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This instrument prepared by
and after recording return to:

Timothy K. Hinchman
Charity & Associates, P.C.
20 North Clark Street, Suite 1150
Chicago, Illinois 60602

Doc#: 1228610118 Fee: \$70.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 10/12/2012 04:14 PM Pg: 1 of 17

AFFORDABLE HOUSING PROGRAM RECAPTURE AGREEMENT

MEMBER BANK: BMO Harris Bank N.A.

TURNSTONE: Turnstone Development Corporation, an Illinois not-for-profit corporation

HACC: Housing Authority of the County of Cook, an Illinois municipal corporation

SUMMIT: Summit Senior Housing, LLC, an Illinois limited liability company

PROJECT NAME: Summit Senior Housing Apartments

PHA PROJECT NO: IL 025000052

SUMMIT'S ADDRESS: 10 S. LaSalle Street, Suite 3510, Chicago, Illinois 60603

PROJECT ADDRESS: 7455-60 W. 63rd Place, Summit, Illinois 60501

PERMANENT INDEX NUMBER: 18-24-201-025-0000; 18-24-201-026-0000; 18-24-201-027-0000; 18-24-201-028-0000; 18-24-201-029-0000; 18-24-201-030-0000; 18-24-201-031-0000; 18-24-201-032-0000; 18-24-201-033-0000; 18-24-201-034-0000; 18-24-205-001-0000; 18-24-205-002-0000; 18-24-205-003-0000; 18-24-205-004-0000; 18-24-205-005-0000; 18-24-205-006-0000; 18-24-205-007-0000; 18-24-205-008-0000; 18-24-205-009-0000; 18-24-205-010-0000; 18-24-205-011-0000; 18-24-205-012-0000; 18-24-205-013-0000; 18-24-205-014-0000; 18-24-205-015-0000; 18-24-205-016-0000; 18-24-205-017-0000; 18-24-205-018-0000; 18-24-205-019-0000

After recording return to:
Sue Wiemer
Housing Authority of the County of Cook
175 W. Jackson Street, Suite #350
Chicago, IL 60604

17 pages

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**THIS DOCUMENT PREPARED BY
AND UPON RECORDING MAIL TO:**

**Timothy K. Hinchman
Charity & Associates, P.C.
20 North Clark Street, Suite 1150
Chicago, Illinois 60602**

AFFORDABLE HOUSING PROGRAM RECAPTURE AGREEMENT

THIS AFFORDABLE HOUSING PROGRAM RECAPTURE AGREEMENT (“Recapture Agreement”) is entered into this 28th day of September, 2012, by and among **BMO HARRIS BANK, N.A.**, a national banking association (“**Member Bank**”), **TURNSTONE DEVELOPMENT CORPORATION**, an Illinois not-for-profit corporation (“**Turnstone**”), the **HOUSING AUTHORITY OF THE COUNTY OF COOK**, an Illinois municipal corporation (“**HACC**” and, together with Turnstone, “**Sponsors**”), and **SUMMIT SENIOR HOUSING, LLC**, an Illinois limited liability company (“**Summit**”). The Member Bank, Sponsors and Summit are jointly referred to as the “**Parties**.”

RECITALS:

A. Pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“**FIRREA**”), the Federal Housing Finance Board (“**Board**”) is required to cause each Federal Home Loan Bank (“**FHLBank**”) to establish an affordable housing program (“**AHP**”) to assist members of each FHLBank to finance affordable housing for very low, low and moderate income households.

B. The Member Bank is a member of the Federal Home Loan Bank of Chicago (“**Chicago Bank**”), a FHLBank, and submitted an application, dated August 1, 2011 (the “**Application**”), for an AHP subsidy in a principal amount not to exceed Four Hundred Sixty Eight Thousand and No/100 Dollars (\$468,000.00) (the “**Grant**”) to pay a portion of the costs associated with the rehabilitation of the property commonly known as Summit Senior Housing Apartments, which consists of a seventy-eight (78) unit multi-family residential development (the “**Buildings**”) situated on certain land at 7455 and 7460 West 63rd Place, in Summit, Illinois 60501 (the “**Property**,” and together with the Buildings, collectively referred to hereinafter as the “**Project**”), as legally described on Exhibit A attached hereto, to provide an independent living development for seniors. HACC is the fee simple title owner of Parcel A of the Project, which Parcel A is legally described on Exhibit A attached hereto. Summit is the fee simple title owner of Parcel B of the Project, which Parcel B is legally described on Exhibit A attached hereto. HACC is the fee simple title owner of Parcel C of the Project, which Parcel C is legally described on Exhibit A attached hereto, and leased to Summit. Turnstone is the Managing Member of Summit.

C. Pursuant to regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the Board pursuant to FIRREA (“**AHP Regulations**”), members of each FHLBank are required to provide for the recapture of any subsidized advances or other subsidized assistance in connection with unused or improperly used AHP subsidies.

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D. In connection with the Grant, the Member Bank entered into that certain Affordable Housing Program Agreement (“**Subsidy Agreement**”) dated as of December 9, 2011, with Chicago Bank and Sponsors, pursuant to which Member Bank and Sponsors agreed to be bound by AHP Regulations and perform certain monitoring functions with respect to the Grant. Summit herewith also agrees to be bound by AHP Regulations and perform the monitoring functions with respect to the Grant as identified in the Subsidy Agreement.

E. The Parties desire to set forth those circumstances under which Member Bank shall be entitled to a recapture of all subsidy funds from either Summit or Sponsors in connection with the Grant.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENTS

1. Subsidy Amount. The Parties hereby acknowledge and agree that Member Bank has, on even date herewith, disbursed the proceeds of the Grant to Summit in the amount of Four Hundred Sixty Eight Thousand and 10/100 Dollars (\$468,000.00) to be used in connection with the Project. The term during which Summit and the Sponsors must comply with the AHP Regulations to qualify and maintain the Grant is fifteen (15) years from the date of completion of the Project, at which time this Recapture Agreement shall terminate (“**Retention Period**”).

2. Affordability Requirements. Summit and Sponsors agree, during the term of this Recapture Agreement, to manage and operate the Project as rental housing for very low, low and/or moderate income households. For purposes of this Recapture Agreement, very low income households shall mean households whose annual income is 50% or less of area median income, low income households shall mean households whose annual income is 60% or less of area median income, and moderate income households shall mean households whose annual income is 80% or less of area median income, as determined from time to time by the U.S. Department of Housing and Urban Development (“**HUD**”), the AHP Regulations or as further provided in federal regulations. Summit and Sponsors agree to make forty-nine (49) of the units at the Project affordable for and occupied by very low income households and twenty-nine (29) of the units at the Project affordable for and occupied by moderate income households during the term of this Recapture Agreement.

3. Notice of Sale or Refinancing. The Member Bank and the Chicago Bank shall be given notice by Summit and/or Sponsors of any sale or refinancing of the Project occurring prior to the end of the Retention Period.

4. Sale or Refinancing of the Project. If the Project is sold or refinanced prior to the end of the Retention Period, Summit and Sponsors must repay an amount equal to the full amount of the Grant, unless the Project continues to be subject to a deed restriction or mechanism incorporating the income-eligibility and affordability restrictions committed to in the Application for the duration of the Retention Period.

5. Foreclosure. The income-eligibility and affordability restrictions applicable to the Project terminate after foreclosure of the Project.

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6. Compliance Documentation. Summit and Sponsors shall provide to the Member Bank and Chicago Bank any information regarding the Project and use of the Grant pursuant to the AHP Regulations as amended from time to time and as required by the Chicago Bank.

7. Compliance. Summit and Sponsors shall at all times comply with laws, rules and regulations (including, without limitation, AHP Regulations) and with the provisions contained in the Application and those provisions contained in the Subsidy Agreement as they relate to the construction, rehabilitation, ownership, management and operation of the Project.

8. Breach of Affordability or Reporting Requirements; Breach by Summit or Sponsors. (a) In the event either Summit or Sponsors, at any time during the term of the Grant, defaults in its obligation to manage and operate the Project and provide compliance information as required pursuant to paragraph 6 above or otherwise fails to comply with the terms of this Recapture Agreement or the Application, and such default continues for a period of sixty (60) days after notice to Summit and/or Sponsors from Member Bank or such shorter period of time required to avoid a default by Member Bank under the Subsidy Agreement, it shall be an event of default of this Recapture Agreement and either Summit or Sponsors shall immediately pay Member Bank that portion of the Grant which may be recaptured from Member Bank by Chicago Bank.

(b) Summit or Sponsors shall repay to Member Bank that portion of the AHP Subsidy, including interest, if appropriate, that, as a result of either Summit's or Sponsors' actions or omission, is not used in compliance with the terms of the Application or the requirements of the AHP Regulations, unless such noncompliance is cured by either by Summit or Sponsors within a reasonable period of time or the circumstances of noncompliance are eliminated through a modification of the Application, pursuant to the AHP Regulations.

9. Indemnification and Survival. Summit and Sponsors hereby agree to fully and unconditionally indemnify, defend and hold harmless Member Bank from and against any judgments, losses, repayment, liabilities, damages (including consequential damages), costs, expenses of whatsoever kind or nature, including, without limitation, attorneys' fees, expert witness fees, and any other professional fees and litigation expenses or other obligations incurred by Member Bank that may arise in any manner out of action or omissions which result from either Summit's or Sponsors' performance or failure to perform pursuant to the terms of this Recapture Agreement. The representations, warranties, obligations and indemnification of Summit and Sponsors shall survive the term of this Recapture Agreement.

10. Notices. Notices, reports and communications hereunder shall be in writing and will be deemed to be properly given when personally delivered to the party entitled to receive the notice or three days after the same is sent by certified or registered U.S. mail, postage prepaid, or by overnight courier properly addressed to the party entitled to receive such notice at the addresses below; provided that recurring reports, certifications and ordinary communications shall be permitted to be transmitted electronically via facsimile. Any party may at any time give notice in writing to the other parties of a change of its address for the purpose of this Section 10.

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If to the Member Bank: BMO Harris Bank N.A.
 111 West Monroe Street
 Second Floor, East
 Chicago, Illinois 60603
 Phone: 312-461-3717
 Fax: 312-765-8348
 Attention: Community Development Lending

If to Turnstone: Turnstone Development Corporation
 10 South LaSalle Street
 Suite 3510
 Chicago, Illinois 60603
 Phone: 312-453-0635
 Fax: 312-453-0622
 Attention: Bill Schneider

If to HACC: Housing Authority of County of Cook
 175 West Jackson Boulevard
 Suite 350
 Chicago, Illinois 60604
 Phone: 312-542-4851
 Fax: 312-939-0747
 Attention: Richard Monocchio

If to Summit: Summit Senior Housing, LLC
 c/o Turnstone Development
 10 South LaSalle Street
 Suite 3510
 Chicago, Illinois 60603
 Phone: 312-453-0635
 Fax: 312-453-0622
 Attention: Bill Schneider

If to Chicago Bank: Federal Home Loan Bank of Chicago
 200 East Randolph Drive
 Chicago Illinois 60601
 Phone: 312-565-5824
 Fax: 312-565-6947
 Attention: Community Investment Department

11. Certifications. Summit and Sponsors hereby certify to Member Bank as follows:
- (a) All the units in this Project will be open to income - qualified households without regard to sex, race, creed, religion, sexual orientation, or type or degree of disability.
 - (b) The AHP Subsidy shall only be for uses authorized under Part 1291 of the AHP Regulations.

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12. Joint and Several. The obligations of Summit and Sponsors hereunder are joint and several.

13. HUD Rider. All of the terms and provisions of this Recapture Agreement are subject to and controlled by the terms and provisions set forth in the HUD Rider to this Recapture Agreement attached hereto as Exhibit B and incorporated herein by this reference.

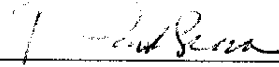
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Executed and delivered as of the date first above written.

MEMBER BANK:

BMO HARRIS BANK N.A.,
a national banking association

By: 

Name: Patricia K. Sessa

Title: Government Lending Officer

[ADDITIONAL SIGNATURE PAGE FOLLOWS]

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TURNSTONE:

TURNSTONE DEVELOPMENT CORPORATION,
an Illinois not-for-profit corporation

By: Bill Schneider
Name: Bill Schneider
Title: Executive Director

[ADDITIONAL SIGNATURE PAGE FOLLOWS]

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HACC:

HOUSING AUTHORITY OF COUNTY OF COOK,
an Illinois municipal corporation

By: *Richard Monocchio*
Name: Richard Monocchio
Title: Executive Director

[ADDITIONAL SIGNATURE PAGE FOLLOWS]

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SUMMIT:

SUMMIT SENIOR HOUSING, LLC,
an Illinois limited liability company

By: Turnstone Development Corporation , its Managing Member

By: Bill Schneider
Name: Bill Schneider
Title: Executive Director

Property of Cook County Clerk's Office

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All-Purpose Acknowledgement

State of Illinois
 County of Cook
 On 9/20/12 before me, Dora Araiza, personally appeared
Patricia K. Sessa

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER(S) Patricia K. Sessa
 TITLES(S) Relationship Manager
- PARTNER(S)
 - LIMITED
 - GENERAL

personally known to me - OR-

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons acted, executed the instrument.

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/ CONSERVATOR
- OTHER: _____



Witness my hand and official seal.

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(IES)

Patricia K. Sessa
Relationship Manager

Dora E Araiza
 SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other than Named Above _____

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All-Purpose Acknowledgement

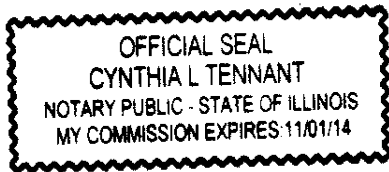
State of Illinois)
)
County of Cook)

On 5/29/12 before me, Cynthia Tennant, personally appeared Bill Schneider,

personally known to me -
OR-

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.




SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE _____
OFFICER(S) _____
TITLES(S) _____
- PARTNER(S)
 LIMITED
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/
CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

Turnstone Development Corporation and Summit Senior Housing, LLC

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Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other than Named Above _____

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All-Purpose Acknowledgement

State of IL)

County of COOK)

On 9/24/12 before me, Susan Wiemer personally appeared Richard Marchisio

personally known to me -
~~OR~~

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.



Susan Wiemer
SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER(S) _____
TITLES(S) _____
- PARTNER(S)
 - LIMITED
 - GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/ CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

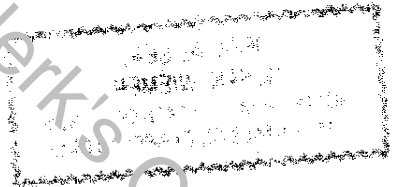
Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other than Named Above _____

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UNOFFICIAL COPY

All-Purpose Acknowledgement

State of Illinois)
)
 County of Cook)

On 5/29/12 before me, Cynthia Tennant, personally appeared Bill Schneider,

personally known to me -
 OR-

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons acted, executed the instrument.



Witness my hand and official seal.

Cynthia L. Tennant

 SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE _____
 OFFICER(S) _____
 TITLES(S) _____
- PARTNER(S)
 - LIMITED
 - GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/
 CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(IES)
Turnstone Development Corporation and Summit Senior Housing, LLC

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other than Named Above _____

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL A:

LOTS 6 THROUGH 24, BOTH INCLUSIVE, IN BLOCK 6 IN CORN PRODUCTS SUBDIVISION, BEING A SUBDIVISION OF A PORTION OF THE NORTH 1043 FEET OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 7455 West 63rd Place, Summit, Illinois 60501

PINS: 18-24-201-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, and -019

PARCEL B:

LOTS 33 THROUGH 34, BOTH INCLUSIVE, IN BLOCK 1 IN CORN PRODUCTS SUBDIVISION, BEING A SUBDIVISION OF A PORTION OF THE NORTH 1043 FEET OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 7460 West 63rd Place, Summit, Illinois 60501

PINS: 18-24-201-033, and -034

PARCEL C:

LOTS 25 THROUGH 32, BOTH INCLUSIVE, IN BLOCK 1 IN CORN PRODUCTS SUBDIVISION, BEING A SUBDIVISION OF A PORTION OF THE NORTH 1043 FEET OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 7460 West 63rd Place, Summit, Illinois 60501

PINS: 18-24-201-025, -026, -027, -028, -029, -030, -031, and -032

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EXHIBIT B

HUD RIDER

Modifying Bank Loan Documents to comply with HUD Public Housing Requirements

(SUMMIT SENIOR VILLAS)

This Rider is attached to and made a part of the Subordinate Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement ("**Bank Mortgage**") made by the HOUSING AUTHORITY OF THE COUNTY OF COOK, an Illinois Municipal corporation ("**HACC**" or the "**Authority**") and SUMMIT SENIOR HOUSING, LLC ("**Summit**" and, together with HACC, "**Mortgagors**"), for the benefit of BMO HARRIS BANK N.A. ("**Bank**"); and the Affordable Housing Program Recapture Agreement (the "**Recapture Agreement**") by and among the Bank, Mortgagors, and TURNSTONE DEVELOPMENT CORPORATION, an Illinois not-for-profit corporation ("**Turnstone**" and, together with HACC, "**Sponsors**"); as well as any other documents executed in connection with the grant by Bank (the "**Bank Loan Documents**") in order to impose requirements related to the receipt of HUD Funds for 35 units in the Development (the "**Public Housing Units**").

AGREEMENT

1. **Inconsistent Provisions.** If the provisions of this Rider are inconsistent with the provisions of the Bank Loan Documents, the provisions of this Rider shall be controlling.
2. **Defined Terms.** Capitalized terms not defined herein are as defined in the Bank Loan Documents.
3. **HUD Regulatory Documents.** In consideration of Summit's receipt of certain U.S. Department of Housing and Urban Development ("**HUD**") public housing operating funds ("**HUD Funds**") administered by HACC, the Bank acknowledges that Summit has entered into various agreements with the Authority on or about September 28, 2012 requiring that Summit comply with all requirements applicable to public housing, including the U.S. Housing Act of 1937 and regulations issued thereunder, including that certain Declaration of Restrictive Covenants between the Authority and Summit for the benefit of HUD (the "**Declaration of Restrictive Covenants**"), that certain Regulatory and Operating Agreement between the Authority and Summit ("**Regulatory and Operating Agreement**") (and collectively, the "**HUD Regulatory Documents**"). The Bank further acknowledges that the Declaration of Restrictive Covenants will be recorded prior to any of the recordable Bank Loan Documents and the Bank will be required to comply with the terms and conditions of the HUD Regulatory Documents, including any restrictions that may be more restrictive than those herein.
4. **Restoration Upon Casualty or Condemnation.** Notwithstanding anything contained in the Bank Loan Documents to the contrary, if, following casualty or condemnation, it shall be determined by Mortgagee that restoration is not feasible, then insurance proceeds or condemnation awards, as applicable, shall be applied in a manner consistent with Section 11 of the Mixed Finance Amendment to Consolidated Annual Contributions Contract, dated September 28, 2012, between HACC and HUD, and any amendments thereto.
5. **Carve-Out of Mortgagee Assignment of Public Housing Rents and Reserves.** Notwithstanding anything in the Bank Loan Documents to the contrary, rents collected from

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the Public Housing Units, any operating funds received from the Authority for such units and funds in any reserve established to support such Public Housing Units, will be utilized only in accordance with the Regulatory and Operating Agreement.

6. **Limitation to Non-Federal Funds.** Summit and Sponsors have no authority to provide guarantees or indemnifications involving the assets of any public housing project. Furthermore, the Bank has no legal right of recourse under this Agreement against: (i) any public housing units, (ii) any operating receipts of Summit or Sponsors (as the term "operating receipts" is defined in that certain Consolidated Annual Contributions Contract (the "ACC")), or (iii) any public housing operating reserve of Summit or Sponsors reflected in the HACC annual operating budget and required under the ACC. Accordingly, the recourse for all obligations under this Agreement is limited to Summit's and the Sponsors' unrestricted non-federal funds.

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