

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
HOUSING - FEDERAL HOUSING COMMISSIONER

REGULATORY AGREEMENT FOR LIMITED DISTRIBUTION MORTGAGORS  
UNDER SECTION 236 OF THE NATIONAL HOUSING, ACT, AS AMENDED

Project No. 000-45002

Mortgagee CapitalSource Mortgage Finance LLC

Amount of Mortgage Note \$6,960,400.00

Date July \_\_, 2002

Mortgage: Recorded: State MD County: Prince George's  
Book Page

Date: July \_\_, 2002

This Agreement entered into this \_\_\_\_\_ 1st day of July, 2002  
between United-Glenarden II Limited Partnership whose address is 12100 Wilshire Blvd., Suite 1400, Los Angeles, California 90025

their successors, heirs, and assigns (jointly and severally, hereinafter referred to as Owners) and the undersigned Secretary of Housing and Urban Development and her successors, acting by and through the Assistant Secretary for Housing-Federal Housing Commissioner (hereinafter called Commissioner).

In consideration of the endorsement for insurance by the Commissioner of the above described note or in consideration of the consent of the Commissioner to the transfer of the mortgaged property, and in order to comply with the requirements of Section 236 of the National Housing Act, as amended, and the Regulations adopted by the Commissioner pursuant thereto, Owners agree for themselves, their successors, heirs and assigns that in connection with the mortgaged property and the project operated thereon and so long as the contract of the mortgage insurance continues in effect, and during such further period of time as the Commissioner shall be the owner, holder or reinsurer of the mortgage, or during any time the Commissioner is obligated to insure a mortgage on the mortgaged property:

1. Owners, except as limited by paragraph 17 hereof, shall promptly make all payments due under the note and mortgage; provided, however, that the Commissioner shall make payments to the mortgagee on behalf of the Owners in accordance with the interest reduction contract between the mortgagee and the Commissioner. \*An initial deposit of \$344,159.34 to Replacement Reserve and the existing Replacement Reserve of \$322,840.66 shall be transferred into the Replacement Reserve.
2. (a) Owners shall establish or continue to maintain a reserve fund for replacements by the allocation to such reserve fund in a separate account with the mortgagee or in a safe and responsible depository designated by the mortgagee, concurrently with the beginning of payments towards amortization of the principal of the mortgage insured or held by the Commissioner of an amount equal to \$7500.00 per month unless a different date or amount is approved in writing by the Commissioner. Such fund, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to a principal by, the United States of America, shall at all times be under the control of the mortgagee. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements and mechanical equipment of the project or for any other purpose, may be made only after receiving the consent in writing of the Commissioner. In the event of a default in the terms of the Mortgage, pursuant to which the loan has been accelerated, the Commissioner may apply or authorize the application of the balance in such fund to the amount due on the mortgage debt as accelerated.  
(b) Where Owners are acquiring a project already subject to an insured mortgage, the reserve fund for replacements to be established will equal to the amount due to be in such fund under existing agreements or charter provisions at the time Owners acquire such project, and payments hereunder shall begin with the first payment due on the mortgage after acquisition, unless some other method of establishing and maintaining the fund is approved or required in writing by the Commissioner.  
(c) Owners shall establish and maintain, in addition to the reserve fund for replacements, a residual receipts fund by depositing thereto, with the mortgagee, the residual receipts, as defined herein, within 60 days after the end of the semi-annual or annual fiscal period within which such receipts are realized. Residual receipts shall be under the control of the Commissioner, and shall be disbursed only on the direction of the Commissioner, who shall have the power and authority to direct the residual receipts, or any part thereof, be used for such purpose as he may determine.
3. Real property covered by the mortgage and this Agreement is described in Schedule A attached hereto.
4. The Owners covenant and agree that:
  - (a) with the prior approval of the Commissioner, they will establish for each dwelling unit (1) a basic rental charge determined on the basis of operating the project with payments of principal and interest under a mortgage bearing interest at one percent and (2) a fair market rental charge determined on the basis of operating the project with payments of principal, interest and mortgage insurance premiums due under the insured mortgage on the project, provided, however, that with respect to those projects which the Commissioner has determined have separate utility meters and in which tenants are billed directly and pay some or all of the utility charges attributable to the units they occupy, the basic rental charge and the fair market rental charge shall be determined on the basis of operating the project without including the cost of such utility services for each unit;
  - (b) the rental charge for each unit will be equal to 25% of the tenant's adjusted income or the basic rental, whichever is greater, provided, however, in projects with separate utility meters in the units where the tenants will be billed directly and pay for some or all of the utility charges to the utility company, the monthly rental charged for each unit will be the greater of the basic rental (calculated in accordance with the proviso in paragraph 4(a)) or 25% of the tenants' adjusted income less a deduction for the utility allowance approved by the Commissioner, but in no event shall the tenant's rental be less than 20% of his adjusted monthly income; the rental charged shall never exceed the fair market value;
  - (c) they shall limit admission to the project to those whose incomes do not exceed the limits prescribed by the Commissioner, with the exception of those tenants who agree to pay fair market rental;
  - (d) preference for occupancy shall be given to those displaced from an urban renewal area, or as a result of government action, or as a result of a disaster determined by the President to be a major disaster, and, in those projects utilizing income limits in effect prior to August 22, 1974, to those whose incomes are within the lowest practicable limits for obtaining rental units in the project;
  - (e) on forms approved by the Commissioner they will obtain from each prospective tenant, prior to admission to the project, a certification of income, and a rectification of income from all tenants who are not paying fair market rental at intervals as required by the Commissioner;

- (f) if any recertification reveals a change in income whereby the tenant becomes eligible for a lower or higher rental, such adjustment in rental charged shall be made, provided that rental shall never be less than basic rental and shall never exceed fair market rental;
  - (g) in a manner prescribed by the Commissioner, they will obtain written evidence substantiating the information given on the tenant's certifications and recertifications of income and shall retain the evidence in their files for three years.
  - (h) they shall require all tenants who do not pay the fair market rental to execute a lease in the form prescribed by the Commissioner, and shall not rent any unit the project for less than 30 days nor more than one year;
  - (i) they shall remit to the Commissioner on or before the tenth day of each month the amount by which the total rentals collected on the dwelling units exceeds the sum of the approved basic rentals for all occupied units, which remittance shall be accompanied by a monthly report on a form approved by the Commissioner, provided that a monthly report must be filed even if no remittances is required;
  - (j) they shall not restrict occupancy by reason of the fact that there are children in the family, except in those projects that are designed primarily for elderly persons;
  - (k) they will rent commercial facilities, if any, at not less than the rental approved by the Commissioner;
  - (l) no change will be made in the basic rental or fair market rental unless approved by the Commissioner; and in the event that some or all of the utilities are individually metered, in which case the Commissioner will have approved a utility allowance for each unit, they agree to request from the Commissioner an adjustment in the approved utilities allowance within 90 days if there are utility rate increases which result in cumulative increase of 10 percent or more in the cost of utilities included in the latest approved utilities allowance;
  - (m) no tenant shall be permitted to rent more than one unit at any given time without the prior written approval of the Commissioner;
  - (n) If in the project there are rent supplement units, or units receiving additional assistance payments pursuant to Section 236 (f) (2), the determination as to the eligibility of tenants for admission to such units and the conditions of continued occupancy shall be in accordance with the Rent Supplement Contract or Rental Assistance Contract executed by the Owners and Commissioner which is incorporated in and made a part of this Agreement.
5. Upon prior written approval of the Commissioner, the Owners may charge to and receive from any tenant such amounts as from time to time may be mutually agreed upon between the tenant and the Owners for any facilities and/or services which may be furnished by the Owner or others to such tenant upon his request, in addition to the facilities and services included in the approved Rental Schedule.
6. Owners shall not without the prior written approval of the Commissioner:
- (a) Convey, transfer or encumber any of the mortgaged property, or permit the conveyance, transfer or encumbrance of such property;
  - (b) Assign, transfer, dispose of, or encumber any personal property of the project, including rents, or pay out any funds, other than from surplus cash, except for reasonable operating expenses and necessary repairs;
  - (c) Convey, assigns or transfer any beneficial interest in any trust holding title to the mortgaged property, or the interest of any general partner in a partnership owning the mortgaged property, or any right to manage or receive the rents and profits from the mortgaged property;
  - (d) Remodel, add to, reconstruct, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
  - (e) Make, or receive and retain, any distribution of assets or any income of any kind of the project, except from surplus cash and except on the following conditions:
    - (1) All distributions shall be made only as of or after the end of a semiannual or annual fiscal period, and only as permitted by the law or the applicable jurisdiction; all such distributions in any one fiscal year shall be limited to six per centum on the initial equity investment, as determined by the Commissioner; and the right to such distribution shall be cumulative;
    - (2) No distribution shall be made from borrowed funds or prior to the completion of the project or when there is any default under this Agreement or under the note or mortgage;
    - (3) Any distribution of any funds of the project, which the party receiving such funds is not entitled to retain hereunder, shall be held in trust separate and apart from any other funds;
    - (4) There shall have been compliance with all outstanding notices of requirements for proper maintenance of the project.
  - (f) Engage, except for natural persons, in any other business or activity, including the operation of any other rental project, or incur any liability or obligation not in connection with the project;
  - (g) Require, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent plus a security deposit in an amount not in excess of one month's rent to guarantee the performance of the covenants of the lease. Any fund collected as security deposits shall be kept separate and apart from all other funds of the project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account;
  - (h) Permit the use of the dwelling accommodations of the project for any purpose except the use which was originally intended, or permit commercial use greater than that originally approved by the Commissioner;
  - (i) Incur any liability, direct or contingent, other than for current operating expenses, exclusive of the indebtedness secured by the mortgage and necessarily incident to the execution and delivery thereof;
  - (j) Pay any compensation, including wages or salaries, or incur any obligations, to themselves, or any officers, directors, stockholders, trustees, partners, beneficiaries under a trust, or to any of their nominees;
  - (k) Enter into any contract or contracts for supervisory or managerial services.
7. Owners shall maintain the mortgaged premises, accommodations and the grounds and equipment appurtenant thereto, in good repair and condition. In the event all or any of the buildings covered by the mortgage shall be destroyed or damaged by fire or other casualty, the money derived from any insurance on the property shall be applied in accordance with the terms of the insured mortgage.

8. Owners shall not file any petition in bankruptcy, or for a receiver, or in insolvency, or for reorganization or composition, or make any assignment for the benefit of creditors or to a trustee for creditors or permit an adjudication in bankruptcy, the taking possession of the mortgaged property or any part thereof by a receiver, or the seizure and sale of the mortgaged property or any part thereof under judicial process or pursuant to any power of sale and fail to have such adverse actions set aside within forty-five days.
  9. (a) Owners shall provide for the management of the project in a manner satisfactory to the Commissioner. Any management contract entered into by Owners, or any of them involving the project shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon written request by the Commissioner addressed to the Owners. Upon receipt of such request Owners shall immediately terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to the Commissioner for continuing proper management of the project.
    - (b) Payment for services, supplies, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.
    - (c) The mortgaged property, equipment, buildings, plans offices, apparatus, devices, books, contracts, records, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and shall be subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents. Owners shall keep copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by the Commissioner or his duly authorized agents.
    - (d) The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of the Commissioner.
    - (e) Within sixty days following the end of each fiscal year the Commissioner shall be furnished with a complete annual financial report based upon examination of the books and records of the mortgagor prepared in accordance with the requirements of the Commissioner certified by an officer or responsible Owner and, when required by the Commissioner, prepared and certified by a Certified Public Accountant, or other person acceptable to the Commissioner.
    - (f) At the request of the Commissioner, his agents, employees, or attorneys, the Owners shall furnish monthly occupancy reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, and condition of the property and the status of the insured mortgage.
    - (g) All rents and other receipts of the project shall be deposited in the name of the project in a bank, whose deposits are insured by the F.D.I.C. Such funds shall be withdrawn only in accordance with the provisions of this Agreement for expenses of the project, remittances to the Commissioner as required by under Paragraph 4(f) above, or for distributions of surplus cash as limited by the Paragraph 6(e) above. Any owner receiving funds of the project other than by such distribution of surplus cash shall immediately deposit such funds in the project bank account and failing so to do in violation of this Agreement shall hold such fund in trust. Any owner receiving property of the project in violation of the Agreement shall immediately deliver such property to the project and failing so to do shall hold such property in trust.
  10. Owners will comply with the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), prohibiting discrimination in Federally assisted programs on the grounds of race, color, or national origin and any Federal, State, or local law prohibiting discrimination in housing on the grounds of race, color, religion, creed, sex or national origin, including Title VII of the Civil Rights Act of 1968 (Public Law 90-284, 82 Stat. 73), as amended, Executive Order 11061, and all requirements imposed by or pursuant to the regulations of the Department of Housing and Urban Development implementing these authorities (including 24 CFR, Subtitle A, Part 1; and Parts 100 and 110 and Subparts I and M of Part 200).
  11. Upon a violation of any of the above provisions of this Agreement by Owners, the Commissioner may give written notice, thereof to Owners, by registered or certified mail, addressed to the addresses stated in this Agreement, or such other addresses as may subsequently, upon appropriate written notice thereof to the Commissioner, be designated by the Owners as their legal business address. If such violation is not corrected to the satisfaction of the Commissioner within thirty days after the date such notice is mailed or within such further time as the Commissioner reasonably determines is necessary to correct the violation, without further notice the Commissioner may declare a default under this Agreement effective on the date of such declaration of default and upon such default the Commissioner may:
    - (a) (1) If the Commissioner holds the note - declare the whole of said indebtedness immediately due and payable then proceed with the foreclosure of the mortgage;
    - (2) If said note is not held by the Commissioner - notify the holder of the note of such default and request holder to declare a default under the note and mortgage, and the holder after receiving such notice and request, but not otherwise, at its option, may declare the whole indebtedness due, and thereupon proceed with foreclosure of the mortgage, or assign the note and mortgage to the Commissioner as provided in the Regulations;
  - (b) Collect all rents and charges in connection with the operation of the project and use such collections to pay the mortgagor's obligations under this Agreement and under the note and mortgage and the necessary expenses of the preserving the property and operating the project;
  - (c) Take possession of the project, bring any action necessary to enforce any rights of the Owners growing out of the project operation, and operate the project in accordance with the terms of this Agreement until such time as the Commissioner in his discretion determines that the Owners are again in a position to operate the project in accordance with the terms of this Agreement and in compliance with the requirements of the note and mortgage;
  - (d) Apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the project in accordance with the terms of this Agreement, or for such other relief as may be appropriate, since the injury to the Commissioner arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain;
  - (e) Terminate the interest reduction payments to the mortgage made pursuant to Paragraph 1 hereinafore.
12. As security for the payment due under this Agreement to the reserve fund for replacements, and to secure the Commissioner because of his liability under the endorsement of the note for insurance, and as a security for the other obligations under this Agreement, the Owners respectively assign, pledge and mortgage to the Commissioner their rights to the rents, profits, income and charges of whatever sort which they may receive or be entitled to receive from the operation of the mortgaged property, subject, however to any assignment of rents in the insured mortgage referred to herein. Until a default is declared under this Agreement; however, permission is granted to Owners to collect and retain under the provisions of this Agreement such rents, profits, income, and charges, but upon default this permission is terminated as to all rents due or collected thereafter.
13. As used in this Agreement the term:
  - (a) "Mortgage" includes "Deed of Trust", "Chattel Mortgage", and any other security for the note identified herein, and endorsed for insurance or held by the Commissioner;

- (b) "Mortgagee" refers to the holder of the mortgage identified herein, its successors and assigns;
- (c) "Mortgagor" means the original borrower under the mortgage and its successors and assigns;
- (d) "Owner" refers to the persons named in the first paragraph hereof and designated as Owners, their successors and assigns;
- (e) "Mortgaged Property" includes all property, real, personal, or mixed covered by the mortgage or mortgages securing the noted endorsed for insurance or held by the Commissioner;
- (f) "Project" includes the mortgaged property and all its other assets of whatsoever nature or wheresoever situate used in or owned by the business conducted on said mortgaged property, which business is to provide housing and other such activities as are incidental thereto;
- (g) "Surplus Cash" means any cash remaining after:
  - (1) the payment of:
    - (i) All sums due or currently required to be paid under the terms of any mortgage or note insured or held by the Federal Housing Commissioner;
    - (ii) All amounts required to be deposited in the reserve fund for replacements;
    - (iii) All obligations of the project other than the mortgage insured or held by the Commissioner unless funds for payment are set aside or deferment of payment has been approved by the Commissioner;
    - (iv) Remittances due to the Commissioner as required by Paragraph 4(f); and
  - (2) the segregation of:
    - (i) An amount equal to the aggregate of all special funds required to be maintained by the project;
    - (ii) All tenant security deposits held;
    - (iii) That portion of rentals which must be remitted to the Commissioner in accordance with Paragraph 4(f), but not yet due.
- (h) "Residual Receipts" means any cash remaining at the end of a semiannual or annual fiscal period after deducting from surplus cash the amount of all distributions as that term is defined below and as limited by Paragraph 6 (e) hereof;
- (i) "Distribution" means any withdrawal or taking of cash or any assets of the project, including the segregation of cash or assets for subsequent withdrawal within the limitations of Paragraph 6(e) hereof, and excluding payment for reasonable expenses incident to the operation and maintenance of the project;
- (j) "Income" means the gross annual income of the tenant from all sources before taxes and withholding, after giving effect to exclusions allowed by the Commissioner;
- (k) "Default" means a default declared by the Commissioner when a violation of this Agreement is not corrected to his satisfaction within the time allowed by this Agreement or such further time as may be allowed by the Commissioner after written notice.

- 14. This instrument shall bind, and the benefits shall inure, to the respective Owners, their heirs, legal representatives, executors, administrators, successors in office or interest, and assigns, and to the Commissioner and his successors so long as the contract of mortgage insurance continues in effect, and during such further time as the Commissioner shall be the owner, holder, or reinsurer of the mortgage, or obligated to reinsure the mortgage.
- 15. Owners warrant that they have not, and will not, execute any other agreement with provisions contradictory of, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as the rights and obligations set forth and supersede any other requirements in conflict therewith.
- 16. The invalidity of any clause, part or provision of this Agreement shall not effect the validity of the remaining portions thereof. The use of any gender shall be applicable to all genders.
- 17. The following Owners: United Glenarden II Limited Partnership, a Maryland limited partnership do not assume personal liability for payments due under the note and mortgage, to the reserve for replacements, or for matters not under their control, except:
  - (a) for funds or property of the project coming into their hands which, by the provisions hereof, they are not entitled to retain; and
  - (b) for their own acts and deeds or acts and deeds of others which they have authorized in violation of the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first hereinabove written.

Seal

WITNESS

*Suzanne Magnuson*  
 Secretary

Owners

United-Glenarden II Limited Partnership, a Maryland limited partnership

By: United Housing Preservation Corporation, a California corporation, General Partner

By: *Jay Wall*  
 Jay Wall, Vice President

SECRETARY OF HOUSING AND URBAN DEVELOPMENT  
 acting by and through the ASSISTANT SECRETARY FOR  
 HOUSING-FEDERAL HOUSING COMMISSIONER

\_\_\_\_\_  
*(Add proper acknowledgments)*

By \_\_\_\_\_  
*Authorized Agent*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of Los Angeles  
On July 30, 2002 before me, K. SUE GARRICK, Notary Public  
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")  
personally appeared Jay Wall  
Name(s) of Signer(s)

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 person(s) acted, executed the instrument.



*Commission # 1251420  
Expires January 28, 2004*

WITNESS my hand and official seal.

K. Sue Garrick  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

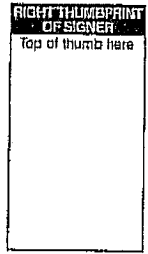
Title or Type of Document: Regulatory Agreement for Limited Distribution  
Mortgages  
Document Date: \_\_\_\_\_ Number of Pages: 5

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-In-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-In-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

Glenarden II  
Prince George's County, Maryland  
FHA Project No.: 000-45002

**RIDER TO MORTGAGE RESTRUCTURING MORTGAGE/CONTINGENT  
REPAYMENT MORTGAGE REGULATORY AGREEMENT 93136 FOR  
LIMITED DISTRIBUTION MORTGAGORS UNDER  
SECTION 236 OF THE NATIONAL HOUSING ACT, AS AMENDED  
(Participating in the Mark-to-Market Program)**

THIS Rider is attached to and made a part of that certain REGULATORY AGREEMENT dated July 1, 2002 (this "Regulatory Agreement") by and between United-Glenarden II Limited Partnership, a Maryland limited partnership (the "Owner"), and the SECRETARY OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C. (the "Secretary").

**RECITALS:**

NOW, THEREFORE, in consideration of, and in exchange for, the making of a mortgage restructuring loan ("MAHRA Restructuring Loan") by HUD and the disbursement of any part thereof, and in order to comply with the requirements of the Multifamily Assisted Housing Reform and Affordability Act of 1997, Title V of the Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act, 1998 (Pub. L. No. 105-65, 111 Stat. 1384, approved on 10/27/97, as amended), and the Regulations adopted by the Secretary pursuant thereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves and for their respective successors and assigns, hereby agree that the terms of the Regulatory Agreement are amended as follows:

**1. Residual Receipts Account.** From and after the date hereof, but only for so long as the mortgaged property is encumbered by the MAHRA Restructuring Loan made even date herewith, evidenced and/or secured by a Mortgage Restructuring Note and a Mortgage Restructuring Mortgage and/or, if applicable, the Contingent Repayment Note and a Contingent Repayment Mortgage, all provisions in this Regulatory Agreement, if any, requiring the Owner to maintain a residual receipts account or fund shall be of no further force or effect.

**2. Owner's Distributions.** From and after the date hereof, but only for so long as the mortgaged property is encumbered by the MAHRA Restructuring Loan made of even date herewith, evidenced and/or secured by a Mortgage Restructuring Note and a Mortgage Restructuring Mortgage, and/or, if applicable, the Contingent Repayment Note and a

Contingent Repayment Mortgage, all provisions in this Regulatory Agreement, if any, regulating the amount and/or timing of distributions of assets, income or dividends to the Owner shall be of no further force or effect; provided, however, that the foregoing shall be subject to compliance by the Owner with all limitations as to distributions to the Owner and other restrictions as to uses of Project income as may be set forth in the documents that evidence or secure the MAHRA Restructuring Loan.

**3. Amendment and revision of Paragraph 2(a) of this Regulatory Agreement.** Paragraph 2(a) of this Regulatory Agreement is hereby amended to include the following language:

The Mortgagor shall be under no obligation to deposit any additional sums of money into the Reserve for Replacements Account under this Regulatory Agreement until the FHA-Insured First Mortgage Regulatory Agreement is extinguished. Upon termination of the FHA-Insured First Mortgage Regulatory Agreement this paragraph shall become operative for the purpose of continuing to maintain the Reserve for Replacements Account to cover the cost of major replacements that are for the purpose of effecting replacement of structural elements and mechanical equipment of the Project or for any other purpose approved by HUD. The reserve for replacement fund shall be in a separate account in a bank which is a member of the Federal Deposit Insurance Corporation, Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund. Beginning upon the termination of the FHA-Insured First Mortgage Regulatory Agreement, the Mortgagor agrees to deposit a monthly amount equal to the amount deposited in the Reserve for Replacements Account for the month immediately prior to the termination of the FHA-insured first mortgage. The amount of the monthly deposit will be increased annually by the published Operating Cost Adjustment Factor, and may be otherwise increased or decreased from time to time at the written direction of HUD, without a recorded amendment to this Agreement. The Mortgagor agrees to carry the balance in this fund on the financial records as a restricted asset. The Mortgagor agrees that disbursements from such fund may be made only after receiving the consent in writing of the Secretary or his designee. In the event of a default in the terms of the Note(s), pursuant to which the Security Instrument(s) has/have been accelerated, the Secretary may apply the balance in such fund to the amount due on the Note(s) as accelerated.

**4. Amendment and revision of Paragraph 6 of this Regulatory Agreement.** Paragraph 6 of this Regulatory Agreement is hereby amended and revised to read as follows:

Owner shall not without the written approval of the Secretary:

(a) Transfer, assign, pledge, dispose of, encumber or allow easements on



any of the mortgaged property. Any such transfer shall be only to a person or persons or corporation satisfactory to and approved by HUD, who shall, by legal and valid instrument in writing, to be recorded or filed in the same recording office in which conveyances of the property covered by the Mortgages are required to be filed or recorded, duly assume all obligations under this Agreement and under the Notes and Mortgages.

(b) Assign, transfer, pledge, dispose of, or encumber any personal property, including rents or charges, and shall not disburse or pay out any funds except as provided herein and in the Mortgage Restructuring Note or the Contingent Repayment Note, as applicable.

(c) Remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project except as necessary to provide a reasonable accommodation or modification;

(d) Pay any compensation or make any distribution of income or other assets of any kind except as provided in the Mortgage Restructuring Note or the Contingent Repayment Note, as applicable;

(e) Engage, except for natural persons, in any business or activity, including the operation of any other project, or incur any liability or obligation not in relation with the project;

(f) Require, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent plus a security deposit in an amount not in excess of one month's rent (the gross family contribution in Section 8 units) to guarantee the performance of the covenants of the lease. Any funds collected as security deposits shall be kept separate and apart from all other funds of the project in a trust account, the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account.

(g) Undertake self-management, contract for management services, or pay any management or supervisory fees or allowances out of project funds above the maximum permitted by the Secretary.

(h) Receive any fee or kickback from any managing agent, employee, or other provider of goods or services.

**5. Amendment and Revision of Paragraph 9 of this Regulatory Agreement.**  
Paragraph 9 of this Regulatory Agreement is hereby amended and revised to read as follows:

(a) If the Owner has or comes to have any nonproject funds, all income and other funds of the project shall be segregated from any such funds of the Owner and segregated from any funds of any other corporations or persons. Income and other funds pledged to the mortgaged property shall be expended only for the purposes of the mortgaged property.

(b) Owner shall provide for the management of the project satisfactory to HUD. Any management contract entered into by the Owner involving the project shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon written request by HUD addressed to the Owner and the management agent. Upon receipt of such request the Owner shall immediately move to terminate the contract within a period of not more than 30 days and shall make arrangements satisfactory to HUD for continuing proper management of the project.

(c) Neither Owner nor its agents shall make any payments for services, supplies or materials unless such services are actually rendered for the project or such supplies or materials are delivered to the project and are reasonably necessary for its operation. Payments for such services or materials shall not exceed the amount ordinarily paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials furnished.

(d) The mortgaged property, equipment, buildings, plans, offices, devices, books, apparatus, contracts, records, documents, and all other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by HUD and its duly authorized agents. Owner and its successors, assigns or its agents shall retain copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by HUD or its duly authorized agents.

(e) The books and accounts of the operations of the mortgaged property and the project shall be kept in accordance with the requirements of HUD.

(f) Within 90 days following the end of each fiscal year HUD shall be furnished with a complete annual financial report based upon an examination of the books and records of Owner prepared in accordance with the requirements of HUD, certified to by an officer of the Owner and, when required by HUD, prepared and certified by a Certified Public Accountant, or other person acceptable to HUD.

(g) At the request of HUD, its agents or designees, employees, or attorneys, the Owner shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities,

contracts, operation, and condition of the property and the status of the Mortgages and any other information with respect to the Owner or the mortgaged property and of the project which may be requested.

(h) All rents and other receipts of the project shall be deposited in the name of the project in a bank, whose deposits are insured by the FDIC, Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund. Such funds shall be withdrawn only in accordance with the provisions of this Agreement for expenses of project. Any person receiving funds of the project shall immediately deposit such funds in the project bank account and failing so to do in violation of this Agreement shall hold such funds in trust. Any person receiving property of the project in violation of the Agreement shall immediately deliver such property to the project and failing so to do shall hold such property in trust.

(i) Owner shall at all times, if required by the laws of the jurisdiction, maintain in full force and effect a license to operate the project from the State and/or other licensing authority. Owner shall lease any portions of the project only on terms approved by HUD.

6. Amendment and Revision of Sub-Paragraph 13 (g) and the addition of Sub-Paragraphs 13(l) and 13(m) of the Regulatory Agreement. From and after the date hereof, but only for so long as the mortgaged property is encumbered by the Mortgage Restructuring Note and a Mortgage Restructuring Mortgage, or the Contingent Repayment Note and a Contingent Repayment Mortgage, (a) the definitions and terms for "Surplus Cash" and "Residual Receipts" contained in Sub-Paragraph 13 (g) of this Regulatory Agreement shall be referred to and defined as "Surplus Cash," and (b) definitions for "Capital Recovery Payments" and "Incentive Performance Fee" shall be added, respectively, as Sub-Paragraphs 13(l) and 13(m), and such changes and additional definitions shall read as follows:

13. (g) "Surplus Cash" shall mean, any cash remaining after:

(1) the payment of: (i) All sums due or currently required to be paid under the terms of (a) the mortgage or deed of trust and/or the note secured thereby ("First Mortgage"), if any, the lien for which is prior to the lien of the Mortgage Restructuring Mortgage and/or the Contingent Repayment Mortgage and the Mortgage Restructuring Note and, if applicable, Contingent Repayment Note secured thereby, and, (b) if applicable, subordinate FHA insured or HUD held mortgages with cash flow priority ("Priority Cash Flow Indebtedness") to the Mortgage Restructuring Note and Contingent Payment Note; (ii) all amounts required to be deposited in the reserve fund for replacements; (iii) all other obligations of the mortgaged property other than the First Mortgage and Priority Cash Flow Indebtedness, unless funds for payment are set aside or deferment of

payment has been approved by the Secretary, (iv) the Capital Recovery Payments, as defined and set forth herein, and (v) the annual Incentive Performance Fee, if any, as defined and set forth herein; and

(2) the segregation of: (i) an amount equal to the aggregate of all special funds (including a Section 8 Recapture Agreement Escrow Fund, if applicable) required to be maintained by the project; and (ii) all tenant security deposits held.

13 (l) "Capital Recovery Payment(s)" mean the monthly payments, or, if no cash exists for the payment thereof, the monthly accruals, each in the amount of \$562.00 per month, for 120 months, to reimburse the Owner, with interest, for the capital contributions made by Owner as a part of the MAHRA Restructuring Loan transaction. The payment provisions for the Capital Recovery Payments and the conditions therefor are contained in this Rider.

13. (m) "Incentive Performance Fee" means the annual non-accruing fee which may be payable to the Owner to recognize imputed Owner equity and provide an incentive for operating efficiencies.

7. **Additional Expenditures.** From and after the date hereof, but only for so long as the Mortgaged Property is encumbered by the Mortgage Restructuring Note and a Mortgage Restructuring Mortgage, and/or the Contingent Repayment Note and a Contingent Repayment Mortgage:

a. Subject to available cash, the Capital Recovery Payments shall be received monthly by Owner; provided, however, the Owner may not receive the monthly Capital Recovery Payment unless (i) all Project expenses are paid (including accrued payables for which payment is due from the previous year's audited financial statements), (ii) there are no outstanding sums due under either the First Mortgage or, if applicable, Priority Cash Flow Indebtedness, (iii) the mortgaged property is in acceptable physical condition to HUD, as evidenced by at least a 60 rating from HUD's Real Estate Assessment Center (or some other comparable determination of physical condition as elected by HUD) unless Owner and HUD have mutually agreed to Owner's proposal to cure deficient mortgaged property condition(s), (iv) all HUD audit or management findings are resolved in a manner acceptable to HUD, and (v) there is no default under the Regulatory Agreement, as amended by this Rider, or any other documents which evidence or secure the First Mortgage, the MAHRA Restructuring Loan, or any other permitted encumbrance on the mortgaged property (all of the foregoing items (i) through (v) are collectively referred to as "Capital Recovery Payment Conditions"). In the event that (a) any of the Capital Recovery Payment Conditions have not been satisfied, as determined by HUD, the Capital Recovery Payments shall not be made, but they shall accrue, without additional interest, until HUD determines that they may resume, and (b) cash is insufficient to pay

Capital Recovery Payments, as determined by HUD, after HUD's review of the Owner's audited annual financial statement, the Capital Recovery Payments shall not be made, but they shall accrue, without additional interest, until the next annual review by HUD of the Owner's audited annual financial statement confirms, as determined by HUD, that there is sufficient cash then available to resume the Capital Recovery Payments. HUD's determination will include the amount of cash then available to the Owner for payment toward accrued Capital Recovery Payments; and

b. The Incentive Performance Fee may be received annually by Owner in the amount of Two 26/100<sup>th</sup> percent (2.26%) of the Effective Gross Income derived from the mortgaged property. The Effective Gross Income equals all rental and other income that is realized annually through the operations of the mortgaged property. The Incentive Performance Fee is payable, if at all, after HUD concludes that (i) all Project expenses have been paid (including, without limitation, any accrued payables for which payment is due from the previous year's audited financial statements), (ii) there are no outstanding sums due under either the First Mortgage or, if applicable, Priority Cash Flow Indebtedness, (iii) the Mortgaged Property is in acceptable physical condition to HUD, as evidenced by at least a 60 rating from HUD's Real Estate Assessment Center (or some other comparable determination of physical condition as elected by HUD) unless Owner and HUD have mutually agreed to Owner's proposal to cure deficient mortgaged property condition(s), (iv) all HUD audit or management findings are resolved in a manner acceptable to HUD, (v) all monthly Capital Recovery Payments have been received by the Owner, and (vi) there is no default under the Regulatory Agreement, as modified by this Rider, or any other documents which evidence or secure the First Mortgage, the MAHRA Restructuring Loan, or under any other permitted encumbrance on the mortgaged property (all of the foregoing items (i) through (vi) are collectively referred to as "Incentive Performance Fee Conditions"). In the event any of the Incentive Performance Fee Conditions have not been satisfied, the Incentive Performance Fee for that year shall neither be paid nor accrue.

c. HUD will be deemed to have concluded that the Capital Recovery Payment Conditions and Incentive Performance Fee Conditions have been conditionally satisfied, without prejudice, however, to any of HUD's rights and/or remedies under this Regulatory Agreement or otherwise, or HUD's right to assert and pursue such rights and/or remedies, if HUD has failed, within 60 days after HUD's receipt of the Owner's annual financial statement, to object to the payment of the Capital Recovery Payment and/or Incentive Performance Fee.

8. Release of Rider to Regulatory Agreement. The Secretary hereby agrees that, upon the request of the Owner made on or after the date of either the maturity or prepayment of the MAHRA Restructuring Loan made of even date herewith, evidenced

and/or secured by a Mortgage Restructuring Note and a Mortgage Restructuring Mortgage and/or, if applicable, the Contingent Repayment Note and a Contingent Repayment Mortgage, the Secretary shall execute a recordable instrument approved by the Secretary for purposes of releasing this Regulatory Agreement of record. All costs and expenses relating to the preparation and recording of such release shall be paid by the Owner.

9. **Headings.** The headings and titles to the sections of this Rider to this Regulatory Agreement are inserted for convenience only and shall not be deemed a part hereof nor affect the construction or interpretation of any provisions hereof.

**OWNER:**

United-Glenarden II Limited Partnership, a  
Maryland limited partnership

Suzanne Magnuson  
Secretary

By: United Housing Preservation Associates, <sup>Corporation</sup>  
a California corporation, General Partner

By: Jay Wall  
Jay Wall, Vice President

Secretary of Housing and Urban Development acting  
by and through the Director of the Office of  
Multifamily Housing Assistance Restructuring

By: \_\_\_\_\_  
Authorized Agent

OMHAR \_\_\_\_\_ Regional Office

Date: July 29, 2002