**[DRAFTING NOTE: FOR USE WHEN (1) THE GROUND LEASE DOES NOT SATISFY ALL GROUND LEASE CHECKLIST REQUIREMENTS AND GROUND LESSOR IS NOT OTHERWISE ENTERING INTO A JOINDER AND CONSENT TO THE SECURITY INSTRUMENT (FORM 6308) OR (2) LENDER OTHERWISE DETERMINES THAT A RECOGNITION AGREEMENT WOULD BE PRUDENT. REVISE AND SUPPLEMENT AS NEEDED.]**

**---------------------------- [Space Above This Line For Recording Data] ----------------------------**

**GROUND LEASE RECOGNITION AND ATTORNMENT AGREEMENT**

This GROUND LEASE RECOGNITION AND ATTORNMENT AGREEMENT (this “**Agreement**”) dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is executed by and among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (together with its successors and assigns, “**Lender**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Ground Lessor**”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Ground Lessee**”).

**RECITALS:**

A. Ground Lessee and Ground Lessor are parties to that certain [**DRAFTING NOTE: INSERT TITLE OF DOCUMENT AND ALL AMENDMENTS:** Ground Lease Agreement] dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the “**Ground Lease**”) [**CONSIDER WHETHER TO ALWAYS REQUIRE RECORDATION:**, which Ground Lease [was] [is evidenced by that certain [Memorandum of Lease]] recorded on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the Official Records of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], covering certain premises more fully described in Exhibit A attached hereto (the “**Premises**”), which Premises are a part of the real property commonly known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Mortgaged Property**”).

B. Pursuant to that certain Multifamily Loan and Security Agreement dated as of the date hereof, executed by and between Ground Lessee and Lender (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”), Lender has agreed to make a loan to Ground Lessee in the original principal amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_/100 Dollars ($\_\_\_\_\_\_\_\_\_) (the “**Mortgage Loan**”), as evidenced by that certain Multifamily Note dated as of the date hereof, executed by Ground Lessee and made payable to the order of Lender in the amount of the Mortgage Loan (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”). Capitalized terms not otherwise defined herein shall have the meanings assigned to them under the Loan Agreement.

C. In addition to the Loan Agreement, the MortgageLoan and the Note are also secured by a certain Multifamily Mortgage, Deed of Trust, or Deed to Secure Debt dated as of the date hereof (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”). The Note, the Security Instrument, the Loan Agreement and any other agreement executed in connection with the Mortgage Loan are referred to collectively as the “**Loan Documents**.”

D. Ground Lessor will derive a substantial benefit from the making of the Mortgage Loan.

E. Lender is requiring this Agreement as a condition to making the Mortgage Loan, and Ground Lessor has agreed to execute this Agreement.

**AGREEMENTS:**

NOW THEREFORE, in consideration of the mutual covenants in this Agreement and for other valuable consideration, the receipt and sufficiency of which are acknowledged, Ground Lessor, Lender, and Ground Lessee agree as follows:

1. **Recitals.**

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

1. **Defined Terms.**

The following terms, when used in this Agreement, shall have the following meanings:

“**Foreclosure Event**” means (a) the foreclosure of the Security Instrument or any other sale by Lender or any trustee for Lender pursuant to the Security Instrument or any other Loan Document; (b) any other exercise by Lender of its rights and remedies (whether under the Security Instrument or under applicable law, including Insolvency Laws) as holder of the Mortgage Loan or the Security Instrument as a result of which Lender or any other Successor Lessee acquires title to, or the right of possession of, the Mortgaged Property; (c) acquisition of title to the Mortgaged Property in lieu of foreclosure or other conveyance of Ground Lessee’s interest in the Mortgaged Property in lieu of any of the foregoing; or (d) in Louisiana, any dation en paiement.

“**Subsequent Sale**” means the first sale of the Mortgaged Property by Lender, Lender’s designee or nominee or any trustee for Lender after a Foreclosure Event.

“**Successor Lessee**” means any party that becomes owner of the Mortgaged Property or otherwise acquires Ground Lessee’s interest in the Mortgaged Property as the result of a Foreclosure Event or a Subsequent Sale, including, without limitation, Lender and any designee or nominee of Lender.

1. **Recognition of Lease.**

Ground Lessor hereby confirms that the Ground Lease is in full force and effect without any existing defaults and, to Ground Lessor’s knowledge, there are no conditions existing that would constitute a default or breach under the Ground Lease.

1. **Consent to Mortgage Loan; Recognition of Lender and Lender’s Rights.**
2. Ground Lessor hereby consents to the Mortgage Loan and acknowledges and agrees that:
3. it has received an executed copy of the Security Instrument concurrently with the execution and delivery of this Agreement;
4. the Security Instrument is hereby recognized as a [permitted mortgage/acceptable mortgage/eligible mortgage] **[DRAFTING NOTE: IF THE GROUND LEASE DOCUMENTS USE A DEFINED TERM TO REFER TO A PERMITTED MORTGAGE ENTITLED TO RIGHTS UNDER THE DECLARATION, USE SUCH DEFINED TERM** (e.g. “**Permitted Mortgage**” or “**Eligible Mortgage**”)**]** (as defined in the Ground Lease);
5. Lender is hereby recognized as a [permitted mortgagee/acceptable mortgagee/eligible mortgagee] **[DRAFTING NOTE: IF THE GROUND LEASE DOCUMENTS USE A DEFINED TERM TO REFER TO A PERMITTED MORTGAGEE ENTITLED TO RIGHTS UNDER THE DECLARATION, USE SUCH DEFINED TERM** (e.g. “**Permitted Mortgagee**” or “**Eligible Mortgagee**”)**]** (as defined in the Ground Lease), for all purposes under the Ground Lease;
6. this Agreement satisfies any written notices or similar requirement from Ground Lessee to Ground Lessor regarding the [**Eligible Mortgage/Permitted Mortgage**] as is provided in the Ground Lease; and
7. Lender shall be entitled to all of the rights and benefits of [**Eligible Mortgagee/Permitted Mortgagee**] set forth in the Ground Lease as a third party beneficiary thereof.
8. Ground Lessor and Ground Lessee acknowledge and agree that the Security Instrument is, as of the date hereof, the only [**Eligible Mortgage/Permitted Mortgage**] under the Ground Lease.
9. Ground Lessor hereby acknowledges, agrees and confirms that Lender shall have the following rights:
	1. Lender may acquire or succeed to the leasehold estate under the Ground Lease by reason of a Foreclosure Event, and upon such Foreclosure Event shall assume only the obligations of Ground Lessee accruing thereunder during the period when Lender holds possession or owns the Ground Lessee’s leasehold estate therein.
	2. Notwithstanding anything to the contrary in the Ground Lease, Lender may sell, assign or otherwise dispose of Ground Lessee’s interest under the Lease to which it has so succeeded upon such Foreclosure Event. Upon any such sale, assignment or disposition, Lender shall be released from all obligations and liabilities of Ground Lessee whatsoever arising under the Ground Lease.
10. In the event that Lender acquires title to or the right to possession of the Mortgaged Property upon a Foreclosure Event, Lender and Ground Lessor hereby agree to recognize one another as tenant and landlord, respectively, under the Ground Lease (subject to the terms of Section 8). Accordingly, from and after such Foreclosure Event, Ground Lessor and Lender shall have the same remedies against each other for the breach of an agreement contained in the Ground Lease; provided, however, that Lender shall not be:
	1. liable for any act or omission of Ground Lessee (subject to the provisions of Section 8);
	2. subject to any offsets or defenses that Ground Lessor might have against Ground Lessee;
	3. bound by any amendment or modification of the Ground Lease made after the date of this Agreement without Lender’s prior written consent; or
	4. bound by, or liable for, any breach of any representation or warranty or indemnity agreement contained in the Ground Lease or otherwise made by Ground Lessee.
11. **No Surrender or Termination of Ground Lease; Waiver of Ground Lessor Lien.**
12. Ground Lessor agrees that it shall not accept a voluntary surrender or termination of the Ground Lease without the prior written consent of Lender. Ground Lessor shall not terminate, cancel, amend or modify the Ground Lease without the prior written consent of Lender. Ground Lessor and Ground Lessee acknowledge and agree that, from and after the date of the Security Instrument, no amendment, modification, change, supplement, alteration, subordination, assignment by Ground Lessee, transfer by Ground Lessee, or consensual cancellation or consensual termination of the Ground Lease shall be effective (and the same shall be deemed void and of no force or effect) unless and until approved in writing by Lender (provided, however, that if Lender fails to respond to a written request to approve a proposed amendment or modification of the Ground Lease within thirty (30) days of delivery of such request, then such request shall be deemed denied by Lender).
13. Ground Lessor hereby waives any contractual (including any which may be contained in the Lease) and/or statutory liens and any rights of distress or distraint with respect to the personal property of Ground Lessee (or Ground Lessee's sublessees, successors or assigns, including Lender) from time to time located within or upon the Premises (“**Ground Lessee’s Personal Property**”), which Ground Lessor now has or hereafter may have during the term of the Ground Lease; provided, however, that Ground Lessor shall have certain rights to cause the removal of Ground Lessee’s Personal Property in event of termination of the Ground Lease with Lender’s prior consent or upon surrender of the Premises by Ground Lessee with Lender’s prior consent, as more particularly provided in the Ground Lease subject to Lender’s consent rights provided herein. Ground Lessor agrees to execute and deliver such other instruments as may be reasonably requested by Ground Lessee or Lender from time to time to evidence or confirm the foregoing lien waiver by Ground Lessor.
14. **Subordination of Fee Mortgage.**

Ground Lessor acknowledges and agrees that it will not mortgage or otherwise encumber its fee estate in the future unless expressly subordinated to the Mortgage Loan with Lender’s prior written consent. Ground Lessor acknowledges, represents and warrants that it has not (a) assigned, mortgaged, conveyed, transferred, encumbered, hypothecated or granted to any party any interest in the Ground Lease or the Premises (other than recorded easements, rights of way or similar recorded encumbrances of record as of the date hereof) other than to Ground Lessee, (b) granted to any party any right or option to purchase the Premises or any interest of Ground Lessor in the Ground Lease **[DRAFTING NOTE: INSERT IF APPLICABLE: other than options granted to Ground Lessee under the Ground Lease]**, or (c) subordinated its interest in the Ground Lease to any mortgage lien or other encumbrance on the fee.

1. **Notices of Ground Lease Defaults.**

Ground Lessor shall send to Lender written notice of any default by Ground Lessee under the Ground Lease concurrently with the sending of notice thereof to Ground Lessee. All notices hereunder (or otherwise submitted to Lender pursuant to the terms of the Ground Lease) shall be in writing, and all such notices and other communications shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service, or by registered or certified United States mail, postage prepaid, at the addresses set forth below (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery, or in the case of courier or mail, as of the date of the first attempted delivery (as recorded by the courier or mail service) at the address and in the manner provided herein; provided, however,that service of a notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt. Upon receipt of notice of a change of address, the recipient shall promptly confirm receipt by reply notice. The addresses for notice are as follows:

To Lender: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

To Ground Lessor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

To Ground Lessee: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

1. **Lender’s Right to Cure.**

Ground Lessor agrees that, upon receipt of notice from the Ground Lessor of a default by Ground Lessee under the Ground Lease, Lender may, but shall not be obligated to (unless in connection with a foreclosure action instituted by Lender), cure any default of Ground Lessee within the time frame set forth in the Ground Lease afforded to cure such default, and the lapse of thirty (30) days after the expiration of such time frame to cure such default; provided, however, that with respect to any default of Ground Lessee under the Ground Lease which cannot be remedied within such time frame, if Lender commences to cure such default within such time and thereafter diligently proceeds with such efforts and pursues the same to completion, Lender shall have such time as is reasonably necessary to complete curing such default. Notwithstanding the foregoing, with respect to any default of Ground Lessee under the Ground Lease that cannot be remedied without Lender obtaining possession of the Premises, any cure period afforded to Ground Lessee in the Ground Lease shall not commence until Lender obtains possession of the Premises, as long as all other defaults which reasonably can be cured by Lender without Lender obtaining possession of the Premises are so cured, and provided that Lender commences to exercise any rights to obtain possession or to effect foreclosure, and diligently pursues the exercise of such rights thereafter.

1. **Notice of Proceedings; Lender’s Right to Participate.**

Ground Lessor agrees that if Ground Lessor or Ground Lessee initiates any appraisal, arbitration, litigation or other dispute resolution proceeding affecting the Ground Lease, then Ground Lessor and Ground Lessee shall simultaneously notify Lender, and Lender will have the right to participate in such proceeding on Ground Lessee’s behalf, or exercise any or all of Ground Lessee’s rights in such proceeding, in each case (at Lender’s option) to the exclusion of Ground Lessee.

1. **No Personal Liability of Lender.**

Notwithstanding anything contained in the Ground Lease to the contrary, Ground Lessor acknowledges, covenants and agrees that (1) Lender shall have no personal liability under the Ground Lease unless and until Lender shall have record title to the Mortgaged Property, and (2) in the event Lender (or its successor or assign) obtains record title to the Leasehold Estate, the liability of Lender and its successors and assigns to Ground Lessor shall be limited to the value of their respective interests in the Mortgaged Property.

1. **No Merger.**

It is hereby agreed that the fee title and leasehold estate in the property demised by the Ground Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates in either Ground Lessor, Ground Lessee or any other party, whether by purchase or otherwise. Ground Lessor, Lender and Ground Lessee expressly acknowledge and agree that (a) Ground Lessor is not a party to (or a third party beneficiary of) the Security Instrument or the Note or liable for the repayment of the Mortgage Loan, and (b) Lender has no lien or security interest against Ground Lessor’s interest in the Ground Lease or the fee simple title to the Premises, provided, however, that in the event (pursuant to subsequent agreements with Ground Lessor that are not currently contemplated) Ground Lessee acquires any interest in any portion of the Premises greater than its current leasehold interest, including without limitation, any fee simple interest in the Premises, Lender may, in connection with the Mortgage Loan, obtain and/or enforce a lien on such greater interest acquired by Ground Lessee.

1. **Governing Law; Venue and Consent to Jurisdiction.**
2. **Governing Law.**

The validity, enforceability, interpretation, and performance of this Agreement shall be governed by the laws of the State (as defined in the Security Instrument) without giving effect to any conflict of law or choice of law rules that would result in the application of the laws of another jurisdiction.

1. **Venue; Consent to Jurisdiction.**

In the administration or litigation of a controversy arising under or in relation to this Agreement or the security for the Indebtedness, Ground Lessor and Ground Lessee each consents to the exercise of personal jurisdiction by State court or federal court in such State. Ground Lessor and Ground Lessee each agrees that the State courts have subject matter jurisdiction over such controversies. If Lender elects to sue in State court, Ground Lessor and Ground Lessee each waives any right to remove to federal court or to contest the State court’s jurisdiction. Ground Lessor and Ground Lessee each waives any objection to venue in any State court or federal court in such State, and covenants and agrees not to assert any objection to venue, whether based on inconvenience, domicile, habitual residence, or other ground.

1. **Construction.**
2. The captions and headings of the sections of this Agreement are for convenience only and shall be disregarded in construing this Agreement.
3. Any reference in this Agreement to an “Exhibit” or “Schedule” or a “Section” or an “Article” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit or Schedule attached to this Agreement or to a Section or Article of this Agreement. All Exhibits and Schedules attached to or referred to in this Agreement, if any, are incorporated by reference into this Agreement.
4. Any reference in this Agreement to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.
5. Use of the singular in this Agreement includes the plural and use of the plural includes the singular.
6. As used in this Agreement, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.
7. Whenever knowledge is implicated in this Agreement or the phrase “to Ground Lessor’s knowledge” or a similar phrase is used in this Agreement, Ground Lessor’s knowledge or such phrase(s) shall be interpreted to mean to the best of Ground Lessor’s knowledge after reasonable and diligent inquiry and investigation.
8. Unless otherwise provided in this Agreement, if Lender’s approval, designation, determination, selection, estimate, action or decision is required, permitted or contemplated hereunder, such approval, designation, determination, selection, estimate, action or decision shall be made in Lender’s sole and absolute discretion.
9. All references in this Agreement to a separate instrument or agreement shall include such instrument or agreement as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.
10. “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.
11. **Severability; Amendments.**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect. This Agreement contains the complete and entire agreement among the parties as to the matters covered, rights granted and the obligations assumed in this Agreement. This Agreement may not be amended or modified except by written agreement signed by the parties hereto.

1. **Entire Agreement; Amendments and Waivers.**

This Agreement contains the complete and entire understanding of the parties as to its subject matter. No amendment to this Agreement will be valid unless it is made in writing and executed by the parties to this Agreement. No specific waiver or forbearance for any breach of any of the terms of this Agreement shall be considered as a general waiver of that or any other term of this Agreement.

1. **Relationship of Parties.**

Nothing contained in this Agreement shall constitute Lender as a joint venturer, partner or agent of Ground Lessee or Ground Lessor, or render Lender liable for any debts, obligations, acts, omissions or representations of Ground Lessee or Ground Lessor.

1. **Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.

**[Remainder of Page Intentionally Blank]**

**IN WITNESS WHEREOF**, Ground Lessor, Ground Lessee and Lender 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 representative. Where applicable law so provides, Ground Lessor, Ground Lessee and Lender intend that this Agreement shall be deemed to be signed and delivered as a sealed instrument.

**GROUND LESSOR:**

By: (SEAL)

Name:

Title:

Address:

**[INSERT NOTARY ACKNOWLEDGMENT]**

**GROUND LESSEE:**

By: (SEAL)

Name:

Title:

Address:

**[INSERT NOTARY ACKNOWLEDGMENT]**

**LENDER:**

By: (SEAL)

Name:

Title:

Address:

**[INSERT NOTARY ACKNOWLEDGMENT]**

**EXHIBIT A**

**[DESCRIPTION OF THE LAND]**