

# UNOFFICIAL COPY

Doc#: 0735831017 Fee: \$36.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/24/2007 09:44 AM Pg: 1 of 7



Doc#: 0807418041 Fee: \$48.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 03/14/2008 12:33 PM Pg: 1 of 7

## MORTGAGE

**THIS MORTGAGE**, made as of the 31<sup>st</sup> day of August, 2007 from **CHURCH STREET VILLAGE LLC**, an Illinois limited liability company, ("Mortgagor"), to **MARK ORDOWER, AS COLLATERAL TRUSTEE FOR (i) CERTAIN NOTEHOLDERS, (ii) E-TOWN DEVELOPMENT II, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, AND (iii) DANIEL CHEIFETZ**, having an address of 333 S. Desplaines Street, Suite 207, Chicago, Illinois 60661 ("Mortgagee" or "Lender").

**WITNESSETH**, that to secure the payment of indebtedness in the sum of Nine Hundred Thousand Nine Hundred Two (\$900,902) Dollars, lawful money of the United States of America, with interest thereon, to be paid according to a certain Note or Notes made by Cyrus Homes, Inc., a member of Mortgagor ("Cyrus Homes"), with a maturity of all principal and interest not required to be sooner paid of December 31, 2008 (such Notes and any and all Notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the "Note"); and

That to secure payment of indebtedness owed to Daniel Cheifetz ("Cheifetz") in the principal sum of Two Hundred Thousand Dollars (\$200,000), lawful money of the United States of America, with interest thereon, by Cyrus Homes (hereinafter referred to as the "Cheifetz Loan") and to secure payments due to E-Town Development II, LLC ("E-Town II" and, together with the holders of the Notes and Cheifetz, the "Secured Parties"), a member of Mortgagor, under that certain Amended and Restated Operating Agreement of Mortgagor, dated as of October 13, 2006, between E-Town II and Cyrus Homes (the "Operating Agreement").

### This Document Prepared By:

Mark R. Ordower  
333 S. Desplaines Street  
Suite 207  
Chicago, Illinois 60661

RE-RECORD TO ADD PIN # 10-13-222-003

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**NOW, THEREFORE**, to secure the payment of the principal and premium, if any, of and interest on the Note, the Cheifetz Loan and the obligations to E-Town II under the Operating Agreement as and when the same becomes due and payable (whether by lapse of time, acceleration or otherwise), the payment of all other indebtedness, obligations and liabilities which this Mortgage secures pursuant to any of its terms and the observance and performance of all covenants and agreements contained herein (all of such indebtedness, obligations and liabilities being hereinafter collectively referred to as the "indebtedness hereby secured" or "Secured Indebtedness" and all such documents being hereinafter collectively referred to as "Loan Documents"), Mortgagor does hereby grant, sell, convey, mortgage, assign, and pledge unto Mortgagee, as trustee for the Secured Parties, its successors and assigns, and grant to Mortgagee, as trustee for the Secured Parties, its successors and assigns a security interest in all and singular the property described on the attached Exhibit A, referred to herein as the "Mortgaged Property":

The Mortgagor hereby covenants with the Mortgagee as follows:

1. Future Advances. The indebtedness secured by this Mortgage may never exceed Two Million Five Hundred Thousand (\$2,500,000) Dollars.

2. Mortgagee agrees that at the time of each sale of any townhome constituting part of the Mortgaged Property it will release this Mortgage as to the townhome being sold so long as the proceeds from the sale of such townhome remaining after the payment of expenses in connection with such sale and after the payments made from such proceeds to Harris, N.A. and Edward Hines Lumber Co. (or their respective successors and assigns) are applied as follows:

- (i) First, 50% to E-Town II and/or Cheifetz and 50% to the holders of the Notes until such time as Notes have been paid in full; and
- (ii) Second, 50% to E-Town II and/or Cheifetz and 50% to Cyrus Homes.

At such time as the last townhome constituting a part of the Mortgaged Property has been sold, and so long as the proceeds from the sale of townhomes have been applied in accordance with the provisions of this Section, then Mortgagee agrees that it will release this Mortgage in its entirety.

3. Event of Default. The following event shall constitute an event of default ("Event of Default") under this Mortgage:

Mortgagor fails to apply the proceeds from the sale of any townhome in accordance with the provisions of Section 2 of this Mortgage and fails to cure such failure within 10 business days after notice to E-Town II and Cyrus Homes, Inc. at the addresses set forth below to Mortgagor of such failure.

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4. ACCELERATION; REMEDIES. AT ANY TIME AFTER AN EVENT OF DEFAULT (BUT IN NO OTHER EVENTS), LENDER, AT LENDER'S OPTION, MAY DECLARE ALL SUMS SECURED BY THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS TO BE IMMEDIATELY DUE AND PAYABLE WITH OR WITHOUT NOTICE AND MAY FORECLOSE THIS MORTGAGE BY JUDICIAL PROCEEDING. LENDER SHALL BE ENTITLED TO COLLECT IN SUCH PROCEEDING ALL EXPENSES OF FORECLOSURE, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND COSTS INCLUDING APPRAISALS, ENVIRONMENTAL REPORTS AND TITLE REPORTS, ALL OF WHICH SHALL BECOME A PART OF THE SECURED INDEBTEDNESS AND IMMEDIATELY DUE AND PAYABLE, WITH INTEREST AT THE DEFAULT RATE. ALL PROCEEDS FROM THE FORECLOSURE OF THIS MORTGAGE SHALL BE APPLIED IN ACCORDANCE WITH PROVISIONS OF SECTION 2 OF THIS MORTGAGE.

5. Prior Encumbrances. This Mortgage is a junior mortgage subordinate to a mortgage to Harris N.A. ("BANK"), securing a note for \$ \_\_\_\_\_ and a mortgage to Harris N.A. securing a note for \$ \_\_\_\_\_ and a mortgage to Edward Hines Lumber Co. securing a note for \$ \_\_\_\_\_. Mortgagor covenants and agrees to keep the prior mortgages in good standing and also to pay before delinquent all taxes and other impositions on the property that have priority over this Mortgage. Mortgagee shall have the right to satisfy or cure any delinquencies in prior mortgages or other impositions and add the amount of the payments made for such purpose to the balance of the Note secured by this Mortgage, and such additional advances shall be immediately due and payable.

6. Assignment of Leases and Rents. All right, title and interest of Mortgagor in and to those leases, if any, listed on Exhibit B, and all present and future leases affecting the Property, written or oral (collectively "Leases"), and all rents, income, receipts revenues, issues, avails and profits from or arising out of the Property (collectively "Rents") are hereby transferred and assigned to Mortgagee as further security for the payment of the Secured Indebtedness, and Mortgagor hereby grants a security interest to Mortgagee in and to the same. Each Lease shall subordinate to this Mortgage. Mortgagor shall furnish Mortgagee with executed copies of each Lease not later than thirty (30) days after Mortgagee's written demand.

Mortgagee shall have the right to assign Mortgagor's right, title and interest in any Leases to any subsequent holder of this Mortgage or the Note and other Loan Documents or to any person acquiring title to all or any part of the Property through foreclosure or otherwise.

Upon an Event of Default, this Mortgage shall constitute a direction to each lessee under the Leases and each guarantor thereof, if any, to pay all Rents directly to Mortgagee without proof of the Event of Default. All such Rents received by Mortgagee shall be distributed in accordance with the provisions of Section 2 of this Mortgage. Mortgagee shall have the authority, as Mortgagor's attorney-in-fact (such authority being coupled with an interest and irrevocable) to sign the name of Mortgagor and to

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bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property. While this assignment is a present assignment, Mortgagee shall not exercise any of the right or powers conferred upon it by this paragraph until such Event of Default shall occur under this Mortgage, nor shall any such right or power be exercised if a prior mortgagee has exercised a similar right or power under any prior assignment of leases or rents. MORTGAGEE ACKNOWLEDGES THAT THIS ASSIGNMENT IS SUBORDINATE TO A PRIOR ASSIGNMENT OF RENTS IN FAVOR OF BANK AND HINES.

Mortgagee, however, shall not be obligated to perform or discharge any obligation, duty or liability under any Lease. Cyrus Homes shall defend, protect, indemnify and hold Mortgagee harmless from and against any and all liability, loss or damage to Mortgagee under the Leases or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of all alleged obligations or undertakings on its part to perform or discharge any Lease terms, covenants or agreements. The amount of any such liability, loss or damage arising under the Leases or under or by reason of their assignment, or in the defense of any claims or demands, including costs, expenses and reasonable attorneys' fees incurred by Mortgagee shall be a part of the Secured Indebtedness due and payable upon demand with interest thereon accruing thereafter at the Default Rate.

7. Characterization of Distribution. The parties agree that the distributions under Section 2 hereof shall represent the following:

(i) Distributions to E-Town II and to Cheifetz pursuant to Section 2(i) or (ii) shall be made as follows: first to E-Town II until E-Town II shall have received total distributions under Section 2(i) or (ii) in the amount of \$185,814.27 (and shall constitute distributions to E-Town II by the Mortgagor pursuant to Section 2.5.2(i) of the Operating Agreement); then to Cheifetz until the Cheifetz Loan, and all interest thereon, shall have been paid in full (and shall constitute distributions to Cyrus Homes pursuant to Section 2.5.2(ii) and (iii) of the Operating Agreement and used by Cyrus Homes to discharge the Cheifetz Loan), and then to E-Town II (and shall constitute distributions to E-Town II pursuant to Section 2.5.2(iii) of the Operating Agreement).

(ii) Distributions to the holders of the Notes pursuant to Section 2(i) shall constitute distributions to Cyrus Homes pursuant to Section 2.5.2(ii) and (iii) of the Operating Agreement and used by Cyrus Homes to discharge the Notes.


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(iii) Distributions to Cyrus Homes pursuant to Section 2(ii) shall constitute distributions to Cyrus Homes pursuant to Section 2.5.2(ii) and (iii) of the Operating Agreement.

**IN WITNESS WHEREOF**, Mortgagor and Maker have executed this Mortgage as of the day and year first above written.


**CHURCH STREET VILLAGE LLC,**  
an Illinois limited liability company

By: **CYRUS HOMES, INC.,**  
an Illinois corporation, Manager

By: 

Agreed to:

**CYRUS HOMES, INC.,**  
an Illinois corporation, in its individual  
capacity

By: 

Addresses for Notices:

E-Town II  
1020 Church Street  
Evanston, Illinois 60201  
Attention: Daniel Cheifetz

Cyrus Homes, Inc.

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

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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Walter Kian personally known to me to be the President of Cyrus Homes, Inc., Manager of CHURCH STREET VILLAGE LLC, an Illinois limited liability company, appeared before me this day in person and acknowledged that as such officer he signed and delivered the said instrument pursuant to authority, given by the company, as his free and voluntary act and deed of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21 day of December 2007



Robert Michael Callero JF  
Notary Public

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that WALTER KIAN personally known to me to be the President of CYRUS HOMES, INC., an Illinois corporation, appeared before me this day in person and acknowledged that as such officer he signed and delivered the said instrument pursuant to authority, given by the company, as his free and voluntary act and deed of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21 day of December 2007

Mark Ordower  
Notary Public





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## EXHIBIT A

### *Legal description*

THAT PART OF THE SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTH LINE OF THE NORTH 283 FEET OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, 273.94 FEET WEST OF THE EAST BOUNDARY LINE OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, MEASURED ON THE SOUTH LINE OF SAID NORTH 283 FEET OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$ ; THENCE IN A SOUTHERLY DIRECTION IN A STRAIGHT LINE TO A POINT IN THE SOUTH LINE OF SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, 273.94 FEET WEST OF THE SOUTHEAST CORNER OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, THENCE WEST ON THE SOUTH LINE OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, TO THE EAST LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTH WESTERN RAILWAY, THENCE IN A NORTHEASTERLY DIRECTION ON THE SOUTHEASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTH WESTERN RAILWAY TO A POINT IN THE SOUTH LINE OF THE NORTH 283 FEET OF THE SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, WHICH IS 406.39 FEET WEST OF THE EAST LINE OF THE SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, MEASURED ON THE SAID SOUTH LINE OF THE NORTH 283 FEET OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13, AND THENCE EAST ON THE SOUTH LINE OF THE NORTH 283 FEET OF SAID SOUTH EAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION 13 TO THE POINT OF BEGINNING, A DISTANCE OF 132.45 FEET MORE OR LESS, IN COOK COUNTY, ILLINOIS.

PIN # 10-13-222-003

Cook County Clerk's Office