**EXHIBIT [\_\_]**

**MODIFICATIONS TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**(Rehabilitation Reserve)**

The foregoing Loan Agreement is hereby modified as follows:

1. Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Loan Agreement.
2. The Definitions Schedule is hereby amended by adding the following new definitions in the appropriate alphabetical order:

“**Maximum Rehabilitation Reserve Disbursement Interval**” has the meaning set forth on the Summary of Loan Terms.

“**Maximum Rehabilitation Work Cost**” has the meaning set forth on the Rehabilitation Work Schedule.

“**Minimum Rehabilitation Reserve Disbursement Amount**” has the meaning set forth on the Summary of Loan Terms.

“**Rehabilitation Completion Date**” has the meaning set forth on the Summary of Loan Terms.

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

“**Rehabilitation Reserve Account Administrative Fee**” has the meaning set forth on the Summary of Loan Terms.

“**Rehabilitation Reserve Account Funds**” means collectively the Rehabilitation Reserve Deposit and all other funds from time to time held in the Rehabilitation Reserve Account.

“**Rehabilitation Reserve Account Interest Disbursement Frequency**” has the meaning set forth on the Summary of Loan Terms.

“**Rehabilitation Reserve** **Deposit**” has the meaning set forth on the Summary of Loan Terms.

**[DRAFTING NOTE: INSERT THE FOLLOWING IF LENDER OR FANNIE MAE OTHERWISE DETERMINES A COST DEPOSIT IS PRUDENT TAKING INTO ACCOUNT THE SIZE OF THE PROJECT, THE LENGTH OF THE WORK, THE STRENGTH OF THE SPONSOR, AND THE TIER OF THE MORTGAGE LOAN:** “**Rehabilitation Review Cost Deposit**” means the deposit of **[$\_\_\_\_\_\_\_\_\_\_]** payable to Lender in connection with Lender’s third party costs and expenses related to the Rehabilitation Work.**]**

“**Rehabilitation Work**” means, individually and collectively, the repairs and improvements to the Mortgaged Property listed on the Rehabilitation Work Schedule.

“**Rehabilitation Work Cost Threshold**” has the meaning set forth on the Summary of Loan Terms.

“**Rehabilitation Work Schedule**” means that certain Schedule [\_\_\_] (Rehabilitation Work Schedule) to the Loan Agreement which is attached hereto and hereby made a part of the Loan Agreement.

“**Three Month Period**” means each of the three (3) consecutive full calendar months immediately preceding the month in which Borrower requests final disbursement of Rehabilitation Reserve Account Funds.

1. Section 3.02(a) (Personal Liability Based on Lender’s Loss) of the Loan Agreement is hereby amended by adding the following provision to the end thereof:

[(\_\_)] failure of Borrower to:

(1) timely complete the Rehabilitation Work in a lien-free manner in accordance with the terms of Article [(\_\_)] (Rehabilitation Work), and

(2) pay all costs and expenses when due and payable in connection with the Rehabilitation Work.

1. The following article is hereby added to the Loan Agreement as Article [\_\_\_] (Rehabilitation Work):

**ARTICLE** **[\_\_\_] –** REHABILITATION WORK

## **Section [\_\_].01** Covenants.

### (a) Agreement to Complete Work.

### Borrower shall commence and complete the Rehabilitation Work immediately following the Effective Date (or as soon thereafter as weather reasonably shall permit), Borrower shall commence and shall at all times thereafter diligently pursue the completion of all Rehabilitation Work. Borrower shall complete all Rehabilitation Work by the Rehabilitation Completion Date and, if different, any individual Rehabilitation Work item by the completion date identified on the Schedule of Rehabilitation Work. Borrower shall take commercially reasonable efforts to minimize any adverse impacts from the Rehabilitation Work on the leasing or operations of the Mortgaged Property, and not displace any tenants as a result of the Rehabilitation Work.

### (b) Conditions Precedent to Rehabilitation Work.

On or before the Effective Date, Borrower shall have provided Lender with:

(1) copies of all contracts, plans and specifications, budgets, schedules, permits, notices of commencement, insurance certificates, and agreements related to the Rehabilitation Work, in form and substance reasonably acceptable to Lender;

(2) an assignment to Lender of all contracts (including plans and specifications, general contract, architect and engineering agreements, as applicable, and insurance policies or certificates) related to the Rehabilitation Work, in form and substance reasonably acceptable to Lender;

(3) an agreement and assignment regarding general contractor’s contract by and among Borrower, general contractor and Lender related to the Rehabilitation Work, in form and substance reasonably acceptable to Lender;

(4) a completion and performance guaranty in a form and substance acceptable to Lender from one or more individuals or entities acceptable to Lender as guarantors with respect to such Rehabilitation Work;

(5) **[DRAFTING NOTE: INSERT THE FOLLOWING IF LENDER OR FANNIE MAE DETERMINES PAYMENT AND PERFORMANCE BONDS ARE PRUDENT TAKING INTO ACCOUNT THE SIZE OF THE PROJECT, THE LENGTH OF THE WORK, THE STRENGTH OF THE SPONSOR, AND THE TIER OF THE MORTGAGE LOAN:** payment and performance bonds related to the Rehabilitation Work in a form and substance acceptable to Lender, issued by a surety acceptable to Lender**] or [Intentionally Deleted.]**;

(6) confirmation by Borrower that construction of such Rehabilitation Work shall not reasonably be expected to result in interference to the occupancy of tenants of such Mortgaged Property such that tenants in occupancy with respect to fifteen percent (15%) **[DRAFTING NOTE: THIS PERCENTAGE COULD VARY IF APPROVED BY FANNIE MAE BUSINESS TEAM]** or more (based on the average trailing-12 month occupancy at such Mortgaged Property immediately prior to the commencement of the Rehabilitation Work) of the tenants under the Leases would be displaced or permitted to terminate their Leases or to abate the payment of all or any portion of their Rent;

(7) evidence of the source(s) of funds for paying for the Rehabilitation Work and a certification that such source(s) will not result in a lien against the Mortgaged Property, Borrower, any direct or indirect ownership interests in Borrower, or any cash flow derived from the Mortgaged Property;

(8) a copy of the general contractor’s insurance certificate(s) for Lender’s review;

(9) evidence of adequate workers’ compensation and builder’s risk insurance;

(10) confirmation by Borrower that the Rehabilitation Work shall not reasonably be expected to result in noncompliance with (A) applicable federal, state and local statutes, laws, ordinances, rules and regulations related to human health, safety, and the environment, (B) applicable zoning and land use statutes, laws, ordinances, rules and regulations, and (C) applicable health, fire, safety, and building codes and for the lawful use and operation of the Mortgaged Property; and

(11) such other documents and information relating to the Rehabilitation Work as Lender may reasonably require.

### (c) Monitoring During Construction.

**[DRAFTING NOTE: IF FANNIE MAE AGREES TO WAIVE THE INSPECTION, LENDER SHOULD INSERT THE FOLLOWING IN LIEU OF THE NEXT SENTENCE: “**Lender reserves the right to inspect or engage, at Borrower’s cost, an inspector to perform periodic site inspections of the Rehabilitation Work.”]Lender shall engage, at Borrower’s cost, an inspector to perform periodic site inspections of the Rehabilitation Work. During the construction of any Rehabilitation Work, **[DRAFTING NOTE: IF FANNIE MAE AGREES TO WAIVE THE INSPECTION REQUIREMENT, LENDER SHOULD INSERT THE FOLLOWING IN LIEU OF THE NEXT CLAUSE: “**Lender, at its option, may require the following**”]** Lender’s standard construction monitoring processes and requirements will apply, including:

(A) Borrower shall provide to Lender **[DRAFTING NOTE: SELECT APPROPRIATE OPTION: [monthly][quarterly]]** operating statements, rent rolls, construction progress reports, and reports verifying covenant compliance; and

(B) Borrower shall provide to Lender quarterly third-party inspection reports and title updates.

All inspections made pursuant to this Section [\_\_].01(c) are made solely for the benefit of Lender, and Lender shall assume no responsibility and shall have no liability to Borrower for the completion of the Rehabilitation Work according to the plans and specifications (or otherwise) or for the quality of the work or materials used or for any other reason by virtue of such inspections.

### (d) Payment of Rehabilitation Work and Related Fees.

Borrower shall pay:

(1) all invoices for the Rehabilitation Work as and when due from Borrower’s funds prior to any request for disbursement from the Rehabilitation Reserve Account (unless Lender has agreed to issue joint checks in connection with any particular Rehabilitation Work item);

(2) all applicable fees and charges of any Governmental Authority on account of the Rehabilitation Work;

(3) **[DRAFTING NOTE: INSERT THE FOLLOWING IF THERE IS NO REHABILITATION REVIEW COST DEPOSIT:** all of Lender’s costs, expenses and legal fees in connection with the Rehabilitation Work, including:

(A) by the date specified in the applicable invoice, the Rehabilitation Reserve Account Administrative Fee for Lender’s services in administering the Rehabilitation Reserve Account and investing the funds on deposit in the Rehabilitation Reserve Account;

(B) upon demand, a reasonable inspection fee, not exceeding the Maximum Inspection Fee for each inspection of the Mortgaged Property by Lender in connection with a Rehabilitation Work item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections;

(C) upon demand, all legal fees in connection with the Rehabilitation Work and the Rehabilitation Reserve Account; and

(D) upon demand, all fees charged by any engineer, architect, inspector or other person inspecting the Mortgaged Property on behalf of Lender for each inspection of the Mortgaged Property in connection with a Rehabilitation Work item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections.**]**

**[DRAFTING NOTE: INSERT THE FOLLOWING IF THERE IS A REHABILITATION REVIEW COST DEPOSIT:** all of Lender’s costs, expenses and legal fees in connection with the Rehabilitation Work in excess of the Rehabilitation Review Cost Deposit, including:

(A) the Rehabilitation Reserve Account Administrative Fee for Lender’s services in administering the Rehabilitation Reserve Account and investing the funds on deposit in the Rehabilitation Reserve Account;

(B) a reasonable inspection fee, not exceeding the Maximum Inspection Fee for each inspection of the Mortgaged Property by Lender in connection with a Rehabilitation Work item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections;

(C) all legal fees in connection with the Rehabilitation Work and the Rehabilitation Reserve Account; and

(D) all fees charged by any engineer, architect, inspector or other person inspecting the Mortgaged Property on behalf of Lender for each inspection of the Mortgaged Property in connection with a Rehabilitation Work item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections.

Lender shall promptly refund to Borrower any amount of the Rehabilitation Review Cost Deposit remaining after applying the Rehabilitation Review Cost Deposit to such costs, taxes and expenses.**]**

Except as specifically set forth in the Loan Agreement to the contrary, nothing herein shall be construed as entitling Borrower or any Borrower Affiliate to enter into any secured or unsecured construction loan or other financing or Preferred Equity or Mezzanine Debt to fund the Rehabilitation Work or take any other act in violation of the Loan Documents. Borrower shall not seek or otherwise be entitled to any reimbursement for costs of the Rehabilitation Work from the Repairs Escrow Account, or Replacement Reserve Account, if any, established in accordance with Article 13 of this Loan Agreement, or otherwise under the Loan Documents.

### (e) Assignment of Contracts for Rehabilitation Work.

In addition to any other assignment of contracts required hereunder, Borrower shall collaterally assign to Lender as additional security any contract or subcontract for Rehabilitation Work, upon Lender’s written request, on a form of assignment approved by Lender.

### (f) Indemnification.

If Lender elects to exercise its rights under Section 14.03 due to Borrower’s failure to timely commence or complete any Rehabilitation Work, Borrower shall indemnify and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs or expenses, including litigation costs and reasonable attorneys’ fees, arising from or in any way connected with the performance by Lender of the Rehabilitation Work or the investment of the Rehabilitation Reserve Account Funds provided that Borrower shall have no indemnity obligation if such actions, suits, claims, demands, liabilities, losses, damages, obligations and costs or expenses, including litigation costs and reasonable attorneys’ fees, arise as a result of the willful misconduct or gross negligence of Lender, Lender’s agents, employees or representatives as determined by a court of competent jurisdiction pursuant to a final non-appealable court order.

### (g) Amendments to Loan Documents.

Subject to Section 5.02, Borrower shall execute and deliver to Lender, upon written request, an amendment to this Loan Agreement, the Security Instrument, and any other Loan Document deemed necessary or desirable to perfect Lender’s lien upon any portion of the Mortgaged Property for which Rehabilitation Reserve Account Funds were expended.

**(h) Completion of Rehabilitation Work.**

Borrower shall provide evidence satisfactory to Lender of completion of (1) the Rehabilitation Work by the Rehabilitation Completion Date, and (2) if different, any individual required Rehabilitation Work item by the completion date set forth on Rehabilitation Work Schedule Upon completion of the Rehabilitation Work, Borrower shall deliver to Lender the following:

(A) an inspection report or certificate of completion by an appropriate independent qualified professional (such as an architect, engineer or property inspector, depending on the nature of the Rehabilitation Work) selected by Lender;

(B) at Lender’s option, either:

(i) a search of title to the Mortgaged Property effective to the later of the date of completion or the date of final disbursement from the Rehabilitation Reserve Account; or

(ii) a “date-down” endorsement to Lender’s Title Policy extending the effective date of such policy to the later of the date of completion or the date of final disbursement from the Rehabilitation Reserve Account and showing no Liens other than (1) Permitted Encumbrances, (2) liens which Borrower is diligently contesting in good faith that have been bonded off to the satisfaction of Lender, or (3) 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;

(C) 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 equipment and fixtures) for the Mortgaged Property by that contractor, subcontractor or materialman through the date of completion;

(D) any new or updated certificates of occupancy, licenses or permits required by applicable law following completion of the Rehabilitation Work;

(E) a written certification from Borrower or, if required by Lender, any architect or contractor that performed the Rehabilitation Work, certifying that:

(i) the Rehabilitation Work was completed substantially in accordance with contracts, plans, budgets, permits, and agreements approved by Lender prior to commencing the Rehabilitation Work, subject to any modifications thereto approved by Lender; and

(ii) the Mortgaged Property is in compliance with (1) applicable federal, state and local statutes, laws, ordinances, rules and regulations related to human health, safety, and the environment, (2) applicable zoning and land use statutes, laws, ordinances, rules and regulations, and (3) applicable health, fire, safety, and building codes and for the lawful use and operation of the Mortgaged Property;

(F) evidence that Borrower’s property liability insurance coverage has been amended to include any buildings and amenities constructed as a part of the Rehabilitation Work, as applicable;

(G) if required by Lender, an updated as-built survey of the Mortgaged Property in form and substance acceptable to Lender; and

(H) such other reports or information required by Lender.

## **Section [\_\_].02 Rehabilitation Reserve Account.**

### (a) Deposits, Account and Disbursements.

### (1) Initial Deposit to Rehabilitation Reserve Account.

On the Effective Date, Borrower shall pay to Lender the Rehabilitation Reserve Deposit for deposit into the Rehabilitation Reserve Account, which deposit shall be equal to the Maximum Rehabilitation Work Cost as shown on the Rehabilitation Work Schedule.

### (2) Custodial Account.

The Rehabilitation Reserve Account shall be deemed a Collateral Account under this Loan Agreement and any Rehabilitation Reserve Account Funds shall be deemed part of the Collateral Account Funds under this Loan Agreement. The Rehabilitation Reserve Account shall be an interest-bearing account that meets the standards for custodial accounts as required by Lender from time to time. Lender shall not be responsible for any losses resulting from the investment of the Rehabilitation Reserve Account Funds or for obtaining any specific level or percentage of earnings on such investment. All interest earned on the Rehabilitation Reserve Account Funds shall be added to and become part of such Rehabilitation 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, Lender shall pay to Borrower the interest earned on the Rehabilitation Reserve Account not less frequently than the Rehabilitation Reserve Account Interest Disbursement Frequency. In no event shall Lender be obligated to disburse funds from the Rehabilitation Reserve Account if an Event of Default has occurred and is continuing.

### (3) **Disbursements by Lender Only.**

Only Lender or a designated representative of Lender may make disbursements from the Rehabilitation Reserve Account. Except as provided in Section [\_\_].02(a)(8) (Joint Checks for Periodic Disbursements), disbursements shall only be made upon Borrower request and after satisfaction of all conditions for disbursement.

**(4) Adjustment to Deposits.**

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

### (5) Insufficient Funds.

Lender may, upon ten (10) days prior written notice to Borrower, require an additional deposit(s) to the Rehabilitation Reserve Account if Lender determines that the amounts on deposit in the Rehabilitation Reserve Account are not sufficient to cover the actual estimated costs for the Rehabilitation Work (taking into account the Maximum Rehabilitation Work Cost). Borrower’s agreement to complete the Rehabilitation Work as required by this Loan Agreement shall not be affected by the insufficiency of any balance in the Rehabilitation Reserve Account.

### (6) Disbursements for Rehabilitation Work.

Disbursement requests may only be made after completion of the applicable Rehabilitation Work and only to reimburse Borrower for the actual approved costs of the Rehabilitation Work up to the Maximum Rehabilitation Work Cost. Lender shall not be required to disburse any amounts which would cause the amount of funds remaining in the Rehabilitation Reserve Account after any disbursement (other than with respect to the final disbursement) to be less than the Maximum Rehabilitation Work Cost of the then-current estimated cost of completing all remaining Rehabilitation Work. In no event shall Lender be obligated to disburse Rehabilitation Reserve Account Funds if: (i) all equity contributions have not been received by Borrower from its investors/partners and properly invested in the Mortgaged Property as of the date of the first requested disbursement hereunder, except as specifically set forth in the Loan Agreement to the contrary; or (ii) an Event of Default has occurred and is continuing. Lender shall not disburse from the Replacement Reserve Account or the Repairs Escrow Account for costs of Rehabilitation Work. Lender shall not disburse from the Rehabilitation Reserve Account the costs of routine maintenance to the Mortgaged Property or for costs which are to be reimbursed from any Reserve/Escrow Account. Disbursement from the Rehabilitation Reserve Account shall not be made more frequently than the Maximum Rehabilitation Reserve Disbursement Interval. Other than in connection with a final request for disbursement, disbursements from the Rehabilitation Reserve Account shall not be less than the Minimum Rehabilitation Reserve Disbursement Amount.

### (7) Disbursement Requests.

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

(A) specify the Rehabilitation Work for which reimbursement is requested;

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

(C) if applicable, specify the cost of all contracted labor or other services, including architectural services, involved in the Rehabilitation Work for which such request for disbursement is made;

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

(E) include evidence of payment of such Rehabilitation Work satisfactory to Lender (unless Lender has agreed to issue joint checks in connection with a particular Rehabilitation Work item as provided in this Loan Agreement);

(F) if applicable, contain a certification by Borrower that the Rehabilitation Work has been completed lien free and in a good and workmanlike manner, in accordance with any plans and specifications previously approved by Lender (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 Loan Agreement; and

(G) if applicable, include evidence that any certificates of occupancy, permits or licenses required by local law or authorities have been issued.

### (8) Conditions to Disbursement.

Lender may require any or all of the following at the expense of Borrower as a condition to each disbursement of funds from the Rehabilitation Reserve Account, including the final disbursement:

(A) an inspection by Lender of the Mortgaged Property and the applicable Rehabilitation Work item(s);

(B) 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 Rehabilitation Work) selected by Lender;

(C) either:

(i) a search of title to the Mortgaged Property effective to the date of disbursement; or

(ii) a “date-down” endorsement to Lender’s Title Policy extending the effective date of such policy and all endorsements thereto to the date of disbursement, and showing no Liens other than (1) Permitted Encumbrances, (2) liens which Borrower is diligently contesting in good faith that have been bonded off to the satisfaction of Lender, or (3) 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;

(D) 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 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);

(E) any new or updated certificates of occupancy, permits or licenses required by applicable law following completion of the Rehabilitation Work item; and

(F) any other report or information required by Lender.

### (9) Joint Checks for Periodic Disbursements.

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

(A) the cost of any Rehabilitation Work item exceeds the Rehabilitation Work Cost Threshold, and the contractor performing such Rehabilitation Work requires periodic payments pursuant to the terms of the applicable written contract;

(B) the contract for such Rehabilitation Work requires payment upon completion of the applicable portion of the Rehabilitation Work;

(C) Borrower makes the disbursement request after completion of the applicable portion of the Rehabilitation Work required to be completed under such contract;

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

(E) Lender determines that the remaining funds in the Rehabilitation Reserve Account designated for such Rehabilitation Work are sufficient to pay such costs and the then-current estimated cost of completing all remaining Rehabilitation Work (taking into account the Maximum Rehabilitation Work Cost);

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

(G) all other conditions for disbursement have been satisfied.

### (10) [Intentionally Omitted.]

#### **(11) Excess Costs.**

In the event any Rehabilitation Work item exceeds the Maximum Rehabilitation Work Cost for such Rehabilitation Work 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. Lender shall make disbursements from the Rehabilitation Reserve Account if:

(A) the excess cost is commercially reasonable;

(B) the amount of funds in the Rehabilitation Reserve Account is sufficient to pay such incurred cost and the then-current estimated cost of completing all remaining Rehabilitation Work (taking into account the Maximum Rehabilitation Work Cost); and

(C) all conditions for disbursement from the Rehabilitation Reserve Account have been satisfied.

#### (12) Final Disbursements.

(A) Upon completion of all Rehabilitation Work in accordance with this Loan Agreement on or before the Rehabilitation Completion Date and so long as no Event of Default has occurred and is continuing, Lender shall disburse to Borrower any amounts then remaining in the Rehabilitation Reserve Account if:

(i) all conditions for disbursements set forth in Section [\_\_].02(a)(7) (Conditions to Disbursement) have been satisfied; and

(ii) Borrower shall have provided to Lender a certified rent roll, in such form as Lender may require, demonstrating that in the Three Month Period not less than ninety percent (90%) of the units of the Mortgaged Property were physically occupied under Residential Leases that comply with the terms of this Loan Agreement.

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

## **Section [\_\_].03 Mortgage Loan Administration Matters Regarding Rehabilitation Work.**

### (a) Approvals of Contracts; Assignment of Claims.

Lender retains the right to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Rehabilitation Work. Notwithstanding Borrower’s assignment (in the Security Instrument) of its rights and claims against all persons or entities supplying labor or materials in connection with the Rehabilitation Work, Lender will not pursue any such right or claim unless an Event of Default has occurred and is continuing or as otherwise provided in Section 14.03.

### (b) Delays and Workmanship.

If any Rehabilitation Work has not be performed in a good and workmanlike manner or been commenced, performed, or completed within all timeframes required by Lender, then Lender may, without notice to Borrower:

(1) withhold disbursements from the Rehabilitation Reserve Account for such unsatisfactory Rehabilitation Work item;

(2) proceed under existing contracts or contract with third parties to make or complete such Rehabilitation Work item;

(3) apply the funds in any Collateral Account toward the labor and materials necessary to make or complete such Rehabilitation Work item; or

(4) exercise any and all other remedies available to Lender under this Loan Agreement or any other Loan Document, including any remedies otherwise available upon the occurrence of an Event of Default.

To facilitate Lender’s completion or making of such Rehabilitation Work item, Lender shall have the right to enter onto the Mortgaged Property and perform any and all work and labor necessary to make or complete the Rehabilitation Work item and employ watchmen to protect the Mortgaged Property from damage. All funds so expended by Lender shall be deemed to have been advanced to Borrower, shall be part of the Indebtedness and shall be secured by the Security Instrument and this Loan Agreement. Borrower shall use commercially reasonable efforts to cause all contractors and subcontractors to cooperate with Lender, Lender’s inspector, construction consultant, or other third parties engaged by Lender to complete or make the Rehabilitation Work pursuant to this Section [\_\_].03(b) (Delays and Workmanship).

### (c) Lender as Attorney-In-Fact.

Borrower hereby authorizes and appoints Lender as attorney-in-fact pursuant to Section 14.03(c) (Appointment of Lender as Attorney-In-Fact).

### (d) No Lender Obligation.

Nothing in this Loan Agreement shall:

(1) make Lender responsible for making or completing the Rehabilitation Work;

(2) require Lender to expend funds from any Collateral Account to make or complete any Rehabilitation Work;

(3) obligate Lender to proceed with the Rehabilitation Work; or

(4) obligate Lender to demand from Borrower additional sums to make or complete any Rehabilitation Work.

### (e) No Lender Warranty.

Lender’s approval of any plans for any Rehabilitation Work, release of funds from the Rehabilitation Reserve Account, inspection of the Mortgaged Property by Lender or Lender’s agents, or other acknowledgment of completion of any Rehabilitation Work in a manner satisfactory to Lender shall not be deemed an acknowledgment or warranty to any person that the Rehabilitation Work 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.

**[Remainder of Page Intentionally Blank]**

**SCHEDULE [\_\_\_] TO Multifamily Loan and Security Agreement**

**Rehabilitation Work Schedule**

*[Attach a list of Rehabilitation Work, estimated cost of Rehabilitation Work and the completion date of any Rehabilitation Work with a completion date other than* *the Rehabilitation Completion Date.]*

|  |  |  |  |
| --- | --- | --- | --- |
| **Rehabilitation Work** | **Rehabilitation Work Estimated Cost** | **Maximum Rehabilitation Work Cost** | **Rehabilitation Work Item Completion Date**  **[DRAFTING NOTE: INCLUDE SPECIFIC DATE ONLY IF ANY INDIVIDUAL WORK ITEMS HAVE COMPLETION DATES EARLIER THAN THE REHABILITATION COMPLETION DATE FOR THE ENTIRE PROJECT; OTHERWISE INSERT “Rehabilitation Completion Date”]** |
|  |  | **Estimated Cost x [100%][125%][Other%]** |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |