

Use for a Supplemental (Second) Mortgage under the Freddie Mac High Leverage Loan Program.

**INSERT TO EXHIBIT B OF SUPPLEMENTAL LIEN
MULTIFAMILY SECURITY INSTRUMENT
(Revision Date 12-15-2005)**

_____ **SUPPLEMENTAL LIEN PROVISIONS.**

(a) **Definitions.** In addition to the words and terms defined elsewhere in the Instrument to which this Exhibit B is attached, the following terms shall have the meanings set forth below:

- (i) **"Supplemental Indebtedness"** means the Indebtedness.
- (ii) **"Supplemental Instrument"** means the Instrument to which this Exhibit B is attached.
- (iii) **"Supplemental Lender"** means the Lender.
- (iv) **"Supplemental Loan Documents"** means the Loan Documents.
- (v) **"Supplemental Note"** means the Note.
- (vi) **"Senior Indebtedness"** means the principal of, interest at the fixed or variable rate set forth in the Senior Note, and all other amounts due at any time under the Senior Note, the Senior Instrument or any other Senior Loan Document, including prepayment premiums, late charges, default interest, and advances as provided in Section 12 of the Senior Instrument to protect the security of the Senior Instrument.
- (vii) **"Senior Indebtedness Event of Default"** means an "Event of Default" as defined in the Senior Instrument.
- (viii) **"Senior Instrument"** means the Multifamily _____ **(insert exact title of mortgage, deed of trust or deed to secure debt)** dated _____, 20__ to or for the benefit of the _____, which was recorded on _____, 20__ in the Office of _____ at _____ and which was assigned to the Federal Home Loan Mortgage Corporation by assignment dated _____, 20__ and recorded on _____, 20__ in the Office of _____ at _____.

- (xi) **"Senior Lender"** means the Federal Home Loan Mortgage Corporation, its successors, assigns and transferees, as holder of the Senior Indebtedness.
- (x) **"Senior Loan Documents"** means the Senior Note, the Senior Instrument, all indemnity agreements, all collateral agreements, O&M Programs, the MMP and any other documents now or in the future executed by Borrower, any guarantor or any other person in connection with the loan evidenced by the Senior Note, as such documents may be amended from time to time.
- (xi) **"Senior Note"** means the Multifamily Note dated _____, 20____ in the original principal amount of \$_____ made by Borrower in favor of _____, including all schedules, riders, allonges and addenda, as such Multifamily Note may be amended from time to time.

(b) **Subordination.** Notwithstanding any provisions of this Supplemental Instrument or the other Supplemental Loan Documents to the contrary, it is understood and agreed that the lien, terms, covenants and conditions of this Supplemental Instrument are and shall be subordinate in all respects, including right of payment, to the Senior Indebtedness.

(c) **Cross Default of Senior Instrument with Supplemental Instrument.** As Borrower under both this Supplemental Instrument and the Senior Instrument, Borrower hereby acknowledges and agrees that if there is an Event of Default under the Senior Note, the Senior Instrument or any other Senior Loan Document, such Event of Default shall be an Event of Default under the terms of this Supplemental Instrument and shall entitle Supplemental Lender to invoke any and all remedies permitted to Supplemental Lender by applicable law, the Supplemental Note, the Supplemental Instrument or any of the other Supplemental Loan Documents.

(d) **No Merger.**

(i) If Supplemental Lender obtains title to the Mortgaged Property (by virtue of a foreclosure sale, a deed in lieu of foreclosure or otherwise) and Supplemental Lender is also or subsequently becomes the holder of the Senior Note and Senior Instrument, Supplemental Lender's title interest and lien interest shall not automatically merge so as to effect an extinguishment of the Senior Instrument by operation of the doctrine of merger.

(ii) If Senior Lender obtains title to the Mortgaged Property (by virtue of a foreclosure sale, a deed in lieu of foreclosure or otherwise) and Senior Lender is also or subsequently becomes the holder of the Supplemental Note and Supplemental Instrument, Senior Lender's title interest and lien interest shall not automatically merge so as to effect an extinguishment of this Supplemental Instrument by operation of the doctrine of merger.

(iii) Borrower acknowledges and agrees that no course of conduct by Borrower, Supplemental Lender or Senior Lender subsequent to the date of this Supplemental Instrument shall be used to demonstrate any intent contrary to the express intent stated in this Section. Borrower further agrees that the holder of the Senior Note is a third party beneficiary of the provisions of this subsection and that no amendments, modifications, waivers or other limitations of this subsection shall be effective without the prior written agreement of the Senior Lender.

(e) **Collection of Escrows for Impositions and Replacement Reserves.**

(i) For so long as either (A) the Federal Home Loan Mortgage Corporation is the holder of the Senior Note and Senior Instrument or (B) the same person or entity is both Senior Lender and Supplemental Lender, monthly payments made by Borrower under the Senior Instrument from and after the effective date of this Supplemental Instrument as deposits for the payment of any Impositions shall reduce the monthly deposits for the payment of such Impositions which would otherwise be required under this Supplemental Instrument.

(ii) For so long as either (A) the Federal Home Loan Mortgage Corporation is the holder of the Senior Note and Senior Instrument or (B) the same person or entity is both Senior Lender and Supplemental Lender, monthly payments made by Borrower from and after the effective date of this Supplemental Instrument pursuant to the Replacement Reserve Agreement executed in connection with the Senior Note ("**Senior Replacement Reserve Agreement**") shall reduce the monthly amounts which would otherwise be due from Borrower in connection with the Replacement Reserve Agreement executed in connection with the Supplemental Indebtedness ("**Supplemental Replacement Reserve Agreement**").

(f) **Additional Collateral.**

(i) Subject to Senior Lender's interest, Borrower hereby assigns and grants to Supplemental Lender a security interest in all Imposition Deposits, all amounts in the Replacement Reserve Fund (as such term is defined in the Senior Replacement Reserve Agreement) and any amount in any repair escrow in connection with the Senior Indebtedness as additional security for all of the Borrower's obligations under the Supplemental Note.

(ii) In addition, Borrower hereby assigns and grants to Senior Lender a security interest in all Imposition Deposits, all amounts in the Replacement Reserve Fund (as such term is defined in the Supplemental Replacement Reserve Agreement) and any amount in any repair escrow in connection with the Supplemental Indebtedness as additional security for all of the Borrower's obligations under the Senior Note.

(iii) It is the intention of Borrower that all amounts deposited by Borrower in connection with either the Senior Loan Documents, the Supplemental Loan Documents or both, constitute collateral for the Supplemental Indebtedness and the Senior Indebtedness, with the application of such amounts to the Senior Indebtedness and/or Supplemental Indebtedness to be at the discretion of Senior Lender and Supplemental Lender. All rights of Supplemental Lender

in and to any amounts deposited in connection with the Senior Loan Documents are subordinate to the rights of Senior Lender.

(g) **Definition of Indebtedness.** The definition of Indebtedness contained in the Supplemental Instrument is amended to add the following:

Indebtedness shall also include any and all amounts advanced by or on behalf of the Supplemental Lender to make payments with respect to the Senior Loan Documents.

(h) **Rents.** Section 3 of the Supplemental Instrument is amended as follows:

(i) The reference to "Note" in paragraph (b) shall be construed to include both the Senior Note and the Supplemental Note.

(ii) The reference to "Loan Documents" in paragraph (b) shall be construed to include both the Senior Loan Documents and the Supplemental Loan Documents.

(iii) The parenthetical phrase in paragraph (c) is amended to read as follows:

(other than (i) an assignment of Rents securing any prior indebtedness that is being assigned to Lender or paid off and discharged with the proceeds of the loan evidenced by the Note or the Senior Note or (ii) any assignment made in the Senior Loan Documents).

(iv) Paragraph (f) is amended to read as follows:

If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property, collecting the Rents and making all payments which the Senior Lender claims are required to be paid under the Senior Loan Documents (regardless of whether or not such amounts are actually required to be paid), any funds expended by the Lender for such purposes shall become an additional part of the Indebtedness as provided in Section 12.

(i) **Payments of Senior Indebtedness; Performance under Senior Loan Documents.** The following is added to Section 5 of the Supplemental Instrument:

Borrower shall pay the Senior Indebtedness when due in accordance with the terms of the Senior Note and the other Senior Loan Documents and shall perform, observe and comply with all other provisions of the Senior Note and other Senior Loan Documents.

(j) **Protection of Lender's Security; Instrument Secures Future Advances.**

Section 12 of the Supplemental Instrument is amended as follows:

- (i) In paragraph (a), add the words "or under any Senior Loan Document" after the words "Loan Document."
- (ii) In paragraph (a), delete the word "and" before clause (v), add a comma at the end of clause (v) and add the following after said comma:

and (vi) payment of any and/or all amounts which the Senior Lender claims are required to be paid under the Senior Loan Documents (regardless of whether or not such amounts are actually required to be paid) and payment of any other amounts pursuant to Section 3(f).
- (iii) Paragraph (c) is amended to read as follows:

(c) Nothing in this Section 12 shall require Lender to incur any expense, make any payment or take any action.

(k) **Books and Records; Financial Reporting.** Paragraph (d) of Section 14 of the Supplemental Instrument is amended to read as follows:

- (d)(i) Within 30 days after the end of each calendar quarter (and, during the existence of an Event of Default, within 30 days after the end of each month), Borrower shall furnish to Lender a financial statement with respect to Borrower and the Mortgaged Property, including (A) a quarterly (or monthly, as applicable) and year-to-date income and expense statement reflecting the operations of Borrower and the Mortgaged Property for the relevant calendar quarter (or month, as applicable) and relevant year-to-date, (B) a balance sheet of Borrower as of the end of the relevant calendar quarter (or month, as applicable), (C) a statement of changes in financial position of the Borrower for the relevant calendar quarter (or month, as applicable), (D) a rent roll reflecting the tenancy of the Mortgaged Property as of the last day of the relevant calendar quarter (or month, as applicable), (E) an accounts payable aging report as of the last day of the relevant calendar quarter (or month, as applicable) and (F) an accounts receivable aging report as of the last day of the relevant calendar quarter (or month, as applicable).
- (ii) At any time upon Lender's request (but not more often than quarterly except during the existence of an Event of Default), Borrower shall furnish to Lender a monthly property management report for the Mortgaged Property, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender.

(l) **Transfers.** Section 21 of the Supplemental Instrument is amended as follows:

(i) Add to the end of paragraph (b)(i) the following:

or the Senior Instrument.

(ii) In paragraph (c)(iv), "Loan Documents" shall be construed to include both the Senior Loan Documents and the Supplemental Loan Documents.

(m) **Events of Default.** Section 22 of the Supplemental Instrument is amended as follows:

(i) Delete the word "and" at the end of clause (k).

(ii) Replace the period at the end of clause (l) with a semicolon and the word "and."

(iii) Add the following:

(m) the occurrence of any Senior Indebtedness Event of Default or the making of any advance by Lender under this Instrument to cure or avoid a Senior Indebtedness Event of Default.

(n) **Estoppel Certificates.** The following is added to the end of Section 29 of the Supplemental Instrument:

, including, but not limited to, the statements set forth in clauses (i) through (v) of this section with respect to the Senior Loan Documents, the Senior Note, the Senior Indebtedness and the Senior Lender.

(o) **Notices.** The following is added to Section 31 of the Supplemental Instrument:

(d) Borrower shall send to Lender a duplicate copy of each Notice sent to Senior Lender by or on behalf of Borrower simultaneously with the sending of such Notice to Senior Lender.

(p) **Disclosure of Information.** Section 39 of the Supplemental Instrument is amended to add the following after "trustees,":

actual or potential investors, participants and/or purchasers of all or any portion of the Indebtedness and/or any direct or indirect legal and/or beneficial interest thereon,

- (q) **Adjustable Rate Mortgage.** Third Party CAP Agreement "CAP." Section 42 of the Supplemental Instrument is deleted.