

This Instrument Prepared By
and When Recorded Return To:
Arkansas Development Finance Authority
Attn: NHTF Program Manager
P.O. Box 8023
Little Rock, Arkansas 72203-8023

MORTGAGE
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
NATIONAL HOUSING TRUST FUND

KNOW ALL MEN BY THESE PRESENTS:

_____, (hereinafter called "Mortgagor"), for a valuable consideration, hereby grants, bargains, sells, conveys and delivers unto Arkansas Development Finance Authority (hereinafter called "Mortgagee"), and unto its successors and assigns, the real property (the "Property" or the "Project") situated in _____ County, Arkansas, as more particularly described on the attached Exhibit "A."

This Mortgage also conveys all buildings and improvements now or at any time hereafter located on any land herein above described, together with all of the following equipment now or at any time hereafter located in such building regardless of method or annexation or removability including, but not limited to: all electrical equipment (including lighting equipment, refrigeration equipment, ceiling fans, attic and window fans, motors and all other electrical paraphernalia) except items attached merely by plugging in wall sockets; all furnaces (including floor furnaces), heaters, radiators and all other heating equipment except small gas stoves on floor; all bath tubs, toilets, sinks, basins, pipes and other plumbing equipment; all screens, awnings, and window shades; all linoleum and other permanent floor coverings; all engines and elevators.

Mortgagor has applied to Mortgagee for a loan in the principal sum of _____ of which the sum of \$0.00 represents money advanced to Mortgagor to purchase the above described lands and the balance thereof advanced from time to time shall be applied to payment of labor and material costs to be incurred by Mortgagor in the acquisition and construction of a [Number of units] **unit multi-family development** upon the Property, notice is hereby given to the full extent permitted under Ark. Code Ann. §18-44-110, the lien of this mortgage will have priority over any statutory liens on account of labor and materials entering into such proposed construction to the lands above described. Mortgagee agrees that the acceptance and recordation of this mortgage binds Mortgagee, its successors and assigns, absolutely and unconditionally, to make said loan and advances, so long as the Mortgagor has met all terms, conditions and requirements of the National Housing Trust Fund Agreement by and between the parties hereto dated _____, 2025. Notwithstanding the above, Mortgagee has the rights to enforce the provision of the Restrictive Covenants for the purpose of enforcing, preserving, and protecting the Affordability Period hereinafter defined.

TO HAVE AND TO HOLD the same unto Arkansas Development Finance Authority, and its successors and assigns forever.

And Mortgagor covenants with Mortgagee, its successors and assigns that Mortgagor will forever warrant and defend the title to all the Property against all lawful claims whatever.

PROVIDED, however, the foregoing conveyance is given as a Mortgage for the purpose of securing the following:

(a) The payment of promissory note (the "Note"), with an effective date of _____, **2025**, evidencing a principal indebtedness (which indebtedness, and all extensions and renewals thereof is hereinafter called the "Primary Indebtedness") of _____ from date until maturity at [**Percent Interest**] **per annum** for a term of _____ years, amortized over a _____ year term, with the first payment beginning one (1) year from the date of the first Certificate of Occupancy (temporary or permanent) on the first residential building completed in the Project.

(b) The payment of all future and additional indebtedness, direct or indirect, created after the date of this Mortgage, which may be owing by Mortgagor (or by any of the persons herein designated under the term "Mortgagor" to the holder of the Primary Indebtedness at any time prior to the payment in full of the Primary Indebtedness) or the foreclosure of this Mortgage therefore (the event occurring first to be controlling); such additional indebtedness to be secured hereby regardless of whether it shall be predicated upon future loans or advances hereafter made by the holder(s) of the Primary Indebtedness, or obligations hereafter acquired by such holder(s) through assignment or subrogation or otherwise, or shall represent indirect obligations (created after the date of this Mortgage) based upon any endorsements, guaranties or suretyship AND IT IS AGREED THAT THIS MORTGAGE SHALL STAND AS SECURITY FOR ALL SUCH FUTURE AND ADDITIONAL INDEBTEDNESS WHETHER IT BE INCURRED FOR ANY BUSINESS PURPOSE THAT WAS RELATED OR WHOLLY UNRELATED TO THE PURPOSE OF THE ORIGINAL LOAN, OR WHETHER IT WAS INCURRED FOR SOME PERSONAL OR NON-BUSINESS PURPOSE, OR FOR ANY OTHER PURPOSE RELATED OR UNRELATED, OR SIMILAR OR DISSIMILAR, TO THE PURPOSE OF THE ORIGINAL LOAN. THIS IS A NON-RECOURSE LOAN; and

(c) The repayment to the holder(s) of the indebtedness secured hereby of all reimbursable expense at any time accruing to such holder(s) under the provisions of Paragraph (3) hereof.

Upon the payment of all such sums and compliance with the specified National Housing Trust Fund Program Requirements, this Mortgage will become void and will be released by a proper marginal notation or, at the option of the holder(s) of the secured debt, by a release deed to be recorded at the expense of Mortgagor.

1. **COVENANTS OF MORTGAGOR.** Mortgagor agrees to the following:

- (a) to pay, prior to delinquency, all taxes, special improvement assessments and other governmental charges against the Property, both real and personal, at any time levied or becoming due;
- (b) to carry insurance upon all insurable property encumbered hereby against such hazards, in such amounts and under such form of policies, as shall be acceptable to, or requested by, the holder(s) of the indebtedness secured hereby; each insurance policy to carry mortgage clause in favor of such holder(s) upon such form as may be approved by the holder(s), and each policy to be delivered to and

held by such holder(s). Also to carry public liability insurance and insurance against other hazards, to such extent as may be requested by the holder(s) of the secured indebtedness. In each instance, Mortgagor shall have the right to select the insurer, subject to Mortgagee's right to reject the proposed insurer for reasonable cause;

- (c) to prevent the Property from becoming encumbered by any lien or charge having priority over, or on a parity with, the lien of this Mortgage except for such other liens approved by the Mortgagee; and
- (d) to protect the Property from waste, injury or unusual deterioration and, without subjecting the Property to any statutory lien, to make all replacements and repairs necessary to keep the Property in good physical condition. In that connection, it is agreed that Mortgagor may not cut the timber from any land encumbered hereby following completion of construction on the property; moreover, Mortgagor may not remove or substantially remodel or alter any structure on the Property following completion of construction on the property without prior written consent of the holder(s) of the secured indebtedness.

2. **DEFAULT.** The occurrence of any of the following events shall, unless waived in writing by Mortgagee, constitute an event of default ("Event of Default:") under this Mortgage upon Mortgagee giving Mortgagor written notice of such event stating that it is an "Event of Default" and Mortgagor's failure to cure such Event of Default within thirty (30) calendar days thereafter for those Events of Default that can be cured within thirty (30) days or within whatever reasonable time period is needed to cure those Events of Default that cannot be cured within thirty (30) calendar days as long as Mortgagor is using its best efforts to cure and is making reasonable progress in curing such Events of Default:

- (a) Upon the filing of a voluntary or involuntary petition to subject Mortgagor (or any party obligated as maker, endorser, surety or guarantor for the payment of the secured indebtedness) to any bankruptcy, debt-adjustment, receivership or other insolvency proceeding.
- (b) Upon the occurrence of any event, which, under the terms of the instrument at any time evidencing the indebtedness secured hereby, warrants acceleration (at the option of the holder) of the maturity of said indebtedness.
- (c) If default shall be made in the payment of any part of the Primary Indebtedness or any indebtedness secured hereby, or any default interest accruing on such indebtedness, as the same becomes due and payable according to the terms of the original note(s), or of any extension or renewal thereof at any time evidencing such indebtedness.
- (d) If Mortgagor shall fail to comply with any of the agreements contained in this Mortgage.
- (e) If Mortgagor, being a partnership or a corporation, shall be dissolved or reorganized in any manner. Owner agrees that no sale or transfer of the Property

itself, or an interest in the general or limited partnership, member interests, managing member interest, or other interest in Owner will be made to person or an entity that, at the time of transfer, has no interest in the Ownership Entity, without first following ADFA's ownership transfer process and acquiring the prior written consent of ADFA. If there is a proposed sale or transfer of general or limited partnership interests, member interests, managing member interest, or other interest in Owner that would be made to a person or an entity that, at the time of transfer, has an interest in the Ownership Entity, Owner shall provide ADFA with at least thirty (30) days' prior written notice of such transfer occurring.

- (f) If at any time it shall appear that title to the Property, or any portion thereof, is subject to any prior lien, title or interest not mentioned in this Mortgage as a permitted prior encumbrance.
- (g) If at any time Mortgagor shall sell or convey the title to or any interest in any realty mortgaged hereunder without the prior written consent of the holder(s) of the secured indebtedness other than in connection with residential leases of apartment units with the terms of one year or less.
- (h) If at any time it should appear that the Mortgagor has attempted to sell free from the lien of this Mortgage any personal property or removable fixture encumbered hereby, or is about to attempt such a sale; or that any personalty or removable fixture encumbered hereby has been, or is about to be moved to a different jurisdiction, subjected to physical damage or unusual deterioration, seized under legal process, or subjected by the Mortgagor or a third party to any other disposition which in the opinion of the holder(s) of the secured indebtedness will impair the security value of this instrument; provided, however, any sale, transfer or removal in the ordinary course of Mortgagor's business when such items have become worn out, obsolete, or unserviceable and are replaced with items of like kind and quality subject to the lien of this Mortgage, shall not constitute an Event of Default hereunder.
- (i) If at any time it should appear that the Mortgagor's financial statements given to and relied upon by the Mortgagee incorrectly or inaccurately set forth the financial condition of the Mortgagor in any material respect.
- (j) If Mortgagor breaches the National Housing Trust Fund Agreement between Mortgagor and Mortgagee.

It is particularly understood that the foregoing acceleration provisions will be applicable not only to the maturities recited in the original mortgage note(s) but also to any substituted maturities created by extension or renewal. The failure of the holder(s) of the secured indebtedness to declare any acceleration of maturities when a ground therefore exists, even though such forbearance may be repeated from time to time, will not constitute a waiver of the right of such holder(s) to accelerate maturities upon a reoccurrence of the same ground therefore, nor will the act of such holder(s) in remedying any condition resulting from Mortgagor's default bar the holder(s) from declaring an acceleration of maturities by reason of such default. Notwithstanding the foregoing, Mortgagee hereby agrees that it

will not exercise any foreclosure remedies available to it hereunder prior to (a) the expiration of the 30 calendar day cure period described above or (b) after the end of the 30 calendar day cure period plus an additional 30 days, if the Mortgagor and Mortgagor's limited partner have demonstrated that they, or either of them, is/are using best efforts to cure an Event of Default. Notwithstanding anything to the contrary contained herein or in the other Loan Documents, Mortgagee hereby agrees that any cure of any default made or tendered by Mortgagor's investor limited partner or its affiliates shall be deemed to be a cure by Mortgagor and shall be accepted or rejected on the same basis as if made or tendered by Mortgagor. Copies of all notices which are sent to the Mortgagor under the terms herein shall also be sent to Mortgagor's investor limited partner at _____.

3. **REMEDIES UPON DEFAULT.** In the event of a default hereunder, the holder(s) of the indebtedness secured hereby shall be entitled to any of the following remedies:

- (a) Pursuit of any and all remedies provided by judicial proceedings and non-judicial remedies, including self-help repossession;
- (b) Foreclosure of this Mortgage in compliance with Act 53, "The Statutory Foreclosure Act of 1987" by public sale to the highest bidder for cash, on the premises or at the main door of the Courthouse of _____ County, public notice of the time, terms and place of said sale having been given for thirty (30) days by publication in some newspaper, published in _____ County, once a week for four (4) consecutive weeks prior to the date of sale, the final publication to be no more than seven (7) days prior to the sale, which advertisement shall be sufficient for the purpose of foreclosure. THE OWNER OF THE NOTE SECURED HEREBY MAY BECOME A PURCHASER AT SUCH SALE. No bid shall be accepted that is less than two-thirds (2/3) of the entire indebtedness due at the date of the sale. Notice required under Act 53 of 1987 will be directed to the Mortgagor at the following address supplied by Mortgagor, to wit:

Election of either (a) or (b) by Mortgagee is not irrevocable and Mortgagee may at any time subsequent to commencement of the proceedings terminate such proceeding and proceed with any other remedy.

- (c) The holder(s) of the indebtedness secured hereby may require the Mortgagor to assemble (at Mortgagor's expense) any or all of the personal property encumbered hereby and make it available to such holder(s) at a place specified by such holder(s) which is reasonably convenient to both parties; and such holder(s) may enforce all of its or their remedies, in respect to the encumbered personal property, that may be available under the Uniform Commercial Code. In the last event all expenses of retaking, holding, preparing for sale, selling or the like, as well as all reasonable attorney's fees (not exceeding 10% of the secured indebtedness plus accrued default interest) and lawful expenses incurred by said holder(s) in enforcing such

remedies shall be payable to said holder(s) by Mortgagor shall constitute a part of the secured indebtedness.

- (d) Such holder(s) may enforce the lien of this Mortgage in respect to any or all real and personal property encumbered hereby:
 - (i) either separately or in bulk, in such order as Mortgagee, in its sole discretion, shall direct, including at any judicial or non-judicial sale; and
 - (ii) by proceedings that are prosecuted simultaneously or are prosecuted separately in such order as the holder(s) may elect.

- 4. **MORTGAGEE EXPENDITURES.** If the holder(s) of the indebtedness secured hereby shall expend any sum or sums for the protection of any of the Property or the lien of this Mortgage (such holder(s) to have uncontrolled discretion as to the necessity of making any such expenditures), the repayment of such sum or sums on demand (with interest thereon at the maximum legal rate from the date of each expenditure) shall be the obligation of Mortgagor; and such obligation to repay will constitute a part of the indebtedness secured hereby. The expenditures thus made reimbursable will include (without limiting the foregoing) taxes, special improvement assessments, insurance premiums, repairs and maintenance expenses, sums paid to discharge prior liens, rents on premises in which mortgaged personalty may be situated, etc. The cost of any abstract, title commitment, or appraisal procured by the holder(s) of the secured indebtedness to facilitate foreclosure will also constitute a part of the reimbursable expense secured hereby.
- 5. **RELINQUISHMENT OF MORTGAGOR'S RIGHTS.** Mortgagor releases all rights of dower, courtesy, homestead and appraisement hereunder and also releases unto Mortgagee all right of redemption under the laws of Arkansas, including particularly all right of redemption under Act No. 53 of May 8, 1989, and amendments thereto currently codified as ARK. CODE ANN. § 18-49-106.
- 6. **NOTICES.** Communication and details concerning this Mortgage shall be directed to the following persons:

If to Mortgagee:
ADFA
NHTF Program Manager
P.O. Box 8023
Little Rock, AR 72203
(501) 682-5900

If to Mortgagor:

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Executed on this ____ day _____, 2025

MORTGAGOR:

By:
Its:

By: _____
Name:
Its:

STATE OF _____ §
COUNTY OF _____ §

ACKNOWLEDGMENT

On this ____ day of _____, 2025, before me, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named _____, to me personally well known, who stated that s/he is the _____ of _____, which is the _____ of _____, and is duly authorized in such capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that s/he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2025.

Notary Public

My Commission Expires: _____

EXHIBIT A
LEGAL DESCRIPTION