the grounds, building and equipment appurtenant thereto, in good safe condition and repair, and failure to do so shall constitute a default hereunder if not corrected within a reasonable period of time to be prescribed by the Commissioner: Provided, That, in the event all or any of the buildings covered by the Mortgage shall be destroyed or damaged by fire or other casualty, the money deriving from any insurance on the property shall be applied in accordance with the terms of the Mortgage.

Section 15. Maintenance and Inspection of Project and Records. The plans and specifications covering the Project (including the buildings and equipment constituting a part thereof) as approved by the FHA (together with all changes therein as may, from time to time, be approved by the FHA) and all books, records, accounts, documents, contracts and other papers of the Mortgagor pertaining to the Project shall at all times be maintained in reasonable condition for proper audit and shall be subject to inspection and examination at reasonable times by the Commissioner or his duly authorized agents. The mortgaged property, equipment, buildings, offices, apparatus, and other possessions of the Mortgagor shall be subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents.

Section 16. Information. At any time, at the request of the Commissioner, his agents, or attorneys, the Mortgagor shall give specific answers to questions upon which information is requested relative to income, assets, liabilities, contracts, operations, condition of the Project, status of the Mortgage or other data with respect to the Mortgage or the Project.

Section 17. Uniform System of Accounts. The books and accounts of the Mortgagor shall be kept in accordance with the requirements of the Commissioner.

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Section 18. Reports and Documents. The following, certified to by an officer of the Mortgagor, shall be filed with the FHA in such form as shall have been prescribed by the Commissioner:

- (a) **Occupancy Reports.** Monthly occupancy reports, commencing with the calendar month next following the calendar month during which the Mortgagor receives written notification from the FHA that the same shall thereafter be required.
- (b) **Changes in Directors, Officers or Stockholders.** Notice (within ten (10) days after such changes occur) of any change in directors, officers or stockholders, or in the office of the Mortgagor to which mail is to be directed or notices sent: **Provided,** That after the expiration of two years from the Completion Date, notices of changes of ownership of stock shall not be required unless and until at least twenty-five percentum (25%) of the stock issued and outstanding at the date of the last previous notice has been transferred.
- (c) **Financial Reports.** Complete annual financial reports based upon examinations of the books and records of the Mortgagor prepared in accordance with the requirements prescribed by the FHA and certified by the Mortgagor, and, unless waived in writing by the FHA, prepared and certified by a Certified Public Accountant (or other person acceptable to the FHA), such reports to be submitted within sixty (60) days after the end of each fiscal year.
- (d) **Report of Distributions.** Not later than sixty (60) days after the date a distribution shall be made by the Mortgagor, the Mortgagor shall furnish the FHA with a written report in respect of such distribution, such written report to include an opinion of counsel for the Mortgagor that all requirements of law and the provisions hereof applicable to such distribution have been duly complied with and a certification by the Mortgagor that the financial condition of the Project warranted such distribution, and
- (e) **Changes in Articles of Incorporation, By-Laws, Partnership Agreement, or Other Organizational Documents.** Certified copies of such changes shall be furnished the FHA within ten (10) days after said changes are made.

Section 19. Bankruptcy, Insolvency, Reorganization, etc. The Mortgagor shall not file any petition in bankruptcy, or for a receiver, or in insolvency, or for reorganization or composition, or make any assignment for the benefit of creditors or to a trustee for creditors, or permit an adjudication in bankruptcy, or the taking possession of the mortgaged property or any part thereof by a receiver, or the seizure and sale of the mortgaged property or any part thereof under judicial process or pursuant to any power of sale.

Section 20. Mortgage Obligations. The Mortgagor agrees to observe and perform each and every one of the covenants, conditions, and provisions required to be observed and performed under the terms of the Mortgage.

Section 21. Indirect Accomplishment of Prohibited Actions. The Mortgagor shall not take any action to accomplish by indirect methods that which it is not permitted to do directly hereunder.

Section 22. Interim Management. Until (i) the second anniversary of the Completion Date or (ii) the date the mortgage insurance is terminated, whichever date shall first occur, the Mortgagor shall:

- (a) Pay no compensation or fee nor incur any obligation to make any payments in excess of the amounts set forth in the estimated budget submitted by the Mortgagor and approved by the Commissioner as provided for in the last sentence of Section 6 hereof, except with written approval of the FHA.
- (b) Pay no compensation to its officers, directors or stockholders, or other persons having an identity with the Mortgagor except with the prior written approval of the Commissioner;
- (c) Not permit any of its officers, directors, stockholders, employees or other persons having an identity with the Mortgagor to incur any debt to the Mortgagor except on account of approved occupancy charges for dwelling accommodations in the Project.

Section 23. Non-Discrimination. Mortgagor shall not execute or file for record any instrument which imposes a restriction upon the sale, leasing, or occupancy of the Project on the basis of race, color or creed, and in selecting tenants for the Project, Mortgagor shall not discriminate against any person or persons by reason of the fact that there are children in the family.

Section 24. Defaults and Remedies. Upon a violation of any of the above provisions of this Agreement by the Mortgagor, the Commissioner may give written notice, thereof to the Mortgagor, by registered or certified mail, addressed to the addressee stated in this Agreement. If such violation is not corrected to the satisfaction of the Commissioner within 15 days after the date such notice is mailed, or within such additional period of time as is set forth in the notice, or where the Mortgagor proceeds immediately and diligently, within such further time as the Commissioner determines is necessary to correct the violation, without further notice the Commissioner may declare a default under this Agreement and upon such default the Commissioner may:

- (a) (i) If the Commissioner holds the note - declare the whole of said indebtedness immediately due and payable and then proceed with the foreclosure of the mortgage;
- (ii) If said note is not held by the Commissioner - notify the holder of the note of such default, and the holder, with the prior written consent of the Commissioner, may declare the whole indebtedness due, and thereupon proceed with foreclosure of the mortgage, or assign the note and mortgage to the Commissioner as provided in the Regulations;
- (b) Collect all rents and charges in connection with the operation of the Project and use such collections to pay the Mortgagor's obligations under this Agreement and under the note and mortgage and the necessary expenses of preserving the property and operating the Project;

(c) Take possession of the mortgaged property, bring any action necessary to enforce any rights of the Project, and operate the Project in accordance with the terms of this Agreement until such time as the Commissioner in his discretion determines that the Mortgagor is again in a position to operate the Project in accordance with the terms of this Agreement and in compliance with the requirements of the Note and Mortgage;

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

Section 25. Additional Security. As security for the payment due under this Agreement for the Reserve Fund for Replacements, and to secure the Commissioner because of his liability under the endorsement of the Note for insurance, and as security for the other obligations under this Agreement, the Mortgagor assigns, pledges and mortgages to the Commissioner its rights to the rents, profits, income and charges of whatever sort which it may receive or be entitled to receive from the operation of the mortgaged property, subject, however, to any assignment of rents in the insured mortgage referred to herein: Provided, however, that permission is granted to the Mortgagor to collect and retain under the provisions of this Agreement the rent, profits, income and charges, during any such period or periods of time for which the Commissioner has not declared a default. Upon declaration of a default, the said permission is terminated and shall not be deemed to be reinstated until the Commissioner has declared the default to be cured.

Section 26. Equal Opportunity in Housing. Mortgagor agrees that there shall be full compliance with the provisions of (1) any state or local laws prohibiting discrimination in housing on the basis of race, color, creed, or national origin, and (2) with the Regulations of the Federal Housing Administration providing for nondiscrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Commissioner to take any corrective action he may deem necessary including, but not limited to, the rejection of future applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the Mortgagor is identified; and further, if the Mortgagor is a corporation or any other type of business association or organization which may fail or refuse to comply with the aforementioned provisions, the Commissioner shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates, or principal stockholders of the mortgagor, and (2) with respect to any corporation or any other type of business association, or organization with which the officers, directors, trustees, managers, partners, associates or principal stockholders of the Mortgagor may be identified.

Section 27. Defined Terms. As used in this Agreement the terms:

- (a) "Mortgage" includes "Deed of Trust", "Chattel Mortgage", and any other security for the Note endorsed for insurance by the Commissioner;
- (b) "Mortgaged Property" includes all property, real, personal, or mixed covered by the mortgage or mortgages securing the note endorsed for insurance, and all other property, real, personal or mixed, belonging to the Project;
- (c) "Project" includes the mortgaged property and the business conducted on said mortgaged property, and business being the furnishing of housing and such other activities as are incidental thereto; and
- (d) "Default" means a default declared by the Commissioner when a violation of this Agreement is not corrected to his satisfaction within the time allowed by this Agreement or such further time as may be allowed by the Commissioner after written notice.

Section 28. Savings Clause. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

Section 29. Liability. The following persons -

do not assume personal liability for payments due under the Note and Mortgage, or for the payments to the reserve for replacements, or for matters not under their control, provided that the foregoing named persons shall remain liable under this Agreement with respect to the matters hereinafter stated, namely:

- (a) for funds or property of the Project coming into their hands which, by the provisions hereof, they are not entitled to retain; and
- (b) for their own acts and deeds of others which they have authorized in violation of the provisions hereof.

(To be executed with formalities for recording a deed to real estate)