**MULTIFAMILY MORTGAGE**

**MICHIGAN**

**(Revised 2-14-2023)**

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THIS MULTIFAMILY MORTGAGE, which includes an assignment of rents and security agreement (“**Instrument**”) is made to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as mortgagor (“**Borrower**”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as mortgagee (“**Lender**”). Borrower’s organizational identification number, if applicable, is .

**RECITAL**

Borrower is indebted to Lender in the principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as evidenced by Borrower’s Multifamily Note payable to Lender dated as of the date of this Instrument, and maturing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_ (“**Maturity Date**”).

**AGREEMENT**

TO SECURE TO LENDER the repayment of the Indebtedness, and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower contained in the Loan Documents, INCLUDING BORROWER’S COVENANT TO REPAY ALL FUTURE ADVANCES WITH INTEREST THEREON, Borrower mortgages, warrants, grants, conveys and assigns to Lender, with power of sale, the Mortgaged Property, including the Land located in\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, State of Michigan and described in Exhibit A attached to this Instrument.

Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to mortgage, grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered, except as shown on the schedule of exceptions to coverage in the title policy issued to and accepted by Lender contemporaneously with the execution and recordation of this Instrument and insuring Lender’s interest in the Mortgaged Property (“**Schedule of Title Exceptions**”). Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any easements and restrictions listed in the Schedule of Title Exceptions.

**[INSERT CURRENT VERSION OF UNIFORM COVENANTS]**

**21-30. Reserved.**

**31. Acceleration; Remedies.**

(a) At any time during the existence of an Event of Default, Lender, at Lender’s option, may declare the Indebtedness to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by applicable law or provided in this Instrument or in any other Loan Document. Borrower hereby grants power to Lender, upon the occurrence of an Event of Default, to grant, bargain, sell, release and convey the Mortgaged Property at public auction or venue, and upon such sale to execute and deliver to the purchaser(s) instruments of conveyance pursuant to the terms of this Instrument and applicable laws. Borrower acknowledges that the preceding sentence confers a power of sale upon Lender and that upon the occurrence of an Event of Default this Instrument may be foreclosed by advertisement as described below and in the applicable Michigan statutes. Borrower understands that upon the occurrence of an Event of Default, Lender is authorized and empowered to sell the Mortgaged Property, or cause the same to be sold, and to convey the same to the purchaser in any lawful manner, including that provided by Chapter 32 of the Revised Judicature Act of Michigan, entitled “Foreclosure of Mortgages by Advertisement,” which permits Lender to sell the Mortgaged Property without affording Borrower a hearing or giving Borrower actual personal notice. The only notice required under such Chapter 32 is to publish notice in a local newspaper and to post a copy of the notice at the Improvements.

(b) If Lender invokes the power of sale, Lender will mail a copy of a notice of sale to Borrower in the manner provided in Section 11.03 of the Loan Agreement. Lender will give notice of sale and will sell the Mortgaged Property according to the laws of Michigan. Lender may, at Lender’s option, sell the Mortgaged Property in one or more parcels and in such order as Lender may determine. Lender or Lender’s designee may purchase the Mortgaged Property at any sale. The proceeds of sale will be applied in the following order: (i) to all costs and expenses of the sale, including Attorneys’ Fees and Costs of title evidence; (ii) to the Indebtedness in such order as Lender, in Lender’s discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled to it.

**32. Lender’s Statutory Rights With Respect to Leases and Rents.**

1. In addition to Sections 3 and 4, Lender will be entitled to all of the rights and benefits conferred by or any other remedy provided under the Michigan Uniform Assignment of Rents Act, Act 115 of 2022 (MCL 554.1051 *et seq*.), as amended, and Act No. 66 of the Michigan Public Acts of 1956 (MCL 565.81, *et seq*.), as amended. To the extent that this Instrument is inconsistent with, or confers rights upon Lender in excess of those conferred by applicable law, the terms and conditions of this Instrument will govern, but only to the extent permitted by applicable law.
2. All references to “Rents” in this Instrument will be deemed to include all “Rents” as that term is defined in the Michigan Uniform Assignment of Rents Act, Act 115 of 2022 (MCL 554.1051 *et seq*.), as amended.

**33. Construction Liens.** All references in this Instrument to “mechanic’s liens” and “materialmen’s liens” will be deemed to include “construction liens” as defined in MCL 570.1103(3).

**34. Waste.** Nonpayment of Taxes and cancellation of insurance required by the Loan Documents will each constitute waste as provided by MCL 600.2927. Borrower consents to the appointment of a receiver under MCL 554.1056 and 554.1057 if Lender elects to seek such relief.

**35. No Mortgagee in Possession; No Election or Limitation of Remedies**. The enforcement of this Instrument and application of any Rents received by Lender does not: (i) make Lender a mortgagee in possession of the Mortgaged Property; (ii) make the Lender an agent of Borrower; (iii) constitute an election of remedies that precludes a later action to enforce the secured obligation owed to Lender or to enforce this Instrument, including foreclosure by advertisement, or otherwise render this Instrument unenforceable; or (iv) limit any other right available to Lender with respect to the obligations owed to Lender, as provided under the Michigan Uniform Assignment of Rents Act (Act 115 of 2022), MCL 554.1051 *et seq*. and Act 116 of 2022 (MCL 600.3204).

**36. Application of Rents Collected**. Rents received by Lender pursuant to the assignment of rents contained in this Instrument will be applied in the same manner as other payments received that are applicable to the Indebtedness, as provided in the Loan Documents; provided, however, that Lender will have no obligation to apply Rents so received to payment of any periodic recurring payment (including deposit to any Reserve Fund) under the Note or Loan Agreement.  Borrower acknowledges that Lender will have no obligation to apply Rents pursuant to MCL 554.1062, and will have no obligation to apply any Rents to payment of expenses of protecting or maintaining the Mortgaged Property.

**37. Release.** Upon payment of the Indebtedness, Lender will prepare and file a discharge of this Instrument.

**38. POWER OF SALE. WARNING: THIS INSTRUMENT CONTAINS A POWER OF SALE AND, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT HEREUNDER, MAY BE FORECLOSED BY ADVERTISEMENT (UNDER AND PURSUANT TO THE PROVISIONS OF MCLA SECTION 600.3201 ET SEQ.) OR BY JUDICIAL ACTION (UNDER AND PURSUANT TO THE PROVISIONS OF MCLA SECTION 600.3101). IN A FORECLOSURE BY ADVERTISEMENT, NO HEARING IS INVOLVED AND THE ONLY NOTICE REQUIRED IS PUBLICATION OF A FORECLOSURE NOTICE IN A LOCAL NEWSPAPER AND POSTING OF A COPY OF THE NOTICE UPON THE MORTGAGED PROPERTY.  IF THIS INSTRUMENT IS FORECLOSED BY ADVERTISEMENT UNDER THE PROVISIONS OF MICHIGAN COMPILED LAWS SECTION 600.3201 (OR ANY SUCCESSOR PROVISION OF THE LAWS OF THE STATE OF MICHIGAN), BORROWER HEREBY VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY WAIVES ALL RIGHTS UNDER THE CONSTITUTION AND THE LAWS OF THE STATE OF MICHIGAN AND THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA TO ANY NOTICE OF HEARING IN CONNECTION WITH SAID FORECLOSURE BY ADVERTISEMENT, EXCEPT AS SET FORTH IN SAID MICHIGAN STATUTE PROVIDING FOR FORECLOSURE BY ADVERTISEMENT.**

**39.** **WAIVER OF TRIAL BY JURY.**

(a) **BORROWER AND LENDER EACH COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER THAT IS TRIABLE OF RIGHT BY A JURY.**

(b) **BORROWER AND LENDER EACH 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.**

**40. Attached Riders.** The following Riders are attached to this Instrument:

**[LIST EACH RIDER ATTACHED OR STATE “NONE”]**

**41. Attached Exhibits.** The following Exhibits, if marked with an “X” in the space provided, are attached to this Instrument:

|X| Exhibit A Description of the Land (required)

| | Exhibit B Modifications to Instrument

| | Exhibit C Ground Lease Description (if applicable)

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, Borrower has signed and delivered this Instrument or has caused this Instrument to be signed and delivered by its duly authorized representative.

**[INSERT SIGNATURES AND ACKNOWLEDGMENTS]**

Prepared by, and after recording

return to:

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

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

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

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

**[INSERT RIDER(S) IF APPLICABLE]**

**EXHIBIT A**

DESCRIPTION OF THE LAND

**EXHIBIT B**

MODIFICATIONS TO INSTRUMENT

The following modifications are made to the text of the Instrument that precedes this Exhibit: