Freddie Mac Loan Number:

Property Name:

Conversion Assurance Note – TEL (Forward)

(Revised 7-1-2025)

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| --- |
| **Borrower**: |
| **Lender**: |
| **Effective Date**: |
| **Conversion Assurance Fee**: $ |

**IMPORTANT NOTICE**

THIS INSTRUMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION, WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE CREDITOR TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.

FOR VALUE RECEIVED, Borrower (jointly and severally if more than one), promises to pay to the order of Lender (Lender or any other holder of this Note is referred to as “**Holder**”), **upon written demand made by Holder**, the principal sum of the Conversion Assurance Fee, together with interest as set forth below (the “**Indebtedness**”).

**1. Defined Terms.**

“**Business Day**” means any day other than a Saturday, a Sunday or any other day on which Lender or the national banking associations are not open for business.

“**Freddie Mac**” means the Federal Home Loan Mortgage Corporation or any subsidiary or affiliate.

“**Funding Loan**” means the loan being made to Governmental Lender by Initial Funding Lender, the proceeds of which are being used by Governmental Lender to make the Project Loan.

“**Governmental Lender**” means **[GOVERNMENTAL LENDER]**.

“**Initial Funding Lender**” means **[CONSTRUCTION LENDER]**.

"**Insolvent**” means the total of all of a person’s or entity’s liabilities (whether secured or unsecured, contingent or fixed, or liquidated or unliquidated) is in excess of the value of all of the assets of that person or entity that are available to satisfy claims of creditors.

“**Maker**” means the Borrower.

“**Note**” means this Conversion Assurance Note.

“**Permanent Loan Commitment**” means that certain Letter of Commitment entered into between Lender and Borrower, dated \_\_\_\_\_\_\_\_\_, pursuant to which Lender has committed, upon fulfillment of the conditions set forth in the Permanent Loan Commitment, to purchase the Funding Loan from Initial Funding Lender. The Permanent Loan Commitment is incorporated herein as if it were attached hereto.

“**Project Loan**” means the mortgage loan being made to Borrower with the proceeds of the Funding Loan to finance the development of the Property, which Project Loan is secured by the Property.

**“Property**” means the multifamily project located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and known or to be known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

“**Security Instrument**” means the multifamily mortgage, deed to secure debt or deed of trust effective as of the effective date of this Note, from Borrower to or for the benefit of Lender and securing this Note, as amended, modified or supplemented from time to time.

**2. Application/Demand for Payment**. Maker and Lender acknowledge and agree that this Note is made by Maker in connection with the Permanent Loan Commitment and is secured by, among other things, the lien of the Security Instrument. Holder agrees that it will not make demand for payment of this Note until such time as Lender is entitled to retain the Conversion Assurance Fee (as such term is defined in the Permanent Loan Commitment) pursuant to the terms of the Permanent Loan Commitment.

**3. Address for Payment.** All payments due under this Note will be payable at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or such other place as may be designated by written notice to Maker from or on behalf of Holder.

**4. Event of Default.** Each of the following constitutes an “**Event of Default**” under this Note:

(i) Maker fails to pay in full of the principal amount of this Note to Holder by the 5th Business Day following the date of Holder’s written demand for payment.

(ii) Maker becomes Insolvent.

(iii) A receiver is appointed for any part of Maker’s property.

(iv) Maker makes an assignment for the benefit of creditors.

(v) Any proceeding is commenced either by Maker or against Maker under any bankruptcy or insolvency laws.

**5. CONFESSION OF JUDGMENT.** IN THE EVENT OF ANY DEFAULT UNDER THIS NOTE, INCLUDING, BUT NOT LIMITED TO ANY PAYMENT UNDER THIS NOTE NOT BEING PAID WHEN DUE, WHETHER AT MATURITY, BY ACCELERATION OR OTHERWISE, MAKER HEREBY IRREVOCABLY APPOINTS AND CONSTITUTES M. COLLEEN DALTON, ESQ., AND/OR GUY NELSON, ESQ., AND/OR JEFFREY TAO, ESQ., WHOSE ADDRESS IS 8200 JONES BRANCH DRIVE, MCLEAN, VIRGINIA 22102-3110, ANY ONE OF WHOM MAY ACT WITHOUT THE JOINDER OF THE OTHER(S), AS MAKER'S DULY CONSTITUTED ATTORNEY-IN-FACT TO APPEAR IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR FAIRFAX COUNTY, VIRGINIA, OR IN ANY OTHER COURT OF COMPETENT JURISDICTION, AND TO CONFESS JUDGMENT PURSUANT TO THE PROVISIONS OF SECTION 8.01-432 OF THE CODE OF VIRGINIA OF 1950, AS AMENDED, AGAINST MAKER FOR ALL PRINCIPAL AND INTEREST AND ANY OTHER AMOUNTS DUE AND PAYABLE UNDER THIS NOTE AS EVIDENCED BY AN AFFIDAVIT SIGNED BY AN OFFICER OF THE HOLDER SETTING FORTH THE AMOUNT THEN DUE, TOGETHER WITH ATTORNEY'S FEES AND COLLECTION FEES AS PROVIDED IN THIS NOTE (TO THE EXTENT PERMITTED BY LAW). THIS POWER OF ATTORNEY IS COUPLED WITH AN INTEREST AND MAY NOT BE TERMINATED BY MAKER AND SHALL NOT BE REVOKED OR TERMINATED BY MAKER AND SHALL NOT BE REVOKED OR TERMINATED BY MAKER’S DEATH, DISABILITY OR DISSOLUTION. IF A COPY OF THE NOTE, VERIFIED BY AFFIDAVIT, SHALL HAVE BEEN FILED IN THE ABOVE CLERK'S OFFICE, IT WILL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY. MAKER RELEASES ALL ERRORS AND WAIVES ALL RIGHTS OF APPEAL, STAY OF EXECUTION, AND THE BENEFIT OF ALL EXEMPTION LAWS NOW OR HEREAFTER IN EFFECT. MAKER SHALL, UPON HOLDER’S REQUEST, NAME SUCH ADDITIONAL OR ALTERNATIVE PERSON(S) DESIGNATED BY HOLDER AS MAKER'S DULY CONSTITUTED ATTORNEY(S)-IN-FACT TO CONFESS JUDGMENT AGAINST MAKER. NO SINGLE EXERCISE OF THE POWER TO CONFESS JUDGMENT SHALL BE DEEMED TO EXHAUST THE POWER AND NO JUDGMENT AGAINST FEWER THEN ALL THE PERSONS CONSTITUTING MAKER SHALL BAR SUBSEQUENT ACTION OR JUDGMENT AGAINST ANY ONE OR MORE OF SUCH PERSONS AGAINST WHOM JUDGMENT HAS NOT BEEN OBTAINED IN THIS NOTE.

**6. Interest Payments after Event of Default.** If an Event of Default occurs, as of the date of such Event of Default, simple interest thereafter will accrue on the unpaid principal balance of this Note at the rate of 10% per annum and will be payable by Maker upon demand as set forth above.

**7. Reserved.**

**8. Waivers.**

(a) Maker and all other persons who sign, guarantee, or endorse this Note, to the full extent allowed by law, waive notice of maturity, presentment, demand for payment, protest and notice of protest, and notice of nonpayment and dishonor of this Note.

(b) Maker waives the right to any stay of execution and the benefit of all exemption laws, including the homestead exemption or any similar exemption, now or in effect after the date of this Note to which Maker may be entitled.

**9. Costs and Expenses.** Subject to any limits under applicable law, Maker will reimburse the Holder for all costs and expenses, including attorneys’ fees, which Holder and/or Freddie Mac incur in collecting on this Note upon Maker’s default, whether or not there is a lawsuit.

**10. Forbearance.** Holder may delay or forego enforcing any of Holder’s rights or remedies under this Note without losing any of them. No single or partial exercise of any power or right by Holder will prevent Holder’s exercise of any further power or right. No waiver or forbearance of any power or right is valid against Holder unless it is stated in writing and is signed by Holder, and it will apply only to the extent set out in such writing.

**11. Severability.** This Note is binding on Maker and inures to the benefit of Holder and its respective successors in interest and assigns. The invalidity or unenforceability of any provision of this Note will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect.

**12. Modification.** This Note may not be modified or canceled orally, but only by an agreement in writing signed by the parties, including Freddie Mac.

**13. Commercial Purpose.** Maker represents that it is incurring the Indebtedness solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household, or agricultural purposes.

**14. Consent to Jurisdiction and Venue.** Maker acknowledges and agrees that this Note will be deemed executed and delivered by Maker in Fairfax County, Virginia. Maker jointly and severally agrees that venue for any action under this Note may be in the United States District Court for the Eastern District of Virginia or other federal or state court sitting in the Commonwealth of Virginia designated by the Holder and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Note is intended to limit any right that Holder may have to bring any suit, action or proceeding relating to matters arising under this Note in any court of any other jurisdiction. Maker jointly and severally agrees that the laws of the Commonwealth of Virginia govern this Note without giving effect to conflict of law provisions.

**15.** **Captions.** The captions of the Sections of this Note are for convenience only and will be disregarded in construing this Note.

**16. Entire Agreement.** This writing represents the entire agreement of the parties and is intended as a complete and exclusive statement of the terms of this Note.

**17. WAIVER OF TRIAL BY JURY. MAKER AND HOLDER EACH (a) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND MAKER THAT IS TRIABLE OF RIGHT BY A JURY AND (b) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

IN WITNESS WHEREOF, Maker has signed and delivered this Note under seal or has caused this Note to be signed and delivered under seal by its duly authorized representative. **[INCLUDE IF REQUIRED BY APPLICABLE LAW:** Maker intends that this Note will be deemed to be signed and delivered as a sealed instrument.**]**

**[SIGNATURES]**

**[ADD SEALS AND WITNESSES IF REQUIRED]**

**[ADD NOTARY]**

Address of Maker\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ALLONGE ENDORSEMENT**

ALLONGE TO:

CONVERSION ASSURANCE NOTE DATED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_, IN THE ORIGINAL PRINCIPAL AMOUNT OF $\_\_\_\_\_\_\_\_\_\_\_\_\_ PAYABLE TO THE ORDER OF [**OPTIGO LENDER**].

Pay to the order of Federal Home Loan Mortgage Corporation, without recourse.

[**OPTIGO LENDER**]

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Freddie Mac Loan Number:

Property Name: