**SEASONAL WORKING CAPITAL RESERVE FUND**

**AND SECURITY AGREEMENT**

**(Manufactured Housing Community)**

This SEASONAL WORKING CAPITAL RESERVE FUND AND SECURITY AGREEMENT (this “**Agreement**”) is dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, executed by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Lender**”).

**RECITALS:**

A. Pursuant to that certain Multifamily Loan and Security Agreement dated as of the date hereof, executed by and between Borrower 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 Borrower in the original principal amount of $\_\_\_\_\_\_\_\_\_ (the “**Mortgage Loan**”), as evidenced by that certain Multifamily Note dated as of the date hereof, executed by Borrower and made payable to the order of Lender in the amount of the MortgageLoan (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”). The proceeds of the Mortgage Loan will be used to finance a manufactured housing community park known as the Manufactured Community Name and located at the Multifamily Project Address (the “**Mortgaged Property**”).

B. 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**”).

**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, Borrower and Lender agree as follows:

1. **Recitals.**

The recitals set forth above are incorporated herein by reference.

1. **Defined Terms.**

Capitalized terms used and not specifically defined herein shall have the meanings given to such terms in the Loan Agreement. In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

“**Fannie Mae**” means the 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.

1. **Deposits to the Seasonal Working Capital Reserve Account.**
   1. Lender has determined that the Pre-Paid Rents exceed five percent (5%) of the total annual Rents derived from operation of the Mortgaged Property and that, as a condition of making the Mortgage Loan, Borrower is required to establish the Seasonal Working Capital Reserve Account. At all times during the Loan Term, the amount held in the Seasonal Working Capital Reserve Account shall be the Seasonal Working Capital Contribution.
   2. Concurrently with the execution of this Agreement, Borrower shall deposit with Lender the Initial Deposit. On each Reserve Determination Date, if (1) the aggregate annualized amount of Pre-Paid Rents exceeds five percent (5%) of the total annual residential Rent and (2) the amount then held in the Seasonal Working Capital Reserve Account is less than the required Seasonal Working Capital Contribution, then Borrower shall be required to make an additional deposit into the Seasonal Working Capital Reserve Account in an amount which will maintain the Seasonal Working Capital Reserve Account at a level which equals the Seasonal Working Capital Contribution. Lender shall provide Borrower thirty (30) days prior notice of its determination that Borrower must make an additional deposit into the Seasonal Working Capital Reserve Account.
   3. Lender shall deposit the Initial Deposit and any additional deposits required by this Agreement into the Seasonal Working Capital Reserve Account. Lender or a designated representative of Lender shall have the sole right to make withdrawals from such account. All interest earned on funds in the Seasonal Working Capital Reserve Account shall be added to and become part of the Seasonal Working Capital Reserve Funds. Lender shall not be responsible for any losses resulting from the investment of the Seasonal Working Capital Reserve Funds or for obtaining any specific level or percentage of earnings on such investment. If applicable law requires and provided that no default or Event of Default exists under any of the Loan Documents, Lender shall pay to Borrower the interest earned on the Seasonal Working Capital Reserve Funds not less frequently than the Seasonal Reserve Interest Disbursement Frequency.
2. **Seasonal Working Capital Reserve Fund is Additional Security.**

Borrower assigns to Lender the Seasonal Working Capital Reserve Account and the Seasonal Working Capital Reserve Funds as additional security for all of Borrower’s obligations under the Loan Documents; provided, however, Lender shall make disbursements from the Seasonal Working Capital Reserve Account in accordance with the terms of this Agreement.

1. **Disbursements from Seasonal Working Capital Reserve Fund.**
   1. Upon written request from Borrower, Lender in its sole discretion shall disburse to Borrower amounts from the Seasonal Working Capital Reserve Account so long as the Mortgaged Property’s estimated gross income from all units (after deduction of a vacancy and collection loss) equals or exceeds current debt service obligations and operating expenses on any Reserve Determination Date. In no event shall Lender be obligated to disburse funds from the Seasonal Working Capital Reserve Account if a default or Event of Default exists under this Agreement or any of the other Loan Documents.
   2. Each request for disbursement from the Seasonal Working Capital Reserve Account shall be in a form specified or approved by Lender.
   3. Borrower shall not make a request for disbursement from the Seasonal Working Capital Reserve Account more frequently than the Maximum Seasonal Reserve Disbursement Interval.
2. **Default.**
   1. **Default Under This Agreement.**

Borrower shall be in default under this Agreement if it fails to comply with any provision of this Agreement and such failure is not cured within ten (10) days after notice from Lender. Borrower understands that a default under this Agreement shall be deemed to be an Event of Default under the Loan Agreement, and that in addition to the remedies specified in this Agreement, Lender shall be able to exercise all of its rights and remedies under the Loan Documents upon an Event of Default.

* 1. **Application of Seasonal Working Capital Reserve Fund Upon Default.**
     1. Upon the occurrence of a default under this Agreement or an Event of Default under the Loan Documents, Borrower shall immediately lose all of its rights to receive disbursements from the Seasonal Working Capital Reserve Account unless and until all amounts secured by the Security Instrument and the other Loan Documents have been paid and the lien of the Security Instrument has been released by Lender. Upon any such default or Event of Default, Lender may in its sole and absolute discretion, use the Seasonal Working Capital Reserve Funds (or any portion thereof) for any purpose, including (A) repayment of any Indebtedness secured by the Security Instrument and the Loan Documents, including principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); provided, however, that such application of funds shall not cure or be deemed to cure any default or Event of Default; (B) reimbursement of Lender for all losses and expenses (including reasonable legal fees) suffered or incurred by Lender as a result of such default or Event of Default; or (C) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.
     2. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Seasonal Working Capital Reserve Funds on account of any default or Event of Default by Borrower or to repayment of the Indebtedness secured by the Security Instrument and the Loan Documents or in any specific order of priority.

1. **Borrower’s Other Obligations.**

Nothing contained in this Agreement shall alter, impair, or affect the obligations of Borrower, or relieve Borrower of any of its obligations to make payments and perform all of its other obligations required under the Loan Documents.

1. **Remedies Cumulative**.

None of the rights and remedies conferred upon or reserved to Lender under this Agreement is intended to be exclusive of any other rights, and each and every right shall be cumulative and concurrent, and may be enforced separately, successively, or together, and may be exercised from time to time as often as may be deemed necessary by Lender.

1. **Balance in the Seasonal Working Capital Reserve Account**.

The insufficiency of any balance in the Seasonal Working Capital Reserve Account shall not abrogate Borrower’s agreement to fulfill its obligations under this Agreement or under any other Loan Document.

1. **Indemnification**.

Borrower agrees to indemnify Lender and to hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations, and costs and expenses (including litigation costs and reasonable attorneys’ fees and expenses) arising from or in any way connected with the holding or investment of the Seasonal Working Capital Reserve Funds.

1. **Borrower’s Records**.

Borrower shall furnish such financial statements, invoices, records, papers, and documents relating to the Mortgaged Property as Lender may reasonably require from time to time to make the determinations permitted or required to be made by Lender under this Agreement.

1. **Fees and Expenses.**

In addition to any other fees payable by Borrower to Lender in connection with the Mortgage Loan, Borrower shall pay Lender an annual fee for its services in administering the Seasonal Working Capital Reserve Account and investing the Seasonal Working Capital Reserve Funds equal to the greater of $100 or one percent (1%) of the amounts held in the Seasonal Working Capital Reserve Account. The annual fee shall be due and payable by Borrower on the date specified in a statement to Borrower regarding such fee.

1. **Transfer of Mortgaged Property/Transfer of Interests in Borrower.**

If a Transfer shall occur or be contemplated, which Transfer requires the prior written consent of Lender pursuant to the terms of the Loan Agreement, Lender may review the balance of the Seasonal Working Capital Reserve Account. Based upon that review, Lender may require an additional deposit to the Seasonal Working Capital 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 Agreement.

1. **Termination of Seasonal Working Capital Reserve Account.**

After payment in full of all sums secured by the Security Instrument and other Loan Documents and release by Lender of the lien of the Security Instrument, Lender shall disburse to Borrower all amounts remaining in the Seasonal Working Capital Reserve Account.

1. **Amendment and Waiver.**

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

Section 15.01 (Governing Law; Consent to Jurisdiction and Venue) of the Loan Agreement is hereby incorporated herein as if fully set forth in the body of this Agreement.

1. **Notices.**

Section 15.02 (Notice) of the Loan Agreement is hereby incorporated herein as if fully set forth in the body of this Agreement.

1. **Successors and Assigns Bound; Sale of Mortgage Loan.**

Section 15.03 (Successors and Assigns Bound; Sale of Mortgage Loan) of the Loan Agreement is hereby incorporated herein as if fully set forth in the body of this Agreement.

1. **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 (1) instrument.

1. **Severability; Entire Agreement; Amendments.**

Section 15.07 (Severability; Entire Agreement; Amendments) of the Loan Agreement is hereby incorporated herein as if fully set forth in the body of this Agreement.

1. **Construction.**
   1. The captions and headings of the sections of this Agreement are for convenience only and shall be disregarded in construing this Agreement.
   2. 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.
   3. 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.
   4. Use of the singular in this Agreement includes the plural and use of the plural includes the singular.
   5. 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.
   6. Whenever Borrower’s knowledge is implicated in this Agreement or the phrase “to Borrower’s knowledge” or a similar phrase is used in this Agreement, Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of Borrower’s knowledge after reasonable and diligent inquiry and investigation.
   7. 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.
   8. 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.
   9. “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.

**[Remainder of Page Intentionally Blank]**

IN WITNESS WHEREOF, the parties 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, the parties intend that this Agreement shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER**:

By: (SEAL)

Name:

Title:

**LENDER**:

By: (SEAL)

Name:

Title: