

# SAMPLE FORM OF RECOGNITION AGREEMENT

THIS RECOGNITION AGREEMENT is made between \_\_\_\_\_ (*insert name of Cooperative*) with a mailing address of \_\_\_\_\_ (*insert mailing address for cooperative*) ("Corporation") and \_\_\_\_\_ (*insert name of lender*) with a mailing address of \_\_\_\_\_ (*insert mailing address for lender*) ("Lender") with respect to the pledge and assignment to Lender by \_\_\_\_\_ (*insert borrower's name(s)*) ("Borrower") of Borrower's evidence of ownership in the Corporation and right to the possessions and use of Unit No. \_\_\_\_\_ (*insert apartment number*) and Garage/Parking Space No. \_\_\_\_\_ (*insert parking space/garage space number*) (collectively called the "unit"), as collateral security for a loan ("Loan") to be made by Lender to Borrower.

NOW, THEREFORE, to induce Lender to make the Loan to Borrower, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Corporation makes the following representations, warranties, and agreements:

## THE CORPORATION REPRESENTS AND WARRANTS AS FOLLOWS:

1. The Corporation has approved Borrower for occupancy of the Unit.
2. The Corporation has issued to Borrower, or will issue to Borrower to be held by Lender, promptly after settlement, the evidence of Borrower's ownership in the Corporation and possession and use of the Unit which in the case of this Corporation are represented by \_\_\_\_\_ (*insert the form of ownership, i.e. stock certificate, proprietary lease, etc.*) ("Proprietary Documents").
3. The Corporation's records do not reflect, and the Corporation does not have knowledge or notice of any encumbrances, liens or claims relating to the Proprietary Documents and said Proprietary Documents may be freely pledged and assigned by Borrower to Lender under the rules, by-laws, Articles of Incorporation, and other operative corporate documents of the Corporation ("Operative Documents").
4. The Corporation is the owner in fee simple of the land and improvements thereon of which said Units a part, subject only the loan(s) secured by mortgages or deeds of trust, if applicable.
5. The Corporation is not presently in default with respect to payment of other obligations of any loans referenced in Section A.4 herein.
6. The Operative Documents and the Proprietary Documents and any encumbrances on the Property do not prohibit the pledge and collateral assignment of the Proprietary Documents to Lender in accordance with this Agreement.
7. The Corporation consents to the pledge and assignment to lender by Borrower of the Proprietary Documents issued by the Corporation, and relating to the Unit, as collateral security for the Loan.
8. If the Borrower is the present owner of the Proprietary Documents, Borrower is not presently in default under any of the terms of the Proprietary Documents and no notice of default has been given to Borrower, or, if a notice of default has been given to Borrower, the default referred to in such notice has been cured.
9. If applicable, the Corporation has the right of first refusal in case of sale or foreclosure of the Unit.
10. The Corporation will recognize the priority of Lender over Borrower in the event of any distribution of funds resulting from destruction, condemnation, liquidation or refinancing of the Corporation, or any part thereof, less all sums that may be due the Corporation pursuant to the Proprietary documents and all reasonable expenses incurred by the Corporation relating to such proceeds.
11. If applicable, the Corporation may require the collection of fees and escrows at the time of settlement. Such fees shall be collected by the settlement company.

I LENDER IS ENTITLED TO RECEIVE TIMELY WRITTEN NOTICES OF :

1. The generation by the Corporation during a taxable year of 80% or less gross income from "tenant-stockholders" as such terms are defined in Section 216 of the Internal Revenue Code of 1986: as amended.
2. Any surrender, cancellation or notification of the Proprietary Documents.
3. Any change in the form of ownership of the Corporation, including the contraction, expansion, or termination of the Cooperative project.
4. Obtain any new financing collateralized by the Property.
5. Any sixty (60) day delinquency by the tenant-stockholder that is related to the payment of his or her monthly assessments or carrying charges.

C. LENDER'S RIGHTS UPON BORROWER'S DEFAULT

1. In the event there is a default under the Loan, and Lender becomes owner of the Proprietary Documents pursuant to remedies provided in the Loan instruments or otherwise, the Corporation will recognize and approve such ownership, and within thirty (30) days after receipt of written notice and delivery of the Proprietary Documents from Lender (as executed by Borrower and pledged or assigned to Lender), the Corporation will cancel such Proprietary Documents and reissue such Proprietary Documents to Lender or Lender's non-corporate designee as appropriate (nothing herein shall obligate the Corporation to issue Proprietary documents to a partnership or corporation), and the following provisions shall apply:

a. The Corporation may exercise an option to purchase any Proprietary Documents obtained and sold, assigned or transferred by Lender pursuant to foreclosure or other proceedings related to enforcement of the Loan obligations, or any deed or assign in lieu of such foreclosure or proceedings, provided Lender is paid an amount equal to the full amount due under the Loan, such option to be exercised and payment to be made to Lender within sixty (60) days after notice to the Corporation of the availability of the Proprietary Documents, which option, if not exercised within said sixty (60) day period, shall be deemed null and void.

b. Without the approval of the Corporation (if such approval is required by the Operative Documents or the Proprietary Documents), Lender shall have no power or right to transfer, sell, assign or otherwise dispose of the Proprietary Documents or to sublease the Unit. Any required approval may be withheld only on the basis of failure in meeting reasonable standards of creditworthiness or written cooperative occupancy standards duly adopted by the Corporation or on the basis of potential non-compliance with law, regulation or administrative rulings. A failure on the part of the Corporation to disapprove the purchaser of the Proprietary Documents from Lender or a sublessee of Lender within thirty (30) days from the receipt by the Corporation of an application from purchaser, or a request from lender with respect to a sublessee, shall be conclusively deemed to constitute approval thereof.

c. The Corporation's lien for sums due from the Borrower under the Proprietary Documents with respect to the portion of such sums which are attributable to any payments due on any blanket mortgage on the Property, current real estate taxes and special assessments and up to three (3) months unpaid rent and maintenance expenses is prior to the security of Lender. The Corporation's lien for any other unpaid rent or maintenance expenses and other sums due under the Proprietary Documents (the "Subordinated Sums") is subordinated to the security interest of Lender. The acquisition, in fact, by Lender of the Proprietary Documents pursuant to foreclosure or other remedies provided in the Loan instruments or otherwise, shall be free and clear of any claims for the Subordinated Sums which accrued prior to the time Lender acquired said documents, provided, however, that Lender's security agreement with Borrower shall recognize the Corporation lien(s) aforesaid as follows. The Lender shall distribute any proceeds realized from a sale by the Lender of the Proprietary Documents and other collateral, to the extent of available proceeds, in the following order of priority: (1) to the Lender, reasonable expenses incurred pursuant to the foreclosure, including reasonable attorney's fees; (2) to the Corporation, sums owing other than the Subordinated Sums; (3) to the Lender, sums owing under the Loan; (4) to the Corporation, an amount sufficient to discharge all of the Subordinated Sums; (5) to the Borrower, any remaining sums. Notwithstanding any of the foregoing provisions, the security interest of the Lender shall be subordinate to (a) any mortgage or deed of trust, including any assignment of rents or maintenance expenses, now or hereafter secured by the Property, or (b) any Regulatory Agreement entered into by the Corporation with the Secretary of HUD as a condition to obtaining HUD mortgage insurance.

2. In the event there is a default under the Loan, and Lender elects not to cure said default or to take action to acquire Borrower's interest in the Proprietary Documents, then the Corporation, upon issuance of Proprietary Documents to another party, shall recognize Lender's rights as a lienor against the net proceeds of any such transaction after reimbursement to the Corporation of sums due under the Proprietary Documents.

3. The Corporation and Borrower, by their execution of the Agreement, agree that the Corporation's rights to terminate and cancel Borrower's Proprietary Documents, pursuant to this Section C, shall be deemed to amend and supersede the terms of the Operative Documents or the Proprietary Documents, and Borrower agrees that Lender, the Corporation, and their officers, agents and employees shall incur no liability by reason of any action taken or omission by any persons pursuant to the Section and other provisions of this Agreement.

### III. BINDING AND ENTIRE AGREEMENT.

This Agreement has been duly signed attested to is authorized by the Corporation's Board of Directors in accordance with the Operative Documents. This Agreement may be modified or amended only in writing executed by both parties hereto. Notwithstanding any other provisions of the Proprietary Documents to the contrary, the provisions of this Agreement shall control and no amendment or violation of the Proprietary Documents shall render invalid the rights of Lender granted herein. If any provision of this Agreement is found to be invalid or unenforceable, such invalidity or unenforceable shall not affect the remaining provisions.

### IV. CORPORATIONS ORGANIZED UNDER D.C. LAW.

This provision applies only to cooperatives organized under the laws of the District of Columbia. In the event that the Corporation shall exercise any rights under the D. C. Corporation Association Act, D. C. Code 29-1001, et seq (1981) to purchase Borrower's Proprietary Documents at their par value upon Borrower's expulsion or withdrawal from the Corporation or offer to dispose of Borrower's Proprietary Documents, the Corporation shall take title to such Proprietary Documents subject to and subordinated to Lender's security interest. The Corporation agrees not to issue new Proprietary Documents to supersede or replace those of Borrower without written consent of Lender, and agrees that if such new Proprietary Documents are issued, it shall promptly deliver such documents to Lender to be held in place of the original Proprietary Documents. The Corporation recognizes Lender's rights under the Loan instruments with Borrower. The Corporation recognizes that in the event that Borrower is in default under the Loan instruments, Lender has the right to exercise any and all of its rights and remedies provided in the Loan instruments including foreclosure and sale of the Proprietary Documents.

## CONSENT

THE CORPORATION DOES HEREBY CONSENT, which consent has been approved in accordance with the provisions of the Lease, to the assignment of \_\_\_\_\_ (insert number of shares, if applicable) shares of stock of Corporation and the Lease from \_\_\_\_\_ (insert borrower's name(s)) (the "Assignor") together, to \_\_\_\_\_ (insert lender's name) (the "Assignee").

AND DOES HEREBY CERTIFY THAT:

1. The proprietary rent, assessments, maintenance charges and other charges under the Lease are paid through \_\_\_\_\_ (insert settlement date) .
2. The Lease is in full force and effect; the shares of Corporation allocated to the Unit are duly registered in the name of Assignor; Corporation has not been notified of a pledge or disposition of, or lien upon, such shares; and there is no known existing default in respect to any of the terms, covenants, and conditions of the Lease.
3. Corporation has no obligation to install any fixtures or equipment in the Unit (other than \_\_\_\_\_ N/A \_\_\_\_\_) and makes no representations as to the physical condition of the Unit, including, but not limited to, compliance with the rules and regulations of any governmental authority having or asserting jurisdiction. Corporation makes no representation that Assignor has the right to transfer the shares and Lease other than that Assignor is not the record owner thereof of the books of Corporation.

IN WITNESS WHEREOF, Corporation has caused this instrument to be executed by its authorized officer and has caused its corporate seal to be hereunto affixed and \_\_\_\_\_ (insert name of Lender) has caused this instrument to be executed by its authorized officer and has caused its corporate seal to be hereunto affixed, on \_\_\_\_\_ (insert settlement date) .

LENDER:

CORPORATION:

\_\_\_\_\_  
(insert name of Lender)

\_\_\_\_\_  
(insert name of Cooperative)

By \_\_\_\_\_

By \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: President/ Authorized Officer

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**AGREEMENT-CONSENT-APPROVAL  
TO BE SIGNED BY OWNER OF UNIT**

The undersigned, to induce the Corporation to enter into the foregoing Recognition Agreement, (a) agree(s) and consent(s) to and approve(s) all of the terms and provisions of the Recognition Agreement, and (b) agree(s) that Borrower shall indemnify Lender, the Corporation and their officers , agents and employees against and hold harmless against, any and all liability and court costs and counsel fees which may be incurred by reason of any action taken, or omission, by and of the aforesaid persons pursuant to the Agreement.

BORROWER(S)

\_\_\_\_\_  
(Insert name of Borrower)

\_\_\_\_\_  
(Insert name of Borrower)