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Cook County Recorder 65.00



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TSI # 210092

This instrument prepared by  
and after recording return to: Box 430

Steve Holler, Esq.

Department of Law  
City of Chicago  
Room 600  
121 North LaSalle Street  
Chicago, Illinois 60602

*Second*

**✓ MORTGAGE, SECURITY AND RECAPTURE AGREEMENT,  
INCLUDING RESTRICTIVE COVENANTS**

THIS MORTGAGE, SECURITY AND RECAPTURE AGREEMENT, INCLUDING RESTRICTIVE COVENANTS ("Mortgage") is made as of this 18th day of June, 2002 from Pamela J. Emery, <sup>woman</sup> unmarried ("Mortgagor"), to the CITY OF CHICAGO, an Illinois municipal corporation, having its principal office at City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602 ("City" or "Mortgagee").

**RECITALS**

WHEREAS, North Town Village, L.L.C., an Illinois limited liability company ("Developer"), NTV Limited Partnership, an Illinois limited partnership ("Developer's Affiliate") and NTV II Limited Partnership, an Illinois limited partnership, have previously entered into that certain North Town Village Redevelopment Agreement dated as of February 1, 2000 and recorded March 20, 2000 in the Recorder's Office of Cook County as document number 00195910 (the "Redevelopment Agreement"); and

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WHEREAS, pursuant to the Redevelopment Agreement, the City has previously sold to the Developer and Developer's Affiliate, in aggregate, the real property legally described on Exhibit A (the "North Town Village Property") for \$1.00 (the "Land Contribution");

WHEREAS, pursuant to the Redevelopment Agreement, the City has also provided the Developer and Developer's Affiliate approximately \$8,600,000 in tax increment financing funds (the "TIF Contribution"), which have been used to acquire a portion of the North Town Village Property, to perform certain environmental remediation work and to construct certain public streets, public utilities and other public improvements relating to the North Town Village Property; and

WHEREAS, the City's Land Contribution and TIF Contribution was conditioned upon, among other things, the Developer's covenant to subject 12 of the 261 units to be constructed on the North Town Village Property (the "Affordable For Sale Units") to the affordability requirements contained in Sections 3.02, 3.03 and 3.04 hereof (the "Affordability Requirements"), that shall be imposed as encumbrances and as covenants running with the land; and

WHEREAS, the Affordability Requirements are necessary to implement the City's public policy objective of developing and maintaining North Town Village as a mixed-income community, consistent with the Redevelopment Agreement and the objectives of that certain Consent Decree entered September 12, 2000 in the U.S. District Court for the Northern District of Illinois in Case No. 96 C 6949 by and among the Cabrini-Green Local Advisory Council, the City, the Chicago Housing Authority and certain other parties;

WHEREAS, the Affordability Requirements will require that, among other things, with respect to the initial sale of an Affordable For Sale Unit, with respect to which this Mortgage is being granted, and (unless the mortgagee is permitted and elects to repay to the City the City Subsidy Recapture Amount) with respect to each subsequent resale of such unit thereafter for a 40 year period, such unit may be sold only to a household earning not more than 120% of the area median income (a "Qualified Household") at a price that will result in the monthly

homeownership costs for principal, interest, taxes, insurance and condominium assessment payments for such unit totaling not more than an amount equal to 30% of a household whose income is 120% of the area median income (an "Affordable Price"); and

WHEREAS, the Developer has previously recorded that certain Declaration of Condominium dated September 23, 2001 and recorded September 28, 2001 in the Recorder's Office of Cook County as document number 0010906035 (as supplemented from time to time, the "Declaration"); and

WHEREAS, by recording the Declaration, the Developer has committed a portion of the North Town Village Property, including the real property legally described on Exhibit B attached hereto (the "Building Lot") to the provisions of the Illinois Condominium Property Act; and

WHEREAS, Developer has built a \* unit condominium building (the "Building") on the Building Lot; and \*716 W. Evergreen, Unit 176-B

WHEREAS, the Developer has contracted to sell unit \* in the Building (together with its undivided interest in the common elements, hereafter referred to as the "Home") to the Mortgagor for \$223,471.00 (the "Purchase Price"), based on a base purchase price of \$199,900.00 (the "Base Purchase Price"), plus upgrades; and \*\*716 W. Evergreen, Unit 716-B

WHEREAS, the Mortgagor is a Qualified Household and the Purchase Price is an Affordable Price; and

WHEREAS, the Mortgagor acknowledges and agrees that the Base Purchase Price is at least \$64,900.00 less than the fair market price for the Home (the "City Subsidy Amount"), as evidenced by the sales of contemporaneous or projected sales of comparable units within the North Town Village condominium development; and

WHEREAS, the Mortgagor is able to purchase the Home for less than its fair market value because of the City's Land Contribution and TIF Contribution, which have subsidized a portion of the Developer's development costs, and because the City has required that the Developer pass on a portion of this subsidy to the Mortgagor by its imposition of the Affordability

Requirements pursuant to the Redevelopment Agreement and this Mortgage; and

WHEREAS, but for the City's Land Contribution and TIF Contribution, and the City's imposition of the Affordability Requirements, the Mortgagor would have been unable to purchase the Home for an Affordable Price; and

WHEREAS, the Developer has conveyed (or simultaneously with the recording of this Mortgage is conveying) the Home to the Purchaser pursuant to its warranty deed; and

WHEREAS, the City has required Mortgagor to execute this Mortgage in order to both (a) impose upon the Mortgaged Property and give notice of the Affordability Requirements to the Mortgagor, to any subsequent purchaser of the Home, and to any lender having a mortgage secured by the Home, and (b) to secure the recapture payment described in Article III and the Mortgagor's other obligations under this Mortgage; and

WHEREAS, in consideration of the City's Land Contribution, the City's TIF Contribution, the City's public policy objectives as described above, the benefits accruing to the Mortgagor as a result of its purchase of the Home for an Affordable Price, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor has executed and delivered to the City this Mortgage; and

NOW, THEREFORE, to secure the performance and observance by Mortgagor of all the terms, covenants and conditions described in this Mortgage, and in order to charge the properties, interests and rights hereinafter described with such consideration, Mortgagor has executed and delivered the Mortgage and does hereby grant, convey, assign, mortgage, grant a security interest in, and confirm unto Mortgagee and its successors and assigns forever, all of the following described property (which is hereinafter sometimes referred to as "Mortgaged Property"):

(A) The Home, and all easements, rights, interests and appurtenances thereto, including, without limitation, any deeded, reserved or assigned parking area or storage space and any limited common elements;

(B) All structures and improvements of every nature whatsoever now or hereafter situated within or comprising a part of the Home, including, without limitation, all fixtures of every kind and nature whatsoever which are or shall be attached to said buildings, structures or improvements, and now or hereafter owned by Mortgagor, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing ("Improvements") ;

(C) All rents and issues of the Home and Improvements from time to time and all of the estate, right, title, interest, property, possession, claim and demand at law, as well as in equity of Mortgagor, in and to the same;

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto Mortgagee, its successors and assigns, to its own proper use, benefit and advantage forever, subject, however, to the terms, covenants and conditions herein;

WITHOUT limitation of the foregoing, Mortgagor hereby further grants unto Mortgagee, pursuant to the provisions of the Uniform Commercial Code of the State of Illinois, a security interest in all of the above-described property, which are or are to become fixtures.

THIS MORTGAGE IS GIVEN TO SECURE: (a) amounts which may become due and payable pursuant to this Mortgage, and (b) performance of each and every of the other covenants, conditions and agreements contained in the this Mortgage, and in any other agreement, document or instrument to which reference is expressly made in the Mortgage.

#### ARTICLE I

##### INCORPORATION OF RECITALS

The recitals set forth above constitute an integral of the Mortgage and are hereby incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Mortgagor covenants and agrees with Mortgagee that at all times prior to June 18, 2042 (the "Affordability Termination Date"):

2.01 Taxes and Assessments. (a) Mortgagor will pay when due all general taxes and assessments (including, without limitation any condominium assessments), special assessments, water charges and all of the charges against the Mortgaged Property and shall, upon written request, furnish to Mortgagee receipts evidencing payment thereof, provided that Mortgagor, in good faith and with reasonable diligence, may contest the validity or amount of any such taxes, assessments or charges, provided that during any such contest the enforcement of the lien of such taxes, assessments or charges is stayed.

(b) Mortgagor will not suffer (unless bonded or insured over) any mechanic's, laborer's, materialmen's, or statutory lien to remain outstanding upon any of the Mortgaged Property. Mortgagor may contest such lien, provided that Mortgagor shall first post a bond in the amount of the contested lien, or provide title insurance over such contested lien, and further provided that Mortgagor shall diligently prosecute the contested lien and cause the removal of the same.

2.02 Insurance. Mortgagor shall keep the Mortgaged Property continuously insured (or shall use reasonable efforts to cause the North Town Village Condominium Association to keep insured such parts of the Mortgaged Property as may be required to be insured by such association under the condominium declaration) in such amounts and against such risks as required of Mortgagor by the Senior Lender (as hereinafter defined), paying the premiums for said insurance as they become due. Policies of insurance shall name Mortgagee as an additional insured. All policies of insurance shall provide that the same shall not be canceled, except upon thirty (30) days prior written notice to Mortgagee.

2.03 Maintenance of the Property. (a) Mortgagor shall preserve and maintain the Mortgaged Property in good condition and repair, will not commit or suffer any waste thereof, and will

keep the same in a clean, orderly and attractive condition. Mortgagor shall not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Mortgagor will immediately give written notice of the same to Mortgagee.

(c) Mortgagee or its representatives shall have the right to inspect the Mortgaged Property to assure compliance with the terms of the Mortgage.

(d) Mortgagor shall promptly comply, and cause the Mortgaged Property to comply, with all present and future laws, ordinances, orders, rules and regulations and other requirements of any governmental authority affecting the Mortgaged Property or any part thereof and with all instruments and documents of record or otherwise affecting the Mortgaged Property or any part thereof.

(e) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, Mortgagor, subject to the rights of the Board of Managers of the condominium association with respect to any proceeds applicable to common elements or limited common elements, will promptly restore the Mortgaged Property to the equivalent of its condition prior to the casualty, to the extent of any insurance proceeds made available to Mortgagor for that purpose.

2.04 Subordination. The Mortgage shall be subject and subordinate in all respects to that certain mortgage dated as of June 18, 2002, between Mortgagor and Wells Fargo Home Mortgage ("Senior Lender"), recorded with the Office of the Recorder of Deeds of Cook County, Illinois on \_\_\_\_\_ as document # \_\_\_\_\_ ("Senior Mortgage") to secure indebtedness in the original principal amount of \$ \_\_\_\_\_ (the "Senior Loan Amount"), provided, however, that the maximum amount of indebtedness (including indebtedness attributable to protective advances made by the Senior Lender or other amounts secured under the terms of the Senior Mortgage) that shall be superior to the lien of this Mortgage shall in no instance and at no time exceed 100% of the Purchase Price plus the City Subsidy Amount. The subordination and limitation imposed under the preceding sentence is for the benefit of the Senior Lender and is not intended to permit the Mortgagor to incur mortgage indebtedness in excess of that permitted under Section 3.04 below. Any refinancing of the Senior Mortgage permitted under this Section 2.04 and Section 3.04, however, will also be deemed a Senior Mortgage for purposes of the subordination set forth in this Section 2.04.

2.05 Income Eligibility. Mortgagor represents and warrants to Mortgagee that Mortgagor's household income, as of the time of Mortgagor's execution of its purchase contract for the Mortgaged Property, met the income eligibility requirements established by the City pursuant to the Redevelopment Agreement applicable to a purchaser of an Affordable For Sale Unit, as set forth below:

<u># of Persons In Household</u>	<u>120% of AMI</u>
1	\$ 57,000.00
2	\$ 65,160.00
3	\$ 73,320.00
4	\$ 81,480.00
5	\$ 87,960.00
6	\$ 94,560.00

ARTICLE III

RECAPTURE OF CITY SUBSIDY PROVISIONS



3.01 Acknowledgment of City Subsidy. Mortgagor acknowledges and agrees that the City has subsidized the Mortgagor's purchase of the Home by an amount not less than the City Subsidy Amount.

3.02 Primary Residence; No Leasing. Mortgagor covenants to the City that prior to the Affordability Termination Date, it shall own and use the Mortgaged Property as its primary residence (and the primary residence of Mortgagor's Family, as defined below) as long as Mortgagor owns the Mortgaged Property. Mortgagor covenants that prior to the Affordability Termination Date, it will not lease the Mortgaged Property to any person or let any other person to occupy or use the property without the prior written consent of the City, which shall be in the City's reasonable discretion, and which, if granted, will require that the total amount payable by any tenant household not exceed 30% of the income of a household whose income is 120% of the then-prevailing area median income.

3.03 Permitted Transfers. Mortgagor covenants that prior to the Affordability Termination Date, it shall not sell or otherwise directly or indirectly transfer ownership of the Mortgaged Property, except (a) to a Qualified Family (as defined below), (b) for an Affordable Price (as defined below), and provided that (c) the Qualified Family executes a mortgage, security and recapture agreement in similar form to this Mortgage. Any transfer of ownership (x) resulting from the Mortgagor's death and occurring pursuant to (i) the terms of a written land trust, personal trust or will, or (ii) state intestacy law, (y) to a spouse or member of the Qualified Family, or (z) that simply consists of Mortgagor's transfer of the Property into a land trust or personal trust of which Mortgagor is the sole beneficiary and holder of power of direction, as applicable, shall not be subject to the foregoing transfer restriction, provided, however, that the transferee in any such transfer shall be bound by all of the affordable housing covenants contained in this Mortgage. **If Mortgagor attempts or purports to transfer the Mortgaged Property to a transferee in violation of any one or more of the conditions in clause (a), (b) and (c), such attempted or purported transfer shall be a violation of the Affordability Requirements, shall be void and of no legal effect and shall constitute an immediate Event of Default under Section 4.01(a).**

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As used in this Section 3.03:

(i) "Affordable Price" shall mean a purchase price that will result in the monthly homeownership costs for principal, interest, taxes, insurance and condominium assessment payments for a residential unit totaling not more than an amount equal to 30% of the income of a Qualified Family. If a Qualified Family has fewer persons in it than the Qualified Family of Mortgagor had at the time the Mortgagor purchased the Mortgaged Property, then, for purposes of determining the Affordable Price, the incoming Qualified Family shall be deemed to be the same size as the Mortgagor's Qualified Family. In all other instances, the actual size of the incoming Qualified Family shall be used for purposes of determining the Affordable Purchase Price. The purpose of this adjustment is to enable the Mortgagor to sell the Mortgaged Property to a smaller Qualified Family without the disincentive of having to make such sale at a lower Affordable Price. Because the Affordable Price was initially based on the base purchase price for the Mortgaged Property, exclusive of upgrades, DOH shall take into account the value of any upgrades paid for by Mortgagor and, if appropriate, adjust the Affordable Price accordingly.

(ii) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and

(iii) "Qualified Family" shall mean a Family earning not more than one hundred twenty percent (120%) of the Chicago- area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development.

3.04 Limit on First Mortgage Indebtedness. Mortgagor covenants that prior to the Affordability Termination Date, it shall not encumber the Mortgaged Property with any mortgage(s) which, individually or in aggregate, secures initial principal indebtedness in excess the Purchase Price.

3.05 Right to Request Waiver or Modification. The Affordability Requirements in this Article III may be waived or

modified in writing by the City, acting by its Department of Housing, or any successor department thereto ("DOH"), upon a showing of undue hardship or changed circumstances that would make the enforcement of such covenants inequitable or impractical, as determined by DOH, in its sole discretion.

3.06 Approval of Transfer and Release of Mortgage. Upon either (a) a permitted transfer described in Section 3.03, or (b) a transfer accompanied by a repayment of the City Subsidy Recapture Amount in accordance with the terms of this Mortgage, the City will, upon ten (10) business days prior written notice, execute and deliver a "Certificate of Transfer" confirming that such transfer is a permitted transfer hereunder and effective to deliver legal title to the transferee. In addition, within thirty (30) days of receipt of a written request from Mortgagor, Mortgagee shall execute a release of the Mortgage in recordable form.

3.07 REASONABLE RESTRAINT ON ALIENATION. MORTGAGOR ACKNOWLEDGES AND AGREES THAT TO THE EXTENT THE AFFORDABILITY REQUIREMENTS, ANYTHING IN THIS ARTICLE III, OR ANY OTHER PROVISION IN THIS MORTGAGE COULD BE DEEMED A RESTRAINT ON ALIENATION, THAT ANY SUCH RESTRAINT (A) IS REASONABLE, (B) IS, AS EXPLAINED IN THE RECITALS, SUPPORTED BY ADEQUATE CONSIDERATION, (C) IS NECESSARY TO IMPLEMENT THE CITY'S PUBLIC POLICY OBJECTIVE OF DEVELOPING AND MAINTAINING NORTH TOWN VILLAGE AS A MIXED-INCOME COMMUNITY, (D) SHOULD BE ENFORCED AS WRITTEN, AND (E) WAS A MATERIAL INDUCEMENT TO THE CITY'S INITIAL DECISION TO PROVIDE THE LAND CONTRIBUTION AND THE TIF CONTRIBUTION, WHICH HAVE ENABLED THE MORTGAGOR TO BUY THE HOME FOR THE PURCHASE PRICE, WHICH IS MATERIALLY BELOW THE FAIR MARKET VALUE PRICE. MORTGAGOR, THEREFORE, KNOWINGLY AND VOLUNTARILY, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO RAISE ANY DEFENSE TO THE ENFORCEMENT OF THE AFFORDABILITY REQUIREMENTS, WHETHER AT LAW OR IN EQUITY.

#### ARTICLE IV

##### DEFAULT

4.01 Events of Default. The terms "Event of Default" or "Events of Default", wherever used in the Mortgage, shall mean any one or more of the following events:

(a) A failure by Mortgagor to comply with any of the Affordability Requirements set forth in under Section 3.02, 3.03 or 3.04;

(b) Failure by Mortgagor to duly observe or perform any other material term, covenant, condition, or agreement the Mortgage after the expiration of the applicable cure periods provided in Section 4.02; or

(c) A default continuing beyond all applicable cure periods under the Senior Mortgage and permitting foreclosure thereunder.

4.02 City Remedies. The City shall have the following remedies depending on the nature and timing of the Event of Default.

(a) If an Event of Default occurs under Section 4.01(a) prior to the fifth anniversary date of the date of this Mortgage, any purported lease, direct or indirect sale or transfer of ownership, or mortgaging of the Mortgaged Property shall be void and ineffective to transfer any interest in the Mortgaged Property and the City shall be entitled to the specific enforcement of the Affordability Requirements and any other remedies available under this Mortgage. The intent of this paragraph is to insure that if the Mortgagor transfers any interest in the Mortgaged Property prior to such fifth anniversary date, the transfer shall be only to another Qualified Family who purchases the Mortgaged Property for an Affordable Price. The intent of this paragraph is also to prohibit the Mortgagor from financing out the value of the City Subsidy Amount prior to such fifth anniversary date. The City may, in its sole discretion, and in lieu of its specific enforcement of the Affordability Requirements, may elect to require payment of the City Subsidy Recapture Amount (as defined below) in the event that the City determines that specific enforcement of the Affordability Requirements is impractical or inappropriate.

(b) If an Event of Default occurs under Section 4.01(a) after the fifth anniversary date of the date of this Mortgage (a

"Recapture Payment Event"), any purported lease, direct or indirect sale or transfer of ownership, or mortgaging of the Mortgaged Property shall be null and void and ineffective to transfer any interest in the Mortgaged Property and the City shall be entitled to the specific enforcement of the Affordability Requirements and any other remedies available under this Mortgage unless, at the time of such Recapture Payment Event the Mortgagor pays to the City the City Subsidy Recapture Amount (as defined below). If the Mortgagor pays to the City the City Subsidy Recapture Amount, then City shall have no other remedy with respect to such Event of Default and shall be obligated to execute and deliver a release of this Mortgage in recordable form and the transferee shall not be bound by any Affordability Requirements or otherwise required to execute and deliver any mortgage in favor of the City.

The "City Subsidy Recapture Amount" shall be an amount calculated as follows. First, the City Subsidy Amount shall be multiplied by a fraction, the numerator of which shall be the number 40 minus the number of complete years that have elapsed from the date of this Mortgage, and the denominator of which shall be 40. The resulting product shall be the "Pro Rated City Subsidy Amount." Second, simple, non-compounding interest at the rate of three percent (3%) per annum (assuming twelve 30 day months) on the Pro Rated City Subsidy Amount shall be computed from the date of this Mortgage to the date of the Recapture Payment Event. Third, the Pro Rated City Subsidy Amount, plus the interest computed pursuant to the preceding sentence, shall be added together to arrive at the City Subsidy Recapture Amount.

For example, if (a) this Mortgage was dated January 1, 2002, (b) the date of the Recapture Payment Event was July 1, 2008, and (c) the City Subsidy Amount was \$20,000, then (i) the Pro Rated City Subsidy Amount would be  $[40-6]/40 \times \$20,000$ , or \$17,000; (ii) the interest on the Pro Rated City Subsidy Amount would be \$3,315 (\$510/year for 6 years, plus \$255 for one half-year), and (c) the City Subsidy Recapture Amount would be \$20,315 (\$17,000 plus \$3,315).

(c) If an Event of Default occurs under Section 4.02 or Section 4.03 and such default involves a failure to make timely payment of any amount due and secured by the this Mortgage or the Senior Mortgage and such failure is not cured within 10 days of

the Mortgagee's delivery of written notice of such failure to Mortgagor, (a "Monetary Event of Default"), then Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such Monetary Event of Default date being also being deemed a Recapture Payment Event for purposes of computing such amount); and (ii) exercise any other remedies available under this Mortgage (including, without limitation, specific enforcement of the Affordability Requirements any time prior to the fifth anniversary date of this Mortgage), in either instance without further notice or demand.

(d) If Mortgagor fails to perform any other obligation required under this Mortgage not described in Section 4.02(a) or (b) and such failure is not cured within 60 days of the Mortgagee's delivery of written notice of such failure to Mortgagor, Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such non-monetary Event of Default date being also being deemed a Recapture Payment Event for purposes of computing such amount); and (ii) exercise any other remedies available under this Mortgage (including, without limitation, specific enforcement of the Affordability Requirements any time prior to the fifth anniversary date of this Mortgage), in either instance without further notice or demand. In the event such default cannot reasonably be cured within such sixty (60) day period, however, and if Mortgagor has commenced efforts to cure such default, then the time to cure shall be extended so long as said party diligently continues to cure such default.

(e) If an event of default occurs under the Senior Lender's security documents (after the giving of any applicable notice and lapse of any applicable cure period, if any) and the Senior Lender commences efforts to foreclose its mortgage (or obtain a deed-in-lieu-of-foreclosure), obtain appointment of a receiver for the Mortgaged Property, or obtain possession of the Mortgaged Property, such event of default shall (notwithstanding anything in this Section 4.03 to the contrary) constitute an immediate Event of Default under this Mortgage and the Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such commencement date being also deemed a Recapture Payment Event for purposes of computing the City Subsidy Recapture Amount); and (ii) exercise

any other remedies available under this Mortgage, in either instance without further notice or demand.

4.03 Other Remedies. (a) If any amounts due under and secured by this Mortgage shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof.

The Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by any foreclosure of the Senior Mortgage, and may be foreclosed successively and in parts, until all of the Mortgaged Property has been foreclosed against. In any such foreclosure, or upon the enforcement of any other remedy of Mortgagee, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs involved in title insurance and title examinations. All expenditures and expenses of the nature in this Section 4.03 mentioned, and such expenses and fees as may be incurred in the protection of the Mortgaged Property and the maintenance of the lien of the Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting the Mortgage, or the Mortgaged Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the lesser of the highest rate permitted by law or fifteen percent (15%) per annum, and shall be secured by the Mortgage. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: (i) on account of all costs and expenses incidental to the foreclosure proceedings, including all such items as are mentioned in this section; (ii) repayment of the indebtedness owed to the Senior Lender, subject to the limitation in Section 2.04; (iii) repayment of any other amounts due under this Mortgage; and (iv) payment of any remaining amounts due to Mortgagor, its successors or assigns, as their rights may appear.

(b) Mortgagor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the

enforcement or foreclosure of the Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. To the extent permitted by law, Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of the Mortgage on its behalf and on behalf of each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the Mortgaged Property subsequent to the date of the Mortgage.

(c) Upon any other entering upon or taking of possession of the Mortgaged Property after the occurrence of an Event of Default and the expiration of the applicable cure period and other than by means of a foreclosure, Mortgagee, subject to the rights of the Senior Lender, may hold, use, manage and control the Mortgaged Property and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property required in connection therewith; (ii) insure or keep the Mortgaged Property insured; (iii) manage the Mortgaged Property and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Mortgagee, all as Mortgagee from time to time may reasonably determine to be to its best advantage. Mortgagee may collect and receive all the rents, issues, profits and revenues of the same, including those past due as well as those accruing thereafter, and, after deducting to the extent reasonable: (aa) expenses of taking, holding and managing the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Mortgagee may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses



and disbursements of the attorneys and agents of Mortgagee, shall apply the remainder to the payment of amounts due under this Mortgage. The balance of such funds, if any, after payment in full, of all of the aforesaid amounts shall be paid to Mortgagor.

(d) Mortgagee may also seek specific performance or injunctive relief in order to enforce the provisions of this Mortgage.

4.04 Receiver. Subject to the rights of the Senior Lender, if an Event of Default shall have occurred and be continuing after an applicable cure period has expired, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall otherwise have all of the rights and powers to the fullest extent permitted by law.

4.05 Purchase by Mortgagee. Upon any foreclosure sale, Mortgagee may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part the City Subsidy Recapture Amount and other amounts due under and secured by this Mortgage as a credit to the purchase price.

4.06 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by the Mortgage is intended to be exclusive of any other right, power or remedy, but each and every right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

4.07 Waiver. No delay or omission of Mortgagee to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by the Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. No consent or waiver, expressed or implied, by Mortgagee to or of any breach or Event of Default by Mortgagor in the performance of its obligations hereunder shall be deemed or construed to be a

consent or waiver to or of any other breach or Event of Default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies on account of any breach or default by Mortgagor.

## ARTICLE V

### MISCELLANEOUS PROVISIONS

5.01 Successors and Assigns The Mortgage shall inure to the benefit of and be binding upon Mortgagor and Mortgagee and their respective legal representatives, successors and assigns. Whenever a reference is made in the Mortgage to Mortgagor or to Mortgagee, such reference shall be deemed to include a reference to legal representatives, successors and assigns of Mortgagor or Mortgagee, as applicable.

5.02 Terminology. All personal pronouns used in the Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and sections are for convenience only and neither limit nor amplify the provisions of the Mortgage, and all references herein to articles, sections or paragraphs shall refer to the corresponding articles, sections or paragraphs of the Mortgage unless specific reference is made to such articles, sections or paragraphs of another document or instrument.

5.03 Severability. If any provision of the Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of the Mortgage and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by law.

5.04 Security Agreement. The Mortgage shall be construed as a "Security Agreement" within the meaning of and shall create a security interest under the Uniform Commercial Code as adopted by the State of Illinois with respect to any part of the

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Mortgaged Property which constitutes fixtures. Mortgagee shall have all the rights with respect to such fixtures afforded to it by said Uniform Commercial Code in addition to, but not in limitation of, the other rights afforded Mortgagee by the Mortgage or any other agreement.

5.05 Modification. No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns. Mortgagor shall have no right to convey the Home into a land trust without obtaining the prior written consent of the City.

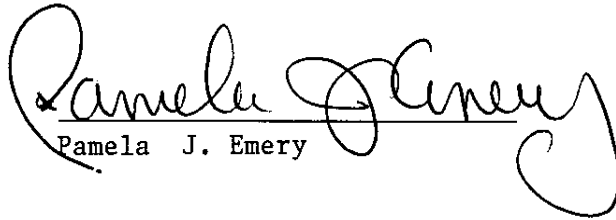
5.06 No Merger. It being the desire and intention of the parties that the Mortgage and the lien hereof do not merge in fee simple title to the Mortgaged Property, it is hereby understood and agreed that should Mortgagee acquire any additional or other interests in or to said property or the ownership thereof, then, unless a contrary interest is manifested by Mortgagee as evidenced by an appropriate document duly recorded, the Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

5.07 Applicable Law. The Mortgage shall be interpreted, construed and enforced under the laws of the State of Illinois.

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IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed as of the day and year first above written.

MORTGAGOR(S) :

  
Pamela J. Emery



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STATE OF ILLINOIS)  
 )  
COUNTY OF COOK )

I, W.K. Harais, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Pamela J. Emery to me as the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me acknowledged that she signed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth.

an  
unmarried  
woman

Given under my hand and notarial seal this 18<sup>th</sup> day of June, 2002.

W.K. Harais  
Notary Public

My commission expires 08-28-05.



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## Exhibit "A" LEGAL DESCRIPTION

UNIT 716-B IN NORTH TOWN VILLAGE CONDOMINIUM, AS DELINEATED ON A SURVEY OF A PORTION OF THE FOLLOWING DESCRIBED TRACT OF LAND:

LOTS 2, 4 THROUGH 25, 27 THROUGH 30, AND 33 THROUGH 38 IN NORTH TOWN VILLAGE, BEING A SUBDIVISION OF PART OF VARIOUS LOTS, BLOCKS, STREETS AND ALLEYS IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH SURVEY IS ATTACHED AS EXHIBIT "C" TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR NORTH TOWN VILLAGE CONDOMINIUM RECORDED AS DOCUMENT NO. 0010906035, AND AS AMENDED FROM TIME TO TIME, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

Grantor also hereby grants to grantee and its successors and assigns, as rights and easements appurtenant to the above-described real estate, the rights and easements for the benefit of the property set forth in the above-mentioned Declaration, and grantor reserves to itself and its successors and assigns the rights and easements set forth in the Declaration for the benefit of the remaining property described therein.

This Warranty Deed is subject to all rights, easements, restrictions, conditions, covenants, and reservations contained in the Declaration, the same as though the provisions of the Declaration were recited and stipulated at length herein.

### PIN NUMBERS:

17-04-113-083 (Lot 2)  
17-04-113-085 (Lot 4)  
17-04-113-086 (Lot 5)  
17-04-113-087 (Lot 6)  
17-04-113-088 (Lot 7)  
17-04-113-089 (Lot 8)  
17-04-113-090 (Lot 9)  
17-04-113-091 (Lot 10)  
17-04-113-092 (Lot 11)  
17-04-113-093 (Lot 12)  
17-04-113-094 (Lot 13)  
17-04-113-095 (Lot 14)  
17-04-113-096 (Lot 15)  
17-04-113-097 (Lot 16)  
17-04-113-098 (Lot 17)  
17-04-144-001 (Lot 18)  
17-04-144-002 (Lot 19)  
17-04-144-003 (Lot 20)  
17-04-144-004 (Lot 21)  
17-04-144-005 (Lot 22)  
17-04-144-006 (Lot 23)

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17-04-144-007 (Lot 24)  
17-04-144-008 (Lot 25)  
17-04-145-001 (Lot 27)  
17-04-145-002 (Lot 28)  
17-04-145-003 (Lot 29)  
17-04-145-004 (Lot 30)  
17-04-145-007 (Lot 33)  
17-04-145-008 (Lot 34)  
17-04-145-009 (Lot 35)  
17-04-145-010 (Lot 36)  
17-04-145-011 (Lot 37)  
17-04-145-012 (Lot 38)

Property of Cook County Clerk's Office