[NOTE TO PREPARER: DRAFTING INSTRUCTIONS ARE HIGHLIGHTED, BOLDED AND BRACKETED - REMOVE ALL INSTRUCTIONS AND INAPPLICABLE CHOICES UPON COMPLETION. WHEN YOU ARE DONE THERE SHOULD BE NO HIGHLIGHTING REMAINING.]

[THIS FORM IS FOR USE WITH ASSUMPTIONS OF SBL LOANS ON ANY SBL LOAN AGREEMENT FORM.]

Freddie Mac Loan Number:

Property Name:

**LOAN ASSUMPTION AND MODIFICATION AGREEMENT - SBL**

**(Revised 3-15-2022)**

 THIS LOAN ASSUMPTION AND MODIFICATION AGREEMENT (“**Assumption Agreement**”) is entered into effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, by and among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Borrower**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**New Borrower**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Guarantor**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**New Guarantor**,” and collectively with Original Borrower, New Borrower and Original Guarantor, “**Borrower Parties**”), and **[**CHOOSE ONE: [Federal Home Loan Mortgage Corporation, a corporate instrumentality of the United States] **OR** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,as Trustee, for the benefit of holders of [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], Multifamily Mortgage Pass-Through Certificates, Series [\_\_\_\_\_\_\_\_\_\_\_\_]**]**(“**Lender**”).

**RECITALS**

A. Original Borrower obtained a mortgage loan from Lender’s predecessor in interest, \_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Lender**”) in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Loan**”).

B. Lender is the current owner and holder of the Loan, which is evidenced by a [Note] [Multifamily Note] dated \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, made by Original Borrower and payable to Original Lender (as amended from time to time, including by this Assumption Agreement, “**Note**”)and a [Loan Agreement][Multifamily Loan and Security Agreement] dated the same date as the Note by and between Original Borrower and Original Lender (as amended from time to time, including by this Assumption Agreement, “**Loan Agreement**”).

C. The Loan is secured by a [Multifamily Mortgage, Deed of Trust, or Deed to Secure Debt] (as amended from time to time, including by this Assumption Agreement, “**Security Instrument**”) dated the same date as the Note, which is recorded in the land records of the Property Jurisdiction **[Choose as applicable:** at Book/Liber \_\_\_\_\_\_\_\_\_\_, Page/Folio \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** as Instrument No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], which encumbers the Land more particularly described on Exhibit A to this Assumption Agreement, together with all other real and personal property encumbered by the Security Instrument and the other Loan Documents (“**Mortgaged Property**”).

D. Pursuant to a [Guaranty] dated the same date as the Note by Original Guarantor for the benefit of Original Lender (as amended from time to time, including by this Assumption Agreement, “**Guaranty**”), Original Guarantor guaranteed certain payment and performance obligations of Original Borrower in connection with the Loan.

E. The Note, Loan Agreement, Security Instrument, Guaranty, and all other guaranties, indemnity agreements, collateral agreements, UCC filings, or any other documents now or in the future executed by Original Borrower, Original Guarantor, or any other Person in connection with the Loan (including those listed on Exhibit B to this Assumption Agreement) are referred to collectively as the “**Loan Documents**.”

F. Each of the Loan Documents has been duly assigned, transferred or endorsed to Lender and Lender is the current holder of the Note and the owner of all of Original Lender’s right, title and interest in the Loan and the Loan Documents.

G. Original Borrower and New Borrower have requested that Lender consent to the following:

(i) The conveyance, assignment and transfer of the Mortgaged Property by Original Borrower to New Borrower (“**Transfer**”) pursuant to the terms of a [Real Estate Purchase and Sale Agreement] dated \_\_\_\_\_, 20\_\_ (“**Purchase Agreement**”).

(ii) The assumption by New Borrower of Original Borrower’s rights, obligations, and liabilities under the Loan Documents (as modified by this Assumption Agreement) (“**Loan Assumption**”).

(iii) The assumption by New Guarantor of Original Guarantor’s obligations under the Guaranty (“**Guaranty Assumption**,” and together with the Loan Assumption, the “**Assumption**”).

H. Lender is willing to consent to the Transfer and agree to the Assumption, subject to the terms and conditions set forth in this Assumption Agreement.

I. Capitalized terms not otherwise defined in this Assumption Agreement will have the meanings ascribed to them in the Loan Agreement or other applicable Loan Documents (as such terms are modified by this Assumption Agreement, including Exhibit D).

**AGREEMENT**

 NOW, THEREFORE, in consideration of the mutual covenants contained in this Assumption Agreement and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

**1. Acknowledgment of Indebtedness.** Lender and each of the Borrower Parties acknowledges and agrees that, as of \_\_\_\_\_\_\_ \_\_, 20\_\_, the outstanding principal balance of the Note is $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**2. Transfer and Assumption of Rights and Obligations.**

(a) New Borrower Assumption. New Borrower unconditionally assumes and agrees to be bound by all terms, provisions, and covenants of the Note, the Loan Agreement, the Security Instrument, and the other applicable Loan Documents as if New Borrower had been the original maker of the Note and the original borrower under the Loan Documents. New Borrower will pay all sums to be paid and will perform each obligation to be paid or performed by Original Borrower under and in accordance with the terms and conditions of the Note, Security Instrument, Loan Agreement, and all other Loan Documents (each, as modified by this Assumption Agreement) assumed by New Borrower.

(b) New Guarantor Assumption. New Guarantor unconditionally assumes and agrees to be bound by all terms, provisions, and covenants of the Guaranty. From and after the date of this Assumption Agreement, New Guarantor will be obligated, liable, and responsible for the performance of each and all of the obligations, liabilities, and agreements of Original Guarantor and the Guaranty, as fully and completely as if New Guarantor had executed and delivered the Guaranty on the original closing date of the Loan, without regard to when such obligations, agreements, and liabilities arise, accrue, or have arisen or accrued, and without regard to the party then responsible or liable for such obligations at the time of such accrual.

**3. Consent of Lender to Transfer and Assumption.** Subject to the terms and conditions set forth in this Assumption Agreement, Lender consents to the Transfer and the Assumption. Lender’s consent to the Transfer and the Assumption is not intended to be and may not be construed as a consent to any subsequent transfers of the Mortgaged Property or to any subsequent transfers or assignments of interests in New Borrower that require Lender’s consent pursuant to the terms of the Loan Documents. Except as expressly set forth herein, nothing contained in this Assumption Agreement is intended to terminate or revoke any indemnities or liabilities or obligations of any of the Borrower Parties under any of the Loan Documents. The Loan Documents will continue in full force and effect notwithstanding the Transfer and the Assumption.

**4. Acknowledgment and Assignment of Escrows.**

(a) Original Borrower represents and warrants that as of \_\_\_\_\_\_\_ \_\_, 20\_\_, Lender holds the following escrow and reserve balances (“**Reserve Balances**”):

|  |  |
| --- | --- |
| Tax Reserve  | [$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** N/A] |
| Insurance Reserve  | [$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** N/A] |
| Capital Replacement and Repair Reserve | [$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** N/A] |
| Special Purpose Reserve | [$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** N/A] |
| Other Reserves (specify):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | [$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** N/A] |

(b) Original Borrower relinquishes all right, title and interest in the Reserve Balances.

(c) Original Borrower and New Borrower each acknowledge that Lender will continue to hold the Reserve Balances in accordance with the terms of the Loan Documents (as modified by this Assumption Agreement).

[**ADD IF APPLICABLE; REPEAT AS NECESSARY:**

(d) On the date of this Assumption Agreement, as a condition of Lender’s approval of the Assumption, New Borrower will deposit with Lender the sum of $\_\_\_\_\_\_\_\_\_\_\_\_ to be held in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Reserve in accordance with the Loan Documents (as modified by this Assumption Agreement).]

**5. Conditions to Closing.** In addition to any other conditions set forth in this Assumption Agreement or otherwise required by Lender, the obligations of Lender under this Assumption Agreement are subject to satisfaction of the following conditions by Borrower Parties as of the effective date of this Assumption Agreement:

(a) No Defaults. No Event of Default has occurred and is continuing under the Loan Documents.

(b) Loan Policy Endorsements. If the Mortgaged Property is located in any state other than Texas, Lender must receive an irrevocable commitment to issue a date down endorsement to the loan title insurance policy for the Mortgaged Property issued in connection with the Loan or a new title insurance policy acceptable to Lender (“**Title Policy**”)(i) evidencing that the effective date of the Title Policy is the date of recordation of the Memorandum of Assumption and (ii) insuring the priority and validity of the Security Instrument as a valid first lien on the Mortgaged Property, subject only to such exceptions as have been approved by Lender in writing.

 If the Mortgaged Property is located in Texas, Lender must receive a certificate from the title insurance company that issued the title insurance policy for the Mortgaged Property issued in connection with the Loan, dated no earlier than the date of recordation of the Memorandum of Assumption, listing all matters that affect title to the Mortgaged Property which have been placed of record since the effective date of such title insurance policy.

(c) Assumption Documents. Execution and delivery of (i) this Assumption Agreement, (ii) the Memorandum of Assumption, and (iii) any other documents and agreements required pursuant to this Assumption Agreement, each in form and content acceptable to Lender.

(d) Recordation. Recordation of the Memorandum of Assumption in the land records of the Property Jurisdiction, together with such other documents and agreements, if any, required pursuant to this Assumption Agreement, or which Lender has requested to be recorded or filed.

(e) UCC Amendments. Delivery of UCC-1 Financing Statements and/or UCC-3 Financing Statement Amendments in proper form for recording or filing in the appropriate jurisdictions as determined by Lender.

(f) Property Management Agreement. If the Mortgaged Property is not self-managed, delivery of a copy of the fully executed property management agreement, the form and content of which is acceptable to Lender.

(g) Transfer Fees. Payment of all Transfer Fees, Transfer Review Fees, Transfer Processing Fees, and similar fees due and owing under the terms of the Loan Documents.

(h) Costs and Expenses. Original Borrower’s or New Borrower’s reimbursement to Lender of Lender’s costs and expenses incurred in connection with the Transfer and Assumption, including title insurance costs; escrow and recording fees; attorney’s fees and costs; and appraisal, engineering, and inspection fees, documentation costs, and charges; whether such services are furnished by Lender’s employees or agents or by independent contractors.

(i) Approval Letter Conditions. Any additional conditions not otherwise set forth above that are required by Lender’s Assumption approval letter dated \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_.

**6. Property Management.** Lender acknowledges that following the Assumption, the Mortgaged Property will be managed by **[Choose one:** New Borrower **OR** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an affiliate of New Borrower **OR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, an independent professional management company].

**7. Moisture Management.** **[CHOOSE ONE:** N/A **OR** A moisture management plan (“**MMP**”) is required for the Mortgaged Property. New Borrower acknowledges and agrees that it must either (i) assume the existing MMP for the Mortgaged Property, or (ii) within 90 days after the date of this Assumption Agreement, establish and maintain a new MMP in accordance with the Loan Documents (as modified by this Assumption Agreement).**]**

**8. Operations and Maintenance Programs.** **[CHOOSE ONE:** N/A **OR** An O&M Program is required for the Mortgaged Property for [asbestos containing materials][lead-based paint][other-describe]. New Borrower acknowledges and agrees that it must either (i) assume the existing O&M Program(s) for the Mortgaged Property or (ii) within 90 days after the date of this Assumption Agreement, establish and maintain new O&M Program(s) for the Mortgaged Property in accordance with the Loan Documents (as modified by this Assumption Agreement).**]**

**9. Required Property Improvements.** New Borrower acknowledges and agrees that it will perform any Priority Repairs, Capital Replacements, Restoration, or other work required to be performed at the Mortgaged Property in accordance with the requirements of the Loan Documents (as modified by this Assumption Agreement).

**10. Representations and Warrantees.**

(a) Borrower Parties. Each of the Borrower Parties represents and warrants to Lender, as of the date of this Assumption Agreement, that:

(i) It has full and lawful power, authority, and capacity to execute, deliver, and perform its respective obligations under this Assumption Agreement and all other documents and instruments executed in connection with the Assumption.

(ii) If an entity, it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation or organization.

(iii) The execution, delivery, and performance of this Assumption Agreement and the other documents and instruments executed in connection with the Assumption will not (A) if it is an entity, contravene any provision of its organizational documents, (B) conflict with any judgment, order, or decree to which it is subject, or (C) constitute a material breach of any Lease or material contract to which it is a party.

(b) Original Borrower. Original Borrower represents and warrants to Lender, as of the date of this Assumption Agreement, that:

(i) Contemporaneously with the execution and delivery of this Assumption Agreement, (A) it has irrevocably and unconditionally transferred to New Borrower all of its right, title, and interest in and to the Mortgaged Property, (B) it has assigned to New Borrower all Leases (and all related security deposits and prorated rents) related to the Mortgaged Property, (C) it has not received a mortgage or other security interest from New Borrower encumbering the Mortgaged Property to secure the payment of any sums due to Original Borrower or any obligations to be performed by New Borrower, and (D) it has obtained any consent to the Transfer that is required under the terms of any agreement to which Original Borrower is a party.

(ii) No Event of Default (or event which, with the giving of notice or the passage of time, or both, would become an Event of Default) has occurred or is continuing under the Loan Documents.

(iii) There are no claims, setoffs, affirmative defenses, counterclaims, or causes of action of any kind to its performance under, or to Lender’s enforcement of, this Assumption Agreement, the Note, the Loan Agreement, the Security Instrument, or any of the other Loan Documents, and it irrevocably and expressly waives and releases the right to assert any claims, setoffs, affirmative defenses, counterclaims, and causes of action of any kind or nature which it might assert against Lender in connection with any matter related to or arising out of the Loan or any of the Loan Documents.

(iv) There are no judicial, administrative, mediation, or arbitration actions, suits, or proceedings pending or, to the best of Original Borrower’s knowledge, threatened in writing against or affecting Original Borrower (and, if Original Borrower is a limited partnership, any of its general partners, or if Original Borrower is a limited liability company, any member of Original Borrower) or the Mortgaged Property, which, if adversely determined, would have a Material Adverse Effect on the Mortgaged Property or on the enforceability or validity of the Note, the Loan Agreement, the Guaranty, the Security Instrument, or any of the other Loan Documents.

(v) All provisions of the Note, the Loan Agreement, the Security Instrument, the Guaranty, and the other Loan Documents are in full force and effect, except as modified by this Assumption Agreement.

(vi) Other than Lender approved exceptions to coverage reflected on Schedule B of the Title Policy, there are no subordinate liens of any kind covering or relating to the Mortgaged Property, nor are there any mechanics’ or materialmen’s liens or liens for unpaid taxes or assessments encumbering the Mortgaged Property, nor has Original Borrower received notice of a lien or notice of intent to file a lien.

(c) New Borrower. New Borrower represents and warrants to Lender, as of the date of this Assumption Agreement, that:

(i) Contemporaneously with the execution and delivery of this Assumption Agreement, each of the following is true:

(A) It has acquired from Original Borrower all the Mortgaged Property.

(B) It has assumed the obligations of Original Borrower under the Leases.

(C) It has not granted to Original Borrower a mortgage or other lien upon the Mortgaged Property to secure any debt or obligations owed to Original Borrower.

 (D) It has obtained any consent to the Transfer and the Assumption that is required under the terms of any agreement to which New Borrower is a party.

(ii) It has no knowledge that any of the representations and warranties made by Original Borrower in this Assumption Agreement are untrue, incomplete, or incorrect in any material respect.

(iii) There are no judicial, administrative, mediation, or arbitration actions, suits, or proceedings pending or, to the best of New Borrower’s knowledge, threatened in writing against or affecting New Borrower (and, if New Borrower is a limited partnership, any of its general partners, or if New Borrower is a limited liability company, any member of New Borrower) or the Mortgaged Property, which, if adversely determined, would have a material adverse effect on the Mortgaged Property or on the enforceability or validity of the Note, the Loan Agreement, the Guaranty, the Security Instrument, or any of the other Loan Documents.

(iv) New Borrower and any operator of the Mortgaged Property, if applicable, and to the best of New Borrower’s knowledge, any commercial tenant of the Mortgaged Property, is in possession of all material licenses, permits, and authorizations required for use of the Mortgaged Property, which are all valid and in full force and effect as of the date of this Assumption Agreement.

(v) No portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

(vi) All information in the application for Lender’s approval of the Assumption submitted to Lender, including all financial statements for the Mortgaged Property, New Borrower, New Guarantor, and any Borrower Principal, and all reports, certificates, forms (including any Freddie Mac Form 1114, 1115, or 1116), Certification – Organizational Chart (if applicable), and any other documents submitted in connection with the application (collectively, “**Loan Application**”) was complete and accurate in all material respects when delivered to Lender.

(vii) There has been no change in any fact or circumstance since the Loan Application was submitted to Lender that would make any information submitted as part of the Loan Application materially incomplete or inaccurate.

(viii) The organizational structure of New Borrower is as set forth in Exhibit E.

(ix) New Borrower is none of the following:

(A) An “investment company,” or a company under the Control of an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

(B) An “employee benefit plan,” as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA or a “plan” to which Section 4975 of the Tax Code applies, and the assets of New Borrower do not constitute “plan assets” of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101, as modified by Section 3(42) of ERISA.

(C) A “governmental plan” within the meaning of Section 3(32) of ERISA, and is not subject to state statutes regulating investments or fiduciary obligations with respect to governmental plans.

(x) Neither New Borrower nor any Borrower Principal has:

(A) Made, or is making in connection with the Assumption and as security for the Loan, a transfer of an interest in the property of New Borrower or Borrower Principal to or for the benefit of Lender or otherwise as security for any of the obligations under the Loan Documents which is or could constitute a voidable preference under federal bankruptcy, state insolvency, or similar applicable creditors’ rights laws.

(B) Made, or is making in connection with the Assumption, a transfer (including any transfer to or for the benefit of an insider under an employment contract) of an interest of New Borrower or any Borrower Principal in property which is or could constitute a voidable preference under federal bankruptcy, state insolvency, or similar applicable creditors’ rights laws.

 (C) Incurred, or is incurring in connection with the Assumption, any obligation (including any obligation to or for the benefit of an insider under an employment contract) which is or could constitute a fraudulent transfer under federal bankruptcy, state insolvency, or similar applicable creditors’ rights laws.

(xi) Neither New Borrower nor any Borrower Principal is:

(A) The subject of or a party to (other than as a creditor) any completed or pending Bankruptcy.

(B) The subject of any judgment unsatisfied of record or docketed in any court located in the United States.

(xii) New Borrower is not presently insolvent, and the Assumption will not render New Borrower insolvent. As used in this paragraph, the term “insolvent” means that the total of all a Person’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 the Person that are available to satisfy claims of creditors.

(xiii) Neither New Borrower nor any Borrower Principal has or had, directly or indirectly (through a family member or otherwise), any interest in Original Borrower and the acquisition of the Mortgaged Property is an arm’s-length transaction.

(xiv) To the best of New Borrower’s knowledge after due inquiry and investigation, the purchase price of the Mortgaged Property represents the fair market value of the Mortgaged Property and Original Borrower is not and will not be insolvent subsequent to the sale of the Mortgaged Property.

(xv) If New Borrower is an entity, New Borrower satisfies the requirements of Section 6.13 of the Loan Agreement regarding entity formation and operation requirements.

(xvi) Neither New Borrower, nor to the best of New Borrower’s knowledge after due inquiry and investigation, any Borrower Principal or Non-U.S. Equity Holder, is identified on the OFAC Lists.

(xvii) Neither New Borrower, nor to the best of New Borrower’s knowledge after due inquiry and investigation, any Borrower Principal, is listed on the FHFA SCP List.

(xviii) Neither New Borrower, nor to the best of New Borrower’s knowledge after due inquiry and investigation, any Borrower Principal or Non-U.S. Equity Holder, has been convicted of a violation of any AML Laws or been the subject of a final enforcement action relating to the AML Laws.

(xix) New Borrower has not received any notice that it is the subject of any pending proceedings for any violation of the AML Laws, and to the best of New Borrower’s knowledge, it is not the subject of any pending proceedings for any violation of the AML Laws.

(xx) To the best of New Borrower’s knowledge after due inquiry and investigation, no Borrower Principal nor any Non-U.S. Equity Holder is the subject of any pending proceedings for any violation of the AML Laws.

(xxi) New Borrower has in place, and to the best of New Borrower’s knowledge after due inquiry and investigation, New Borrower has determined that each Borrower Principal has in place, practices and procedures for the admission of investors which prevent the admission of:

(A) Any investor that is in violation of any criminal or civil law or regulation intended to prevent money laundering or the funding of terrorist or illegal drug trafficking activities. Notwithstanding the foregoing, Lender acknowledges and agrees that if New Borrower or any Borrower Principal is a Public Company, unless such New Borrower or Borrower Principal exercises control over the purchase and sale of its publicly traded equity securities to a particular investor (other than as a placement agent), New Borrower or such Borrower Principal will not be deemed to make this representation with respect to direct or indirect ownership in such Public Company.

(B) Any Person that will have a 25% or more ownership interest in the aggregate in New Borrower (whether directly or indirectly) that is on the Prohibited Parties Lists.

(C) Any Non-U.S. Equity Holder that is on the OFAC Lists.

(xxii) Except as has been disclosed in writing to and approved in writing by Lender, no direct or indirect ownership (or other economic) interest of 25% or more in the aggregate in New Borrower or any Borrower Principal has been marketed or sold to investors through any form of Crowdfunding.

(xxiii) No representation or warranty of New Borrower made in this Assumption Agreement contains any untrue statement of material fact or omits a material fact necessary in order to make such representations and warrantees not misleading in light of the circumstances under with they are made.

(d) New Guarantor. New Guarantor represents and warrants to Lender, as of the date of this Assumption Agreement, that:

(i) New Guarantor has no knowledge that any of the representations and warranties made by Original Borrower or New Borrower in this Assumption Agreement are untrue, incomplete, or incorrect in any material respect.

(ii) New Guarantor has a direct or indirect ownership or other financial interest in New Borrower and will derive a material benefit from the Assumption.

(e) Lender Reliance. Each of the Borrower Parties understands and intends that Lender is relying on the representations, warranties, and covenants contained in this Assumption Agreement.

**11. Partial Release and Reaffirmation - Borrower**.

**[CHOOSE ONE SUBSECTION (a).]**

**[use the following subsection (a) if original borrower has provided a clean phase I and will be released from liability arising from post-transfer environmental conditions.]**

(a) In reliance on Original Borrower’s representations and warranties in the Loan Documents and this Assumption Agreement, Lender releases Original Borrower from any and all obligations under the terms and provisions of the Loan Documents; provided, however, that Original Borrower is released from liability pursuant to **[CHOOSE THE APPLICABLE ENVIRONMENTAL COVENANTS AND INDEMNIFICATIONS SECTIONS TO ALIGN WITH THE APPLICABLE LOAN DOCUMENT****:** Sections 6.12 and 10.02(b) of the Loan Agreement **OR** Sections 6.12 and 9.02(b) of the Loan Agreement**]** (“**Environmental Covenants and Indemnification**”) only with respect to Prohibited Activities or Conditions first arising on or after the date of this Assumption Agreement, provided such loss, liability, damage, claim, cost, or expense does not directly or indirectly arise from or relate to any Prohibited Activities or Conditions existing prior to the date of this Assumption Agreement.

**[OR]**

**[USE THE FOLLOWING SUBSECTION (a) IF ORIGINAL BORROWER IS RELEASED FROM ALL EXCEPT ENVIRONMENTAL LIABILITY – NO CLEAN PHASE I HAS BEEN PROVIDED]**

(a) In reliance on Original Borrower’s representations and warranties in the Loan Documents and this Assumption Agreement, Lender releases Original Borrower from its obligations under the terms of the Loan Documents; provided, however, Original Borrower is not released from liability pursuant to **[CHOOSE THE APPLICABLE ENVIRONMENTAL COVENANTS AND INDEMNIFICATIONS SECTIONS TO ALIGN WITH THE APPLICABLE LOAN DOCUMENT:** Sections 6.12 and 10.02(b) of the Loan Agreement **OR** Sections 6.12 and 9.02(b) of the Loan Agreement**]** (“**Environmental Covenants and Indemnification**”) relating to Prohibited Activities or Conditions, regardless of when such Prohibited Activities or Conditions arose or arise.

(b) If any material representation or warranty made by Original Borrower in connection with the Assumption is materially false or misleading, this release will be canceled and Original Borrower will remain obligated under the Loan Documents as though there had been no release.

(c) If at any time all or any part of any payment by Original Borrower which has been applied by Lender to payment of the Loan on or prior to the date of this Assumption Agreement is or must be rescinded, repaid, or returned by Lender for any reason (including the application of any bankruptcy, insolvency, or other law), for purposes of this Assumption Agreement, to the extent that such payment is or must be rescinded, repaid, or returned, such payment will be deemed to have continued to be due and payable, notwithstanding Lender’s application of the payment to the Loan, and this Assumption Agreement will continue to be effective as to such payment as though Lender had not applied such payment to the Loan. Original Borrower and New Borrower will each remain liable to Lender for the amount rescinded, repaid, or returned to the same extent as if such amount had never originally been received by Lender, notwithstanding any cancellation of the Note, release or satisfaction of the Security Instrument, or the cancellation of any other Loan Document.

**12. Partial Release and/or Reaffirmation - Guarantor**.

**[CHOOSE ONE OPTION]**

**[OPTION #1: use the following SUBSECTIONS if original borrower has provided a clean phase I and original guarantor will be released from liability arising from post-transfer environmental conditions.]**

(a) In reliance on Original Guarantor’s representations and warranties in this Assumption Agreement, Lender releases Original Guarantor from its liability under the terms and provisions of the Guaranty; provided, however, that Original Guarantor is released from liability with respect to Original Borrower’s liability pursuant to the Environmental Covenants and Indemnification only with respect to Prohibited Activities or Conditions first arising after the Closing date of the Assumption, provided such loss, liability, damage, claim, cost or expense does not directly or indirectly arise from or relate to any Prohibited Activities or Conditions existing prior to the Closing date of the Assumption.

(b) Original Guarantor ratifies the Guaranty, but only to the extent that it guarantees payments of Original Borrower’s liability under the Environmental Covenants and Indemnification relating to Prohibited Activities or Conditions first existing prior to the Closing date of the Assumption.

(c) If Lender’s release of Original Borrower provided for in Section 11(a) is canceled in whole or in part pursuant to Section 11(b) of this Assumption Agreement, the release of Original Guarantor provided for in Section 12(a) is correspondingly canceled.

 **[OR]**

**[OPTION #2: USE THE FOLLOWING IF ORIGINAL GUARANTOR IS RELEASED FROM ALL EXCEPT ENVIRONMENTAL LIABILITY – NO CLEAN PHASE I HAS BEEN PROVIDED.]**

(a) In reliance on Original Guarantor’s representations and warranties in this Assumption Agreement, Lender releases Original Guarantor from its liability under the Guaranty except to the extent that Original Guarantor guarantees payment of Original Borrower’s liability under the Environmental Covenants and Indemnification relating to Prohibited Activities or Conditions, regardless of when such Prohibited Activities or Conditions arose or arise.

(b) Original Guarantor ratifies the Guaranty, but only to the extent that it guarantees payments of Original Borrower’s liability under the Environmental Covenants and Indemnification relating to Prohibited Activities or Conditions, regardless of when such Prohibited Activities or Conditions arose or arise.

(c) If Lender’s release of Original Borrower provided for in Section 11(a) is canceled in whole or in part pursuant to Section 11(b) of this Assumption Agreement, the release of Original Guarantor provided for in Section 12(a) is correspondingly canceled.

 **[OR]**

**[OPTION #3: USE THE FOLLOWING IF ORIGINAL GUARANTOR IS NOT RELEASED FROM ANY LIABILITY.]**

By signing this Assumption Agreement, Original Guarantor ratifies the Guaranty and acknowledges that the Guaranty remains in full force and effect.

**13. Modification of Loan Documents.**

(a) Omnibus Amendments to Loan Documents.

**Definitions**.

(i) All references in the Loan Documents to the “**Loan**” will be deemed to refer to the Loan as modified by this Assumption Agreement.

(ii) All references in the Loan Documents to the “**Loan Documents**” or any one of them, will be deemed to refer to the Loan Documents, or such Loan Document, as modified or supplemented by this Assumption Agreement.

(iii) All references in the Loan Documents to “**Borrower**” will be deemed to refer to New Borrower.

(iv) All references in the Loan Documents to “**Guarantor**” will be deemed to refer to New Guarantor.

**Notices**. Each of the Loan Documents is modified, as applicable, to replace the Notice addresses with the following:

|  |  |
| --- | --- |
| **If to Lender:** | Attention: |
| **If to Original Borrower:** | Attention:  |
| **If to New Borrower:** | Attention: |
| **If to Original Guarantor:** | Attention:  |
| **If to New Guarantor:** | Attention:  |

(b) Modification of Security Instrument. The Security Instrument is amended as specified in Exhibit D-1.

(c) Modification of Note. The Note is amended as specified in Exhibit D-2.

(d) Modification of Loan Agreement. The Loan Agreement is amended as specified in Exhibit D-3.

(e) Modification of Guaranty. The Guaranty is amended as specified in Exhibit D-4.

**14. Release of Claims and Indemnity.** Through and including the date of this Assumption Agreement, each of the Borrower Parties releases, discharges, and agrees to indemnify and hold harmless each of the following parties from all claims and liabilities relating to the Loan or this Assumption:

(a) Lender.

(b) Each predecessor in interest to Lender under the Loan.

(c) All officers, directors, partners, employees, servicers, agents, and attorneys of the parties specified in Sections 14(a) and (b).

**15. Miscellaneous.**

(a) This Assumption Agreement will be binding upon and will inure to the benefit of the parties to the Assumption Agreement and their respective heirs, successors, and permitted assigns.

(b) Each of the Loan Documents will remain in full force and effect, as modified by this Assumption Agreement. The invalidity or unenforceability of any provision of this Assumption Agreement will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect.

(c) Time is of the essence with respect to each covenant of this Assumption Agreement.

(d) This Assumption Agreement may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

(e) This Assumption Agreement will be governed by the laws of the Property Jurisdiction.

(f) This Assumption Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same document.

**16. Executed Original; Memorandum of Assumption.** New Borrower acknowledges that Lender will record or cause to be recorded in the land records of the Property Jurisdiction an executed original of the Memorandum of Loan Assumption and Modification Agreement in the form attached as Exhibit C (“**Memorandum of Assumption**”).

**17. State Specific Requirements.** **[Insert any state-specific requirements; if none, INSERT “n/A”]**

**18. Attached Exhibits.** The following Exhibits, if marked with an “X”, are attached to this Assumption Agreement:

[X] Exhibit A Legal Description of the Land

[X] Exhibit B Loan Documents

[X] Exhibit C Form of Memorandum of Assumption (including any modifications specified in Exhibit D-1)

[X] Exhibit D Modifications to Loan Documents

[X] Exhibit D-1 Modifications to Security Instrument

[X] Exhibit D-2 Modifications to Note

[X] Exhibit D-3 Modifications to Loan Agreement

[ ] Exhibit D-4 Modifications to Guaranty

[ ] Exhibit D-5 Modifications to other Loan Documents

[X] Exhibit E New Borrower Organizational Chart

IN WITNESS WHEREOF, the parties have executed this Assumption Agreement as of the date written above.

[INSERT APPROPRIATE BLOCKS FOR EACH PERSON EXECUTING THIS ASSUMPTION AGREEMENT ON BEHALF OF ORIGINAL BORROWER, NEW BORROWER, ORIGINAL GUARANTOR, NEW GUARANTOR, AND LENDER]

**ORIGINAL BORROWER:**

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ORIGINAL GUARANTOR**:

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NEW BORROWER:**

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NEW GUARANTOR**:

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[IF NEW GUARANTOR (I) IS MARRIED, AND (II) NEW GUARANTOR SPOUSE IS NOT ALSO A NEW GUARANTOR OF THIS LOAN, AND (III) NEW GUARANTOR OR NEW GUARANTOR SPOUSE’S STATE OF RESIDENCE IS ALASKA, ARIZONA, IDAHO, LOUISIANA, NEVADA, NEW MEXICO, WASHINGTON, OR WISCONSIN, THEN NEW GUARANTOR MUST CAUSE NEW GUARANTOR’S SPOUSE TO SIGN BELOW AND THE FOLLOWING SIGATURE BLOCK MUST BE INCLUDED:

New Guarantor Spouse’s Signature:

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

New Guarantor Spouse’s Printed Name:   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

New Guarantor Spouse’s Address:            \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**]**

**LENDER:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A**

LEGAL DESCRIPTION OF LAND

**EXHIBIT B**

LOAN DOCUMENTS

(1) **[**Multifamily Note **OR** Note**]**, dated as of \_\_\_\_\_\_\_\_\_, payable by Original Borrower to Original Lender in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Note**”)

(2) **[**Multifamily Loan and Security Agreement **OR** Loan Agreement**]**, dated the same date as the Note, by and between Original Borrower and Original Lender (“**Loan Agreement**”)

 (3) **[**Multifamily Mortgage, Assignment of Rents and Security Agreement **OR** Multifamily Deed of Trust, Assignment of Rents and Security Agreement **OR** Multifamily Deed to Secure Debt, Assignment of Rents and Security Agreement**]**, dated the same date as the Note, granted by Original Borrower to Original Lender, recorded in the land records of the Property Jurisdiction **[Choose as applicable:** at Book/Liber \_\_\_\_\_\_\_\_\_\_, Page/Folio \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** as Instrument No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **]** (“**Security Instrument**”)

 (4) UCC-1 Financing Statement with Original Borrower as Debtor and Original Lender as Secured Party, recorded in the land records of the Property Jurisdiction **[Choose as applicable:** at Book/Liber \_\_\_\_\_\_\_\_\_\_, Page/Folio \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** as Instrument No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **]** (as assigned and continued from time to time, the “**County UCC**”) **[REPLACE WITH “Reserved” IF INAPPLICABLE.]**

(5) UCC-1 Financing Statement, with Original Borrower as Debtor and Original Lender as Secured Party, filed as Instrument No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with the UCC records of the State/Commonwealth of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (as assigned and continued from time to time, the “**State UCC**,” and together with the County UCC, the “**UCC Financing Statements**”)

 (6) Guaranty, dated the same date as the Note, by Original Guarantor for the benefit of Original Lender (“**Guaranty**”)

**[List any other Loan Documents executed in connection with the Loan]**

**EXHIBIT C**

FORM OF MEMORANDUM OF ASSUMPTION

Freddie Mac Loan Number:

Property Name:

When Recorded Return to:

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

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

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

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

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

Tax Parcel Number(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Space Above For Recorder’s Use

**MEMORANDUM OF LOAN ASSUMPTION AND MODIFICATION AGREEMENT**

 THIS MEMORANDUM OF LOAN ASSUMPTION AND MODIFICATION AGREEMENT (“**Memorandum of Assumption**”) is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_ by and among by and among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Borrower**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**New Borrower**”), **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Guarantor**”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**New Guarantor**” and collectively with Original Borrower, New Borrower and Original Guarantor, “**Borrower Parties**”), and **[CHOOSE ONE**: [Federal Home Loan Mortgage Corporation, a corporate instrumentality of the United States] **OR** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Trustee, for the benefit of holders of [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], Multifamily Mortgage Pass-Through Certificates, Series [\_\_\_\_\_\_\_\_\_\_\_\_]**]** (“**Lender**”).

**RECITALS**

A. Original Borrower obtained a mortgage loan from \_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Original Lender**”) in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Loan**”).

B. Lender is the current owner and holder of the Loan, which is evidenced by a [Note][Multifamily Note] dated \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, made by Original Borrower and payable to Original Lender (as amended, restated, replaced, supplemented or otherwise modified from time to time, “**Note**”) and a [Loan Agreement][Multifamily Loan and Security Agreement] dated the same date as the Note by and between Original Borrower and Original Lender (as amended from time to time, including by this Assumption Agreement, “**Loan Agreement**”).

C. The Loan is secured by a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (as amended, restated, replaced, supplemented or otherwise modified from time to time, “**Security Instrument**”) of even date with the Note, which is recorded in the in the land records of the Property Jurisdiction **[Choose as applicable:** at Book/Liber \_\_\_\_\_\_\_\_\_\_, Page/Folio \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **OR** as Instrument No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], which encumbers the Land more particularly described on Exhibit A to this Memorandum of Assumption, together with all other real and personal property encumbered by the Security Instrument and the other Loan Documents (“**Mortgaged Property**”).

D. Each of the undersigned parties is a party to a Loan Assumption and Modification Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_ (“**Assumption Agreement**”) pursuant to which, among other things, Lender has agreed to consent to transfer of the Mortgaged Property to New Borrower and the assumption by New Borrower of the Note, the Loan Agreement, the Security Instrument and the other Loan Documents (as defined in the Assumption Agreement) and New Borrower has agreed to assume all of Original Borrower’s rights, obligations and liabilities created or arising under the Loan Documents.

**1. Assignment and Assumption.** The undersigned parties agree that all obligations under the Note, the Loan Agreement, the Security Instrument and the other Loan Documents (as defined in the Assumption Agreement) secured by the Mortgaged Property described on Exhibit A, have been assumed by New Borrower upon the terms and conditions set forth in the Assumption Agreement. All provisions of the Assumption Agreement are by this reference incorporated into and made a part of this Memorandum of Assumption.

**2. Counterpart Originals**. This Memorandum of Assumption may be executed in any number of counterparts, each of which when executed and delivered will be deemed an original and all of which taken together will be deemed to be one and the same instrument.

**[INCLUDE THE FOLLOWING IF THE SECURITY iNSTRUMENT IS BEING AMENDED:]**

**3. Modification of Security Instrument.** New Borrower and Lender agree that the provisions of the Security Instrument are modified as set forth in Exhibit B attached hereto and incorporated herein by reference.

**4. State Specific Requirements.** **[Insert any state-specific requirements; if none, INSERT “n/A”]**

**Attached Exhibits.** The following Exhibits, if marked with an “X”, are attached to this Assumption Agreement:

[X] Exhibit A Legal Description of the Land (required)

[X] Exhibit B Modifications to Security Instrument

**[ADD MODIFICATIONS FROM EXHIBIT D-1 OF**

 **THE ASSUMPTION AGREEMENT]**

IN WITNESS WHEREOF, the parties have executed this Memorandum of Assumption as of the date written above.

[INSERT APPROPRIATE SIGNATURE BLOCKS AND NOTARY ACKNOWLEDGMENTS FOR EACH PERSON EXECUTING THIS MEMORANDUM OF ASSUMPTION ON BEHALF OF ORIGINAL BORROWER, NEW BORROWER, ORIGINAL GUARANTOR, NEW GUARANTOR, AND LENDER]

**ORIGINAL BORROWER:**

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ORIGINAL GUARANTOR**:

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NEW BORROWER:**

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NEW GUARANTOR**:

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

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**LENDER:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A**

**TO MEMORANDUM OF ASSUMPTION**

LEGAL DESCRIPTION OF LAND

**EXHIBIT B**

**TO MEMORANDUM OF ASSUMPTION**

MODIFICATIONS TO SECURITY INSTRUMENT

**[COPY IN MODIFICATIONS SPECIFIED IN EXHIBIT D-1 OF THE ASSUMPTION AGREEMENT]**

**EXHIBIT D-1**

MODIFICATIONS TO SECURITY INSTRUMENT

**Modifications to Security Instrument**. The Security Instrument is amended as follows:

1. All references to Borrower or “grantor” will be deemed to refer to New Borrower.

2. The business address of Borrower set forth in the Preamble paragraph on Page 1 of the Security Instrument is amended to read as follows:

[**INSERT NOTICE OF ADDRESS OF NEW BORROWER FROM SECTION 13 OF THE ASSUMPTION AGREEMENT**]

3. The organizational identification number of Borrower set forth in the Preamble paragraph on Page 1 of the Security Instrument is amended to read as follows:

[**INSERT STATE ORGANIZATIONAL IDENTIFICATION NUMBER OF NEW BORROWER]**

**[****ADD ANY OTHER MODIFICATIONS TO SECURITY INSTRUMENT APPROVED OR REQUIRED BY LENDER AND ANY MODIFICATIONS REQUIRED BY CHANGES IN LOCAL LAW]**

**EXHIBIT D-2**

MODIFICATIONS TO NOTE

**Modifications to Note**. The Note is amended as follows:

1. As used in the Note, all references to Borrower will be deemed to refer to New Borrower.

2. **[CHOOSE ONE:** Reserved. **OR,** **INCLUDE ANY OTHER MODIFICATIONS TO THE BODY OF THE NOTE]**

**[ADD THE FOLLOWING ONLY IF MODIFYING THE LIST OF ATTACHED RIDERS:]**

3. The list of Riders attached to theNote is restated as follows, and if the final column below is marked with an “X”, then each new or modified Rider attached below is included in this Exhibit D-2 and deemed attached to and incorporated into the Note:

**[IF ANY OF THE RIDERS MODIFYING THE NOTE ARE CHANGING AS A RESULT OF THE ASSUMPTION, THEN THIS TABLE MUST SHOW ALL RIDERS THAT WILL MODIFY THE NOTE AFTER THE ASSUMPTION, WHETHER EXISTING AND CONTINUING OR NEW. IF AN EXISTING RIDER IS BEING OMITTED/DELETED, DO NOT LIST IT HERE. IF A NEW RIDER IS BEING ADDED, OR IF AN EXISTING RIDER IS BEING MODIFIED, MARK THE THIRD COLUMN AND ATTACH THE RIDER TO THIS EXHIBIT D-2.]**

|  |  |  |
| --- | --- | --- |
| **Name of Rider** | **Date Revised** | **Check here (“X”) and attach to this Exhibit D-2 any new Rider or modification of an existing Rider**  |
|  |  |  |
|  |  |  |
|  |  |  |

**[ATTACH ANY NEW OR MODIFIED NOTE RIDER(S) HERE]**

**EXHIBIT D-3**

MODIFICATIONS TO LOAN AGREEMENT

The Loan Agreement is amended as follows:

**[ADD THE FOLLOWING SECTION MODIFYING ARTICLE I (KEY TERMS) AND THE APPLICABLE CORRESPONDING CHARTS IF THE LOAN AGREEMENT FORM HAS A REVISION DATE OF 11-02-2015 OR LATER; FOR EARLIER FORM VERSIONS, DOCUMENT HERE ANY SPECIFIC TERMS CHANGING IN CONNECTION WITH THE ASSUMPTION]**

The following sections of Article I (Key Terms) of the Loan Agreement are amended in their entirety to read as follows:

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Modifications and Riders** |
| \_\_ | Loan Agreement modifications are included in Exhibit B |
| \_\_ | The following rider(s) are attached to this Loan Agreement:[if checked, list] |

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Modifications and Riders** |
| A portion of the Indebtedness equal to \_\_\_% of the Loan Amount *(see Article III)* |

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Tax and Insurance Reserves** |
| Taxes - \_\_ Collected or \_\_ Deferred  | Insurance premiums - \_\_ Collected or \_\_ Deferred  |
| *(See Article IV)* |

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Special Purpose Reserve** |
| \_\_ | Special Purpose Reserve Fund in the amount of $\_\_\_\_\_\_\_\_ is required  |
| The Termination Date is \_\_\_\_\_\_\_\_\_\_\_\_ and the Release Conditions are listed in Exhibit B. |
| *(See Article IV)* |

**[INSERT THE FOLLOWING CHARTS ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |  |  |
| --- | --- | --- |
| **Capital Replacements** |  | **Priority Repairs** |
| Replacement Reserve Monthly Deposit: $\_\_\_\_\_\_\_\_.\_\_\_ |  | \_\_\_ Priority Repairs are not required |
| \_\_ Collected or \_\_ Deferred |  |  |
| \_\_ Additional Capital Replacements Deposit in the amount of $\_\_\_\_\_\_\_\_\_\_ is requiredAdditional Capital Replacements Completion Date: \_\_\_\_\_ days after the Closing Date |  | \_\_\_ Priority Repairs are required, and a Priority Repair Reserve Fund Deposit in the amount of $\_\_\_\_\_\_\_\_\_ is required. |
| Additional Capital Replacements are listed in Exhibit B. |  |  |
| *(See Article IV and Section 6.14)* |  | *(See Article IV and Section 6.14)* |

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Property Management** |
| The Mortgaged Property is:  |
| \_\_ | Self-managed by Borrower |
| \_\_ | Managed by a Property Manager that is an Affiliate of Borrower |
| \_\_ | Managed by a Property Manager that is not an Affiliate of Borrower |
| The requirements for property management of the Mortgaged Property are detailed in Section 6.09(e) |

**[INSERT THE FOLLOWING CHART FOR ALL ASSUMPTIONS]**

|  |
| --- |
| **Borrower Entity Requirements and Limitations** |
| Borrower is a(n):  |
| \_\_ | Individual |
| \_\_ | Revocable Trust |
| \_\_ | Single Asset Entity |
| \_\_ | Restricted Multiple Asset Entity |
| \_\_ | Tenancy in common made up of multiple Co-Borrowers – *See Attached Rider* |
| The limitations on Single Asset Entities and Restricted Multiple Asset Entities are detailed in Section 6.13 |

**[INSERT THE FOLLOWING CHART ONLY IF THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **O&M Program(s)** |
| Borrower must provide a Moisture Management Plan and each of the O&M Program(s) checked below, the requirements for which are detailed in Section 6.12: |
| \_\_ | Asbestos  | \_\_ | Storage tanks |
| \_\_ | Lead-based paint  | \_\_ | Drinking water |
| \_\_ | Radon  | \_\_ | Prior use of Mortgaged Property |
| \_\_ | Polychlorinated Biphenyls (PCBs) | \_\_ | Neighborhood waste sites |
| \_\_ | Hazardous Materials  | \_\_ | Other (describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) |

**[INSERT THE FOLLOWING CHART IF THERE IS A CHANGE IN THE GUARANTOR IN CONNECTION WITH THE ASSUMPTION]**

|  |
| --- |
| **Guarantor(s)** |
|  |  |
|  |  |

**[INSERT THE FOLLOWING CHART ONLY IF THE LOAN AGREEMENT FORM HAS A REVISION DATE OF 11-02-15 AND THERE IS A CHANGE IN CONNECTION WITH THE ASSUMPTION]**

|  |  |
| --- | --- |
| **Priority Repair Schedule of Work** |  |
| Description of Priority Repair | Estimated Cost of Completion | Completion Date(\_\_ days after the Effective Date) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**[ADD THE FOLLOWING SECTIONS (BORROWER COVENANTS AND DEFINITIONS] FOR ALL VINTAGES OF LOAN AGREEMENT]**

2. Article VI of the Loan Agreement is amended by adding or by amending and restating, as applicable, the following Sections in their entirety as follows:

**6.20 Economic Sanctions Laws; AML Laws.**

(a) Borrower will comply with the Economic Sanctions Laws and AML Laws, as applicable, and Borrower will take reasonable measures to ensure that each Borrower Principal will comply with the Economic Sanctions Laws and AML Laws, as applicable.

(b) Borrower and each Borrower Principal will have in place practices and procedures for the admission of investors which are designed to prevent the admission of:

(i) Any Non-U.S. Equity Holder, or any investor that would have a 25% or more ownership interest in Borrower (whether directly or indirectly), and that has been convicted of a violation of the AML Laws, or been the subject of a final enforcement action relating to the AML Laws.

(ii) Any Person with a 25% or more ownership interest in Borrower (whether directly or indirectly) that is on the Prohibited Parties Lists.

(iii) Any Non-U.S. Equity Holder that is on the OFAC Lists.

**6.21 Crowdfunding.** Borrower and each Borrower Principal will not permit direct or indirect ownership (or other economic) interests of 25% or more in Borrower or any Borrower Principal that have been marketed or sold to investors through any form of Crowdfunding.

3. **[CHOOSE, AS APPLICABLE: [**Article XI] **OR** [Article XII] of the Loan Agreement is amended by adding or amending and restating, as applicable, the following definitions in their entirety as follows:

“**AML Laws**” means applicable federal anti-money laundering laws and regulations including 18 U.S.C. §§ 1956 and 1957, as amended.

“**Borrower Principal**” means any of the following:

(i) Any general partner of Borrower (if Borrower is a partnership).

(ii) Any manager, managing member, non-member manager, or member of the board of managers of Borrower (if Borrower is a limited liability company).

(iii) Any settlor (grantor) of a living or revocable Trust (if Borrower is a living or revocable Trust).

(iv) Any trustee of a Trust (if Borrower is a Trust).

(v) Any Person (limited partner, member or shareholder) with a collective direct or indirect equity interest in Borrower equal to or greater than 25%, including any equitable ownership interest or any beneficial interest in an Illinois land trust, an irrevocable trust, or a Delaware Statutory Trust.

(vi) Any master tenant operating all or a substantial portion of the Mortgaged Property pursuant to a master lease structure, such as a Delaware Statutory Trust structure.

(vii) Any Guarantor of all or any portion of the Loan or of any obligations of Borrower under the Loan Documents.

“**Commitment Letter**” means the approval letter for the Assumption issued to Borrower by or on behalf of Lender, as modified, amended or extended.

**“Crowdfunding”** means the practice of funding a project or venture by raising capital by either of the following methods:

(i) Via general solicitation (i.e., marketing directed to the public at large, whether via the internet or otherwise) that (A) names Freddie Mac, or (B) names or contains any information about the Mortgaged Property.

(ii) From unaccredited investors in a public offering (e.g., under the related exemptions of Title III or Title IV of the Jumpstart Our Business Startups (JOBS) Act).

“**Economic Sanctions Laws**” means the foreign assets control regulations, 31 C.F.R. Chapter V, as amended, and any amending federal legislation or executive order relating thereto, as administered by OFAC.

**“Economic Sanctions and AML Laws Indemnity”** means all Attorneys’ Fees and Costs and remediation costs, whether incurred in connection with any judicial or administrative process or otherwise, arising directly or indirectly from any failure of Borrower or any Borrower Principal to comply with the Economic Sanctions Laws or AML Laws.

“**Effective Date**” means the effective date of this Assumption Agreement.

“**FHFA**” means the Federal Housing Finance Agency.

“**FHFA SCP List**” means the Suspended Counterparty List maintained by the FHFA which is currently published at <https://www.fhfa.gov/SupervisionRegulation/> LegalDocuments/suspendedcounterpartyprogram.

“**Loan Application**” is defined Section 10(c) of this Assumption Agreement.

“**Non-U.S. Equity Holder**” means any Person with a collective equity interest (whether direct or indirect) of 10% or more in Borrower, and which is either (a) an individual who is not a citizen of the United States, or (b) an entity formed outside the United States.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**OFAC Lists**” means either one of the following:

(i) The OFAC Specially Designated Nationals and Blocked Persons List.

(ii) The OFAC Consolidated Sanctions List.

“**Physical Risk Report**” means, collectively, any Physical Risk Report(s) (Form 1104) (i) prepared by the physical risk consultant engaged by Lender in conjunction with the underwriting of this Loan that Lender provided to Borrower prior to or in connection with the issuance of the Commitment Letter and, if applicable (ii) prepared by the physical risk consultant engaged by the Lender in conjunction with the underwriting of any proposed Transfer that Lender provided to Borrower prior to or in connection with the issuance of an approval letter for such Transfer. The Physical Risk Report identifies, among other items, necessary repairs at the Mortgaged Property such as Priority Repairs (including PR-90 Repairs) and Operational Repairs.

“**Prohibited Parties List**” means any one or more of the (i) OFAC Lists or (ii) FHFA SCP List.

“**Property Manager**” means either the Person that manages the Mortgaged Property as of the Effective Date or another residential rental property manager approved by Lender that manages the Mortgaged Property]

“**Public Company**” means (i) a company whose shares are traded on a United States public exchange or a United States over-the-counter exchange with no control over who purchases its shares after the initial public offering, or (ii) a pension fund that is controlled by a United States municipal, county, state, or federal governmental unit or any subsidiary thereof.

“**Title Policy**” is defined Section 5(b) of this Assumption Agreement.

**[ADD THE FOLLOWING ONLY IF MODIFYING THE LIST OF ATTACHED RIDERS; IF THERE ARE NO CHANGES TO THE LIST OF RIDERS, COMPLETE SECTION 2 WITH “RESERVED.”]**

4. The list of Riders attached to theLoan Agreement is restated as follows, and if the final column below is marked with an “X”, then each new or modified Rider attached below is included in this Exhibit D-3 and deemed attached to and incorporated into the Loan Agreement:

**[IF ANY OF THE RIDERS MODIFYING THE LOAN AGREEMENT ARE CHANGING AS A RESULT OF THE ASSUMPTION, THEN THIS TABLE MUST SHOW ALL RIDERS THAT WILL MODIFY THE LOAN AGREEMENT AFTER THE ASSUMPTION, WHETHER EXISTING AND CONTINUING OR NEW. IF AN EXISTING RIDER IS BEING OMITTED/DELETED, DO NOT LIST IT HERE. IF A NEW RIDER IS BEING ADDED, OR IF AN EXISTING RIDER IS BEING MODIFIED, MARK THE THIRD COLUMN AND ATTACH THE RIDER TO THIS EXHIBIT D-3.]**

|  |  |  |
| --- | --- | --- |
| **Name of Rider** | **Date Revised** | **Check here (“X”) and attach to this Exhibit D-3 any new Rider or modification of an existing Rider**  |
|  |  |  |
|  |  |  |

**[ATTACH ANY NEW OR MODIFIED LOAN AGREEMENT RIDER(S) HERE]**

**[ADD THE FOLLOWING ONLY IF MODIFYING ANY EXHIBIT]**

5. [Exhibit B] of the Loan Agreement is amended as follows:

**[ADD HERE ANY MODIFICATION OF LOAN AGREEMENT TERMS SET FORTH ON ANY EXHIBIT (TYPICALLY EXHIBIT B LOAN AGREEMENT MODIFICATIONS OR NEW RESERVE REQUIREMENTS)]**

**EXHIBIT D-4**

MODIFICATIONS TO GUARANTY

**Modifications to Guaranty**. The Guaranty is amended as follows:

1. As used in the Guaranty, all references to Guarantor will be deemed to refer to New Guarantor.

2. **[CHOOSE ONE:** Reserved. **OR,** **INCLUDE ANY OTHER MODIFICATIONS TO THE BODY OF THE GUARANTY]**

**[ADD THE FOLLOWING ONLY IF MODIFYING THE LIST OF ATTACHED RIDERS; IF THERE ARE NO CHANGES TO THE LIST OF RIDERS, COMPLETE SECTION 3 WITH “RESERVED.”]**

3. The list of Riders attached to theGuaranty is restated as follows, and if the final column below is marked with an “X”, then each new or modified Rider attached below is included in this Exhibit D-4 and deemed attached to and incorporated into the Guaranty:

**[IF ANY OF THE RIDERS MODIFYING THE GUARANTY ARE CHANGING AS A RESULT OF THE ASSUMPTION, THEN THIS TABLE MUST SHOW ALL RIDERS THAT WILL MODIFY THE GUARANTY AFTER THE ASSUMPTION, WHETHER EXISTING AND CONTINUING OR NEW. IF AN EXISTING RIDER IS BEING OMITTED/DELETED, DO NOT LIST IT HERE. IF A NEW RIDER IS BEING ADDED, OR IF AN EXISTING RIDER IS BEING MODIFIED (E.G., MATERIAL ADVERSE CHANGE RIDER OR NEW WORTH/LIQUIDITY RIDER), MARK THE THIRD COLUMN AND ATTACH THE RIDER TO THIS EXHIBIT D-4.]**

|  |  |  |
| --- | --- | --- |
| **Name of Rider** | **Date Revised** | **Check here (“X”) and attach to this Exhibit D-4 any new Rider or modification of an existing Rider**  |
|  |  |  |
|  |  |  |
|  |  |  |

**[ATTACH ANY NEW OR MODIFIED GUARANTY RIDER(S) HERE]**

**EXHIBIT D-5**

MODIFICATIONS TO OTHER LOAN DOCUMENTS

[N/A]

**EXHIBIT E**

NEW BORROWER ORGANIZATIONAL CHART