**ADDITIONAL P&I ESCROW AGREEMENT**

**(4000 SERIES LOAN DOCUMENTS)**

This ADDITIONAL P&I ESCROW AGREEMENT (this “**Agreement**”) is dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Additional Reserve Effective Date**”), by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”), and **FANNIE MAE**, the corporation duly organized under the Federal National Mortgage Association Charter Act, as amended, 12 U.S.C. **§**1716 et seq. and duly organized and existing under the laws of the United States (“**Fannie Mae**”).

**RECITALS:**

A. Fannie Mae is the holder of that certain Multifamily Note dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Effective Date**”), executed by Borrower and made payable to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Prior Lender**”) (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the “**Note**”).

B. The Loan and the Note are secured by, among other things, a certain Multifamily Mortgage, Deed of Trust or Deed to Secure Debt dated as of the Effective Date (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”). Fannie Mae is now the mortgagee or beneficiary under the Security Instrument.

C. Fannie Mae is the successor-in-interest to Prior Lender under the Loan Agreement, the holder of the Note and the mortgagee or beneficiary under the Security Instrument.

D. [Prior Lender][\_\_\_\_\_\_\_\_\_\_\_] (“**Servicer**”) services the Loan on behalf of Fannie Mae.

E. The parties are executing this Agreement to establish additional reserve escrows as additional security for Borrower’s obligations under the Loan Documents as more particularly described herein.

NOW, THEREFORE, in consideration of the above and the mutual promises contained in this Agreement, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Fannie Mae agree as follows:

1. **Recitals.**

The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Agreement.

1. **Defined Terms.**
   1. Capitalized terms used and not specifically defined herein shall have the meanings given to such terms in the Security Instrument and the other Loan Documents. As used herein, the following capitalized terms shall have the respective meanings:

“**Additional Reserve Effective Date**” means the date specified in the Preamble of this Agreement.

“**Coverage Test**”means the actual amortizing debt service coverage ratio of the Property of not less than [1.\_\_\_: 1.00] **[DRAFTING NOTE: INSERT A MINIMUM UNDERWRITTEN DEBT SERVICE COVERAGE RATIO FOR AN EQUIVALENT FIXED RATE MORTGAGE LOAN OF THE SAME TERM AND FOR THE SAME PRODUCT AND TIER (PER PART III OF THE FORM 4660)]** determined by dividing the Net Cash Flow by the annual principal and interest payments calculated at the Interest Rate if a fixed rate loan or at the comparable fixed note rate at the time of underwriting if an adjustable rate loan, as determined by Lender in accordance with the Underwriting and Servicing Requirements.

“**Net Cash Flow**” means, for any specified period, the total of (a) the net rental income for the Property, plus (b) other allowable income for the Property, if any, minus (c) operating expenses for the Property, minus (d) the full amount underwritten for the Replacement Reserve (regardless of whether deposits have been or will be waived or reduced), and as adjusted for economic vacancy and other factors by Lender for the specific asset class or loan type.

“**P&I Reserve Account**” means a custodial account established by Lender into which the P&I Reserve Deposits are deposited.

“**P&I Reserve Account Funds**” means the funds on deposit from time to time in the P&I Reserve Account.

“**P&I Reserve Deposit**” means $\_\_\_\_\_\_\_\_\_\_\_\_\_ to be deposited into the P&I Reserve Account. **[DRAFTING NOTE: INSERT AMOUNT CALCULATED AS REQUIRED BY PART I OF FORM 4660 GUIDANCE]**

“**P&I Shortfall**” means any amount of principal and/or interest due under the Loan Documents that cannot be funded from the operation of the Property.

“**Underwriting and Servicing Requirements**” means Lender’s overall requirements for the Mortgaged Property in connection with similar loans sold or anticipated to be sold to Fannie Mae, pursuant to Fannie Mae’s then current guidelines, including requirements relating to appraisals, property condition assessments, environmental site assessments, and servicing and asset management, as such requirements may be amended, modified, updated, superseded, supplemented or replaced from time to time.

1. **P&I Reserve.**

**(a) Deposit to P&I Reserve Account.**

On or before the Additional Reserve Effective Date, Borrower shall pay to Lender the P&I Reserve Deposit for deposit into the P&I Reserve Account. The P&I Reserve Account will provide Lender with a contingent source of funding in the event of a P&I Shortfall.

**(b)** **Administrative Fees and Expenses; Costs of Collection.**

Borrower shall pay within ten (10) days of request from Lender (1)  all reasonable costs and expenses incurred by Lender in connection with collecting, holding and disbursing the P&I Reserve Account Funds pursuant to this Section 3 (P&I Reserve); and (2) all costs and expenses incurred by Lender (including court costs and attorneys’ fees and expenses) in exercising any of Lender’s rights or obligations pursuant to the terms of the Loan Documents or holding the P&I Reserve Account Funds.

**(c) Accounts, Deposits and Disbursements.**

**(1) Custodial Account.**

This Agreement shall be deemed a Collateral Agreement pursuant to the terms of the Security Instrument. The P&I Reserve Account shall be an interest-bearing account which meets the standards for custodial accounts as required by Lender from time to time. Lender shall not be responsible for any losses resulting from the investment of the P&I Reserve Account Funds or for obtaining any specific level or percentage of earnings on such investment. All interest earned on the P&I Reserve Account Funds shall be added to and become part of such P&I Reserve Account; provided, however, if applicable law requires, and so long as no Event of Default has occurred and is continuing under any of the Loan Documents, Lender shall pay to Borrower the interest earned on the P&I Reserve Account not less frequently than [monthly][quarterly] **[DRAFTING NOTE: Lender to select appropriate disbursement frequency]**. In no event shall Lender be obligated to disburse funds from the P&I Reserve Account if an Event of Default has occurred and is continuing at the time the disbursement request is made, other than an Event of Default occurring due to the failure of Borrower to make any required payment of principal and interest that would be cured by a disbursement from the P&I Reserve Account.

**(2)** **Disbursements from P&I Reserve Account.**

(A) In the event of a P&I Shortfall, upon a written request from Borrower (in accordance with the terms of Section 3(c)(3) (Disbursement Requests) below) and satisfaction of the requirements set forth in this Section 3(c)(2) (Disbursements from P&I Reserve Account), Lender shall disburse funds from the P&I Reserve Account to pay such P&I Shortfall.

(B) Nothing in this Agreement or the Loan Documents shall obligate Lender to apply all or any portion of the P&I Reserve Account Funds to cure any Event of Default, other than an Event of Default occurring due to a P&I Shortfall that would be cured by a disbursement from the P&I Reserve Account, or to reduce the Indebtedness.

(C) Lender shall not disburse funds from the P&I Reserve Account for any costs which are to be reimbursed pursuant to the Replacement Reserve Agreement or Completion/Repair Agreement. Disbursement from the P&I Reserve Account shall not be made more frequently than once a month.

**(3) Disbursement Requests.**

(A) Each request for disbursement from the P&I Reserve Account shall be in writing and must be received by Lender no later than ten (10) business days before the next monthly debt service payment date due pursuant to the Note. Each request shall:

(i) specify the amount of the disbursement that Borrower requires to cover the P&I Shortfall;

(ii) unless already delivered to Lender, include certified current financial statements from Borrower’s operation of the Property, for the prior month, and reconciled bank statements for the three (3) months preceding such request;

(iii) a written explanation of the circumstances causing such P&I Shortfall, together with Borrower’s written plans, to the extent available, to correct such circumstances;

(iv) a certification by Borrower that no Event of Default has occurred and is continuing under the Loan Documents (other than an Event of Default that would be cured with the disbursement to fund the P&I Shortfall); and

(v) such other information regarding the Property as Lender reasonably requests (collectively, the “**P&I Disbursement Request Supporting Information**”).

(B) Lender shall review the P&I Disbursement Request Supporting Information to verify the amount of the P&I Shortfall. Lender may adjust the requested amount of the disbursement from the P&I Reserve Account if Borrower’s calculation of the amount of the P&I Shortfall or the required disbursement is incorrect.

(C) Borrower hereby acknowledges and agrees that any disbursement from the P&I Reserve Account by Lender shall be in accordance with the terms set forth in this Section 3(c) (Accounts, Deposits and Disbursements). Borrower authorizes and directs Lender to make disbursements from the P&I Reserve Account and to apply such disbursements against P&I Shortfalls. All disbursements shall be expressly conditioned upon no Event of Default or event or condition which, with the giving of notice or the passage of time, or both, would give rise to an Event of Default (other than any resulting Event of Default that would be cured with the requested disbursement), existing at either the time Borrower requests a disbursement from the P&I Reserve Account or the time of such disbursement. Borrower is and shall remain obligated and responsible for the payment of all amounts due under the Loan Documents regardless of whether any disbursements from the P&I Reserve Account are made by Lender pursuant to the terms of this Agreement.

**(d) Final Disbursement of P&I Reserve Account Funds.**

Unless previously released or applied by Lender pursuant to the terms of this Section 3, Lender shall disburse to Borrower any and all remaining P&I Reserve Account Funds in the P&I Deposit Account on the earlier of:

(1) the date thirty (30) days following Borrower’s written request for such disbursement provided the following conditions are satisfied:

(A) such request is not made before the first day of the month following the date \_\_\_\_\_\_\_\_\_ (\_\_) months after the Additional Reserve Effective Date **[DRAFTING NOTE: INSERT THE TOTAL NUMBER OF MONTHS PROVIDED IN PART I OF FORM 4660, INCLUDING THE HOLD PERIOD PLUS TESTING PERIOD. FOR EXAMPLE, IF THE HOLD PERIOD IS “a minimum term of at least 6 months”, AND THE TESTING PERIOD IS “plus 1 additional quarter”, INSERT “9 months”.]**; and

(B) the Mortgage Loan has satisfied the Coverage Test for at least one (1) quarter immediately prior to such request (with Net Cash Flows for such quarter determined on an annualized basis); or

(2) the date that is the first day of the month following the date thirty-six (36) months after the Additional Reserve Effective Date.

1. **Default.**

**(a) Default Under This Agreement.**

Borrower shall be in default under this Agreement if it fails to comply with any provision of this Agreement and such failure is not cured within ten (10) days after notice from Lender. Borrower understands that a default under this Agreement shall be deemed to be a default or an Event of Default under the Security Instrument, and that in addition to the remedies specified in this Agreement, Lender shall be able to exercise all of its rights and remedies under the Security Instrument upon a default or an Event of Default.

**(b) Application of Additional Reserve Deposit Upon Default.**

(1) Upon any Event of Default, Lender may in its sole and absolute discretion, use the P&I Reserve Deposit (or any portion thereof) for any purpose, including but not limited to (i) repayment of any Indebtedness; provided, however, that such application of funds shall not cure or be deemed to cure any default or Event of Default; (ii) reimbursement of Lender for all losses and expenses (including reasonable legal fees) suffered or incurred by Lender as a result of such default or Event of Default; (iii) completion of any Replacement as provided in Section 5.1 of the Replacement Reserve Agreement, or for any other repair or replacement to the Property; or (iv) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

(2) Except as specifically set forth herein, nothing in this Agreement shall obligate Lender to apply all or any portion of the Additional Reserve Deposit on account of any default or Event of Default by Borrower or to repayment of the Indebtedness or in any specific order of priority.

1. **Entire Agreement; Amendment and Waiver.**

This Agreement contains the complete and entire understanding of the parties with respect to the matters covered and no change or amendment shall be valid unless it is made in writing and executed by the parties to this Agreement. No specific waiver of any of the terms of this Agreement shall be considered as a general waiver. If any provision of this Agreement is in conflict with any provision of the Security Instrument or the Replacement Reserve Agreement, the provision contained in this Agreement shall control.

1. **Notices.**

All notices given under this Agreement shall be in writing to the other party, at the address and in the manner set forth in the Security Instrument.

1. **Severability.**

The invalidity, illegality, or unenforceability of any provision of this Agreement pursuant to judicial decree shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

1. **Applicable Law.**

This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located.

1. **Counterparts.**

This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document and all such counterparts shall be construed together and shall constitute one instrument.

**[Remainder of Page Intentionally Blank]**

**IN WITNESS WHEREOF**, Borrower and Fannie Mae, have signed and delivered this Agreement under seal (where applicable) or have caused this Agreement to be signed and delivered under seal (where applicable) by their duly authorized representative. Where applicable law so provides, Borrower and Fannie Mae, intend that this Agreement shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER**:

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

By: (SEAL)

Name:

Title:

Address:

**FANNIE MAE**:

**FANNIE MAE**

By: (SEAL)

Name:

Title:

Address:

Attention: Multifamily Asset Management

Drawer AM

1100 15thStreet, NW

Washington, DC 20005