**INSURANCE LOSS PROCEEDS COLLATERAL AGREEMENT**

This INSURANCE LOSS PROCEEDS COLLATERAL AGREEMENT (this “**Agreement**”) dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is executed by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”) and **FANNIE MAE**, a corporation duly organized under the Federal National Mortgage Association Charter Act, as amended, 12 U.S.C. § 1716 et seq. and duly organized and existing under the laws of the United States (“**Fannie Mae**”).

**RECITALS:**

A. Fannie Mae is the holder of that certain Multifamily Note dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Effective Date**”) executed by Borrower and made payable to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Prior Lender**”) (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”) in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_/100 Dollars ($\_\_\_\_\_\_\_\_\_) (the “**Loan**”).

B. The Loan and the Note are secured by, among other things, a certain Multifamily Mortgage, Deed of Trust or Deed to Secure Debt dated as of the Effective Date (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”). Fannie Mae is now the mortgagee or beneficiary under the Security Instrument. The Note, the Security Instrument, and all other documents executed in connection with the Loan are collectively referred to as the “**Loan Documents**.”

C. [Prior Lender][\_\_\_\_\_\_\_\_\_\_\_] (“**Servicer**”) services the Loan on behalf of Fannie Mae.

D. On **[DRAFTING NOTE: INSERT DATE OF LOSS]** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a casualty occurred at the Mortgaged Property (the “**Damage**”), causing damage thereto which is estimated to cost more than **[DRAFTING NOTE: REFERENCE AMOUNT “OVER WHICH” INSURANCE PROCEEDS ARE TO BE HELD IN A RESERVE. GENERALLY $75,000 UNLESS THE LOAN DOCUMENTS PROVIDE OTHERWISE]** $\_\_\_\_\_\_\_\_\_\_\_ to replace or rebuild. Borrower’s insurance company **[DRAFTING NOTE (IF LUMP SUM PAYMENT):** has issued a loss draft in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**]** **[DRAFTING NOTE (IF NOT A LUMP SUM PAYMENT):** will be issuing loss drafts over time**]** (the “**Proceeds**”) payable to Fannie Mae and Borrower or payable to Servicer and Borrower, as compensation for the Damage.

E. Fannie Mae, having determined to permit Restoration pursuant to Section 19(f) of the Security Instrument, (i) requires that the Proceeds that have been disbursed (or that will be disbursed from time to time) be placed in escrow, (ii) may require that Borrower escrow Additional Funds with Servicer, and (iii) intends to disburse funds from the Restoration Reserve Account from time to time to reimburse Borrower for (or to pay for, if joint checks are approved by Fannie Mae) the Restoration of the Mortgaged Property to its condition prior to the Damage, or to a condition otherwise acceptable to Fannie Mae, in each case under and subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Fannie Mae agree as follows:

**AGREEMENTS:**

# Recitals.

The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Agreement.

# Defined Terms.

# (a) Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Security Instrument. The following terms, when used in this Agreement, shall have the following meanings:

“**Additional Funds**” means, if the Proceeds will be insufficient to complete the Restoration, an amount equal to (a) Borrower’s estimate of the total cost to fully and finally complete the Restoration, which estimate shall be subject to Fannie Mae’s reasonable approval and may be increased from time to time, less (b) the aggregate amount of the Proceeds disbursed, or to be disbursed over time, by the insurance company.

“**Construction Personnel**” shall mean, collectively, any contractor, architect or engineer engaged by Borrower in connection with the Restoration.

“**Damage**” has the meaning set forth in the Recitals.

“**Force Majeure**” shall mean acts of God, acts of war, civil disturbance, governmental action (including but not limited to the revocation or refusal to grant licenses or permits, where such revocation or refusal is not due to the fault of Borrower), strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of Borrower (other than lack of financing), and of which Borrower shall have notified Servicer in writing within ten (10) days after its occurrence.

“**Maximum Inspection Fee**” means $\_\_\_\_\_\_\_\_\_\_\_.

“**Maximum Restoration Reserve Disbursement Interval**” means \_\_\_\_\_\_\_\_\_\_\_\_\_.

“**Minimum Restoration Reserve Disbursement Amount**” means $\_\_\_\_\_\_\_\_\_\_\_.

“**Permitted Encumbrance**” means only the easements, restrictions and other matters listed in a schedule of exceptions to coverage in the Title Policy and Taxes for the current tax year that are not yet due and payable.

“**Plans**” shall mean the plans and specifications for the Restoration.

“**Proceeds**” has the meaning set forth in the Recitals.

**[**“**Required Restoration Completion Period**” means one year from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[DRAFTING NOTE: INSERT DATE OF AGREEMENT]**, subject to Force Majeure; provided that if Borrower is diligently pursuing the Restoration, such period may be reasonably extended by Fannie Mae.**]**

“**Restoration Escrow**” means, collectively, the Proceeds, the Additional Funds (if any) and any other funds held in the Restoration Reserve Account from time to time, together with all interest earned thereon (if any).

“**Restoration Reserve Account**” means a custodial account as required by Lender from time to time.

“**Restoration Reserve Account Administrative Fee**” means $\_\_\_\_\_\_\_\_\_\_\_. **[DRAFTING NOTE: SERVICER MAY INCLUDE IF APPLICABLE]**

“**Title Policy**”means the mortgagee’s loan policy of title insurance issued in connection with the Loan and insuring the lien of the Security Instrument.

# Deposit of Restoration Escrow into Restoration Reserve Account.

# Concurrently herewith, [DRAFTING NOTE - INSERT IF APPLICABLE: (a) Borrower is delivering the Additional Funds, if any, to Servicer, and (b)] Servicer is depositing the Restoration Escrow into the Restoration Reserve Account.

# Borrower Representations and Warranties.

# Borrower hereby represents and warrants that:

## upon completion of the Restoration, the Mortgaged Property, will have sufficient rental income to pay all operating expenses, deposits for all reserves, and all loan repayment obligations required under the Loan Documents; and

## the Restoration can be completed within the Required Restoration Completion Period.

# Conditions to Commencement of Restoration.

# Prior to commencement of any Restoration, Borrower shall deliver to Fannie Mae, for review and approval by Fannie Mae:

## a copy of all building and other permits and authorizations required by any law, ordinance, statute, rule or regulation of the Governmental Authority to carry out the Restoration;

## a copy of the Plans; and

## résumés and references for all Construction Personnel, and evidence that such Construction Personnel is duly licensed.

# Performance of Restoration.

# Borrower shall commence the Restoration as soon as reasonably practicable after:

## Borrower has made all deliveries required in Section 8(a)(6) (Disbursements for Restoration) of this Agreement;

## Fannie Mae has approved the Plans and the Construction Personnel (which approval shall not be unreasonably withheld); and

## Borrower shall make, construct, install, diligently perform, and complete all Restoration:

### in a good and workmanlike manner as soon as practicable following the commencement thereof, free and clear of any Liens, including but not limited to mechanics’ or materialmen’s liens and encumbrances (except Permitted Encumbrances and mechanics’ or materialmen’s liens which attach automatically under the laws of any Governmental Authority upon the commencement of any work upon, or delivery of any materials to, the Mortgaged Property and for which Borrower is not delinquent in the payment for any such work or materials);

### in accordance with all applicable laws, ordinances, rules, and regulations of any Governmental Authority, including but not limited to applicable building codes, special use permits, and environmental regulations;

### in accordance with all applicable insurance and bonding requirements; and

### within all timeframes required by Fannie Mae.

# Payment for Restoration; Fees; Completion.

# Borrower shall:

## pay all invoices for the Restoration, regardless of whether funds on deposit in the Restoration Reserve Account are sufficient, prior to any request for disbursement from the Restoration Reserve Account (unless Fannie Mae has agreed to issue joint checks in connection with a particular Restoration item);

## pay all applicable fees and charges of any Governmental Authority on account of the Restoration; and

## by the date specified in the applicable invoice, pay to Fannie Mae the Restoration Reserve Account Administrative Fee for Fannie Mae’s and Servicer’s services in administering the Restoration Reserve Account and investing the funds on deposit in the Restoration Reserve Account;

## upon demand, pay a reasonable inspection fee, not exceeding the Maximum Inspection Fee, for each inspection of the Mortgaged Property by Fannie Mae in connection with a Restoration item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections;

## upon demand, pay all reasonable fees charged by any engineer, architect, inspector, or other person inspecting the Mortgaged Property on behalf of Fannie Mae for each inspection of the Mortgaged Property in connection with a Restoration item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections; and

## provide evidence satisfactory to Fannie Mae of completion of the Restoration within the Required Restoration Completion Period.

# Loan Administration Matters Regarding Restoration Reserve Account.

## **Restoration Reserve Account.**

### **Custodial Account.**

### The Restoration Reserve Account shall be an **[DRAFTING NOTE: SERVICER TO SELECT [interest-bearing] [non-interest bearing]** account that meets the standards for custodial accounts as required by Fannie Mae from time to time. Fannie Mae shall not be responsible for any losses resulting from the investment of the funds on deposit in the Restoration Reserve Account or for obtaining any specific level or percentage of earnings on such investment. **[DRAFTING NOTE: INSERT IF APPLICABLE:** All interest earned on the funds on deposit in the Restoration Reserve Account shall be added to and become part of such Restoration Reserve Account; provided, however, if applicable law requires, and so long as no Event of Default has occurred and is continuing under any of the Loan Documents, Fannie Mae shall pay to Borrower the interest earned on the Restoration Reserve Account not less frequently than **[DRAFTING NOTE: SERVICER TO INSERT FREQUENCY \_\_\_\_\_\_\_\_\_\_]**. In no event shall Fannie Mae be obligated to disburse funds from the Restoration Reserve Account if an Event of Default has occurred and is continuing.

### **Additional Security.**

### Borrower assigns to Fannie Mae the Restoration Reserve Account as additional security for all of the Borrower’s obligations under the Loan Documents; provided, however, Fannie Mae shall make disbursements from the Restoration Reserve Account in accordance with the terms of this Agreement.

### **Disbursements by Fannie Mae Only.**

### Only Fannie Mae or a designated representative of Fannie Mae may make disbursements from the Restoration Reserve Account. Except as provided in Section 8(a)(9) (Joint Checks for Periodic Disbursements) hereof, disbursements shall only be made upon Borrower request and after satisfaction of all conditions for disbursement.

### **Adjustment to Deposits.**

### In connection with any Transfer of the Mortgaged Property, or any Transfer of an ownership interest in Borrower or Key Principal that requires Fannie Mae’s consent, Fannie Mae may review the amounts on deposit, if any, in the Restoration Reserve Account and the likely Restoration required by the Mortgaged Property, and the related contingencies which may arise during the remaining term of the Loan. Based upon that review, Fannie Mae may require an additional deposit to the Restoration Reserve Account as a condition to Fannie Mae’s consent to such Transfer. In all events, the transferee shall be required to assume Borrower’s duties and obligations under this Agreement.

### **Insufficient Funds.**

### Fannie Mae may, upon thirty (30) days prior written notice to Borrower, require additional deposit(s) to the Restoration Reserve Account if Fannie Mae determines that the amounts on deposit in the Restoration Reserve Account are not sufficient to cover the costs for the Restoration. Borrower’s agreement to complete the Restoration as required by this Agreement shall not be affected by the insufficiency of any balance in the Restoration Reserve Account.

### **Disbursements for Restoration.**

### Disbursement requests may only be made after completion of the applicable Restoration and only to reimburse Borrower for the actual approved costs of the Restoration. Each disbursement shall be equal to the lesser of  the amount of the actual cost covered by the disbursement request, or  if the Restoration work was done under a contract or subcontract pursuant to which other work remains to be done, an amount equal to ninety percent (90%) of the actual cost of such work, plus one hundred percent (100%) of the cost of any materials used, or to be used, in connection with such work, if at the time of such disbursement request, title to such materials has passed to Borrower and such materials have been installed, or are being properly stored, on the Mortgaged Property. Fannie Mae shall not be required to disburse any amounts:

#### which would cause the total amount disbursed to date to exceed the actual cost covered by the disbursement request, or

#### which would cause the amount of funds remaining in the Restoration Reserve Account after any disbursement (other than with respect to the final disbursement) to be less than the then current estimated cost of completing all remaining Restoration; or

#### if an Event of Default has occurred and is continuing. Fannie Mae shall not disburse from the Replacement Reserve Account or the Repairs Escrow Account for costs of Restoration. Fannie Mae shall not disburse from the Restoration Reserve Account the costs of routine maintenance to the Mortgaged Property or for costs which are to be reimbursed from any reserve or escrow account established pursuant to the Loan Documents. Disbursement from the Restoration Reserve Account shall not be made more frequently than the Maximum Restoration Reserve Disbursement Interval. Other than in connection with a final request for disbursement, disbursements from the Restoration Reserve Account shall not be less than $\_\_\_\_\_\_\_\_ **[DRAFTING NOTE: SERVICER TO INSERT MINIMUM RESTORATION RESERVE DISBURSEMENT AMOUNT]**.

### **Disbursement Requests.**

### Each request by Borrower for disbursement from the Restoration Reserve Account must be in writing and must:

#### specify the Restoration for which reimbursement is requested;

#### if applicable, specify the quantity and price of the items or materials purchased, grouped by type or category;

#### if applicable, specify the cost of all contracted labor or other services, including but not limited to architectural services, involved in the Restoration for which such request for disbursement is made;

#### if applicable, include copies of invoices for all items or materials purchased and all contracted labor or services provided;

#### include evidence of payment of such Restoration satisfactory to Fannie Mae (unless Fannie Mae has agreed to issue joint checks in connection with a particular Restoration item as provided in this Agreement);

#### if applicable, contain a certification by Borrower that the Restoration has been completed lien free and in a good and workmanlike manner, in accordance with any plans and specifications previously approved by Fannie Mae (if applicable) and in compliance with all applicable laws, ordinances, rules and regulations of any Governmental Authority having jurisdiction over the Mortgaged Property, and otherwise in accordance with the provisions of this Agreement and the other Loan Documents; and

#### if applicable, include evidence that any certificates of occupancy required by local law or authorities have been issued.

### **Conditions to Disbursement.**

### Fannie Mae may require any or all of the following at the expense of Borrower as a condition to disbursement of funds from the Restoration Reserve Account:

#### an inspection by Fannie Mae of the Mortgaged Property and the applicable Restoration item;

#### an inspection or certificate of completion by an appropriate independent qualified professional (such as an architect, engineer or property inspector, depending on the nature of the Restoration) selected by Fannie Mae;

#### either:

#### a search of title to the Mortgaged Property effective to the date of disbursement; or

#### a “date-down” endorsement to Fannie Mae’s Title Policy extending the effective date of such policy to the date of disbursement, and showing no Liens other than  Permitted Encumbrances,  liens which Borrower is diligently contesting in good faith that have been bonded off to the satisfaction of Fannie Mae, or  mechanics’ or materialmen’s liens which attach automatically under the laws of the Governmental Authority upon the commencement of any work upon, or delivery of any materials to, the Mortgaged Property but for which Borrower is not delinquent in the payment for any such services or materials; and

#### an acknowledgement of payment, waiver of claims and release of lien for work performed and materials supplied from each contractor, subcontractor, or materialman in accordance with the requirements of applicable law and covering all work performed and materials supplied (including but not limited to equipment and fixtures) for the Mortgaged Property by that contractor, subcontractor, or materialman through the date covered by the disbursement request (or, in the event that payment to such contractor, subcontractor, or materialman is to be made by a joint check, the release of lien shall be effective through the date covered by the previous disbursement).

### **Joint Checks for Periodic Disbursements.**

### Fannie Mae may issue joint checks, payable to Borrower and the applicable supplier, materialman, mechanic, contractor, subcontractor, or other similar party, if:

#### the cost of the Restoration item exceeds **[DRAFTING NOTE: SERVICER TO INSERT COST THRESHOLD, IF APPLICABLE - $\_\_\_\_\_\_\_\_]**, and the contractor performing such Restoration requires periodic payments pursuant to the terms of the applicable written contract;

#### the contract for such Restoration requires payment upon completion of the applicable portion of the work;

#### Borrower makes the disbursement request after completion of the applicable portion of the work required to be completed under such contract;

#### the materials for which the request for disbursement has been made are on site at the Mortgaged Property and are properly secured or installed;

#### Fannie Mae determines that the remaining funds in the Restoration Reserve Account designated for such Restoration are sufficient to pay such costs and the then-current estimated cost of completing all remaining Required Restoration;

#### each supplier, materialman, mechanic, contractor, subcontractor, or other similar party receiving payments shall have provided, if requested in writing by Fannie Mae, a waiver of liens with respect to amounts which have been previously paid to them; and

#### all other conditions for disbursement have been satisfied.

### **Excess Costs.**

### In the event any Restoration item exceeds the approved cost set forth on the Restoration Schedule for such Restoration item, Borrower may submit a disbursement request to reimburse Borrower for such excess cost. The disbursement request must be in writing and include an explanation for such request. Fannie Mae shall make disbursements from the Restoration Reserve Account if:

#### the excess cost is commercially reasonable;

#### the amount of funds in the Restoration Reserve Account is sufficient to pay such costs and the then-current estimated cost of completing all remaining Required Restoration; and

#### all conditions for disbursement from the Restoration Reserve Account have been satisfied.

### **Final Disbursements.**

#### Upon completion of all Restoration in accordance with this Agreement on or before the expiration of the Required Restoration Completion Period and so long as no Event of Default has occurred and is continuing, Fannie Mae shall disburse to Borrower any amounts then remaining in the Restoration Reserve Account, if:

#### all conditions for disbursements set forth in Section 8(a)(8) (Conditions to Disbursement) hereof have been satisfied; and

#### no Event of Default has occurred and is continuing under any of the Loan Documents, Fannie Mae has received all cost and architectural information required by Fannie Mae, including but not limited to proof that any required certificates of occupancy for units in the Mortgaged Property have been duly issued to Borrower, and Fannie Mae has received satisfactory evidence that there are no mechanic’s or materialmen liens encumbering the Mortgaged Property.

#### Upon payment in full of the Indebtedness and release by Fannie Mae of the lien of the Security Instrument, Fannie Mae shall disburse to Borrower any and all amounts then remaining in the Restoration Reserve Account (if not previously released).

## **Approvals of Contracts; Assignment of Claims.**

### Fannie Mae retains the right to approve all Plans, Construction Personnel, contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors, or other parties providing labor or materials in connection with the Restoration. Notwithstanding Borrower’s assignment under this Agreement of its rights and claims against all persons or entities supplying labor or materials in connection with the Restoration, Fannie Mae will not pursue any such right or claim unless an Event of Default has occurred and is continuing or as otherwise provided in Section 24 of the Security Instrument.

## **Delays and Workmanship.**

### If any Restoration item has not timely commenced, has not been timely performed in a workmanlike manner, or has not been timely completed in a workmanlike manner, Fannie Mae may, without notice to Borrower:

### withhold disbursements from the Restoration Reserve Account for such unsatisfactory Restoration item;

### proceed under existing contracts or contract with third parties to make or complete such Restoration item;

### apply the funds in the Restoration Reserve Account toward the labor and materials necessary to make or complete such Restoration item; or

### exercise any and all other remedies available to Fannie Mae under this Agreement or any other Loan Document, including but not limited to any remedies otherwise available upon the occurrence of an Event of Default.

To facilitate Fannie Mae’s completion or making of such Restoration item, Fannie Mae shall have the right to enter onto the Mortgaged Property and perform any and all work and labor necessary to make or complete the Restoration item and employ watchmen to protect the Mortgaged Property from damage. All funds so expended by Fannie Mae shall be deemed to have been advanced to Borrower shall be part of the Indebtedness and shall be secured by the Security Instrument.

## **Assignment of Contracts for Restoration.**

# Borrower shall collaterally assign to Fannie Mae as additional security any Plan, contract or subcontract for Restoration, upon Fannie Mae’s written request, on a form of assignment approved by Fannie Mae.

## **Fannie Mae as Attorney-In-Fact.**

# Borrower hereby authorizes and appoints Fannie Mae as attorney-in-fact pursuant to Section 20 of the Security Instrument.

## **No Fannie Mae Obligation.**

# Nothing in this Agreement shall:

### make Fannie Mae responsible for making or completing the Restoration;

### require Fannie Mae to expend funds from the Restoration Reserve Account to make or complete any Restoration;

### obligate Fannie Mae to proceed with the Restoration; or

### obligate Fannie Mae to demand from Borrower additional sums to make or complete any Restoration.

## **No Fannie Mae Warranty.**

# Fannie Mae’s approval of any plans for any Restoration, release of funds from the Restoration Reserve Account, inspection of the Mortgaged Property by Fannie Mae or Fannie Mae’s agents, or other acknowledgment of completion of any Restoration in a manner satisfactory to Fannie Mae shall not be deemed an acknowledgment or warranty to any person that the Restoration has been completed in accordance with applicable building, zoning, or other codes, ordinances, statutes, laws, regulations or requirements of any governmental agency, such responsibility being at all times exclusively that of Borrower.

# Default and Remedies.

## **Default under this Agreement.**

## Borrower shall be in default under this Agreement if:

### Borrower fails to proceed diligently with any Restoration or abandons or ceases Restoration work for a period of more than twenty (20) days on any Restoration (unless the failure or cessation results from any Force Majeure event and Borrower is diligently seeking to recommence work),

### Borrower fails to complete the Restoration in accordance with Section 6 (Performance of Restoration) of this Agreement,

### Borrower fails to comply with any other provision of this Agreement within ten (10) days after receipt of notice from Fannie Mae or Servicer of such failure, or

### an Event of Default occurs and is continuing under any of the Loan Documents.

### Borrower acknowledges that a default under this Agreement shall be deemed to be an Event of Default under the Loan Documents, and in addition to the remedies specified in this Agreement, if a default occur under this Agreement, Fannie Mae may exercise all of its or their rights and remedies under the Loan Documents.

## **Additional Remedies**.

## In the event of a default under Section 9(a), Servicer or Fannie Mae may, in its sole discretion, without notice to Borrower, elect to take one or more of the following actions:

### withhold disbursements from the Restoration Escrow;

### proceed under existing contracts or contract with third parties to make or complete such work;

### apply the funds in the Restoration Reserve Account towards the cost of performing the Restoration work; or

### exercise any and all other remedies available to Fannie Mae under any other Loan Document, including but not limited to any remedies otherwise available upon an Event of Default.

### In furtherance of the foregoing, Borrower hereby assigns to Fannie Mae all rights and claims that Borrower may have against all persons or entities supplying labor or materials in connection with the Restoration.

# Servicer to Act for Fannie Mae.

# In all instances in which the consent or approval of Fannie Mae or Servicer may be given or is required, or in which any determination, judgment or decision is to be rendered by Fannie Mae or Servicer, the rendering of such consent, approval, determination, judgment, or decision shall be made or exercised by Servicer on behalf of Fannie Mae. All notices and communications to be given under this Agreement shall be given to Servicer, at the address provided in the Security Instrument, and not to Fannie Mae. All requests for disbursement of funds shall be made to, and the disbursing of funds shall be made by Servicer and not Fannie Mae. The delegation of authority to Servicer by Fannie Mae shall continue until such time as revoked in writing by Fannie Mae, with a copy to Borrower.

# Miscellaneous.

## **Successors and Assigns; No Third Party Beneficiaries.**

# Borrower shall not assign its rights and obligations under this Agreement except in connection with an approved assignment of the Loan Documents. All covenants and agreements contained in this Agreement are for the benefit of the parties to this Agreement only, and nothing expressed or implied in this Agreement is intended to be for the benefit of any contractor, architect or other person.

## **Counterparts.**

## This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document and all such counterparts shall be construed together and shall constitute one instrument.

## **Continuing Force and Effect of Loan Documents.**

# Except as specifically modified or amended by the terms of this Agreement, all other terms and provisions of the other Loan Documents are incorporated by reference herein and in all respects shall continue in full force and effect. Borrower, by execution of this Agreement, hereby reaffirms, assumes and binds itself to all of the obligations, duties, rights, covenants, terms and conditions that are contained in the other Loan Documents, including but not limited to Section 30 (Governing Law; Consent to Jurisdiction and Venue), Section 31 (Notice), Section 37 (Severability; Amendments), Section 38 (Construction), and Section 38 (Waiver of Trial by Jury) of the Security Instrument.

**[Remainder of Page Intentionally Blank]**

IN WITNESS WHEREOF, Borrower and Fannie Mae have signed and delivered this Agreement under seal (where applicable) or have caused this Agreement to be signed and delivered under seal (where applicable) by their duly authorized representatives. Where applicable law so provides, Borrower and Fannie Mae intend that this Agreement shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER**

By: (seal)

Name:

Title:

**FANNIE MAE**

[By: (seal)

Name:

Title: ]

**[LOAN SERVICER MAY ONLY USE THE FOLLOWING SIGNATURE BLOCK in connection with approved actions where LOAN SERVICER HAS SIGNATORY AUTHORITY VIA LIMITED POWER OF ATTORNEY. Otherwise, use the signature block above.]**

[By: [LOAN SERVICER], a [\_\_\_\_\_\_\_\_\_\_\_\_\_], its Attorney-in-Fact

By: (seal)

Name:

Title: ]