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THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING, PLEASE  
RETURN TO:

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Cook County Recorder of Deeds  
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(Above Space For Recorder's Use Only)

## AFFORDABLE HOUSING RESTRICTIVE COVENANT AND AGREEMENT, INCLUDING RESALE, REFINANCING AND LEASING COVENANTS, CONDITIONS AND RESTRICTIONS, AND PURCHASE OPTION RIGHTS

Date of Restrictive Covenant: August 19, 2011

Address: 235 West Van Buren, Unit #1618, Chicago, Illinois 60607

Attorneys' Title Guaranty Fund, Inc.  
1 S. Wacker Rd., STE 2100  
Chicago, IL 60606  
Title Insurance Department

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## LIST OF EXHIBITS

- Exhibit A      Legal Description of the Land
- Exhibit A-1    Legal Description of Condominium Unit
- Exhibit B      Homeowner's Acknowledgment of Affordability Restrictions
- Exhibit C      Statement of Legal Representation
- Exhibit D      Right of First Refusal
- Exhibit E      Definition of Senior Mortgage and Rights of Senior Lender
- Exhibit F      Subsequent Homeowner Declaration
- Exhibit G      Notice of Intent to Sell
- Exhibit H      Purchase Contract Rider

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**THIS AFFORDABLE HOUSING RESTRICTIVE COVENANT AND AGREEMENT, INCLUDING RESALE, REFINANCING AND LEASING COVENANTS, CONDITIONS AND RESTRICTIONS, AND PURCHASE OPTION RIGHTS ("Restrictive Covenant") is made and entered into this 19<sup>th</sup> day of August, 2011, by and between the CHICAGO COMMUNITY LAND TRUST, an Illinois not-for-profit corporation (the "CCLT") and LISA SHAMES, individually.**

## RECITALS

A. The City Council, by ordinance adopted on March 14, 2007, approved Planned Development #1053 ("PD 1053") for the land located at 235 West Van Buren Street, Chicago, Illinois, which is legally described on Exhibit A attached hereto (the "Property").

B. PD 1053 has enabled 235 West Van Buren Development Corporation, an Illinois corporation (the "Developer"), to develop a mixed-use project, including approximately 714 housing units, on the Property.

C. The Affordable Requirements Ordinance obligates the City to impose certain affordability requirements upon developers who undertake residential development projects that receive City assistance in the form of the sale of City land, financial assistance, or approving certain zoning changes.

D. Pursuant to the Affordable Requirements Ordinance, the Developer agreed to sell the condominium unit legally described on Exhibit A-1 attached hereto (the "Home") for Thirty Three Thousand Four Hundred Fifty Two and No/100 Dollars (\$33,452.00) below its fair market value (the "Purchase Price Write-Down").

E. The Homeowner is on the date hereof purchasing the condominium unit legally described on Exhibit A-1 attached hereto (the "Home") from Developer for the below-market price of One Hundred Forty Six Thousand Five Hundred Forty Eight and No/100 Dollars (\$146,548.00) (the "Contract Price").

F. The Initial Fair Market Value of the Home is One Hundred Eighty Thousand and No/100 Dollars (\$180,000.00).

G. IHDA is providing additional assistance to the Homeowner in the form of a 0% interest, non-amortizing loan in the amount of None [No Subsidy Provided] (the "IHDA Loan").

H. The Contract Price minus the IHDA Loan equals One Hundred Forty Six Thousand Five Hundred Forty Eight and No/100 Dollars (\$146,548.00), which is the initial Subsidized Purchase Price.

I. The Homeowner acknowledges and agrees that, but for the Affordable Requirements Ordinance and the Purchase Price Write-Down it offered, the Homeowner would have been unable to purchase the Home for an affordable price.

J. The City has required the Homeowner to execute this Restrictive Covenant in order to impose the Affordability Restrictions upon the Home and give notice of the Affordability Restrictions to the Homeowner, any subsequent buyer of the Home, and any lender having a mortgage secured by the Home, and to secure the payment obligations set forth in Article 5 and Article 8 hereof and the Homeowner's other obligations under this Restrictive Covenant.

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**NOW, THEREFORE**, in consideration of the Purchase Price Write-Down, the benefits received by the Homeowner as a result of its purchase of the Home, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Homeowner hereby intends, declares and covenants that the following covenants, conditions, rights and restrictions shall run with the land and shall bind the Homeowner and shall inure to the benefit of, and be enforceable by, the CCLT.

## DEFINITIONS

**"Acknowledgment of Affordability Restrictions"** means an acknowledgement in substantially the form of Exhibit B attached hereto, confirming the Homeowner's review and understanding of the terms and conditions of this Restrictive Covenant.

**"Affordability Restrictions"** means the restrictions and requirements related to residency in Section 4.4, construction in Section 7.1, financing in Article 8, resale and transfer in Article 10, and leasing in Article 11.

**"Affordable"** means an amount less than or equal to the price at which monthly homeownership costs (including principal and interest on a 30-year fixed rate residential mortgage in the amount of 95% of the purchase price, taxes, insurance, private mortgage insurance, monthly condominium assessment payments or similar homeowners' association payments and the Covenant Fee) for the Home would total not more than 30% of household income for a household with a family size equal to the product of 1.5 multiplied by the number of bedrooms in the Home whose income is the maximum income allowable to be a Qualified Household.

**"Affordable Requirements Ordinance"** means the ordinance, codified at Chapter 2-44-090 of the Municipal Code of Chicago, which obligates the City to impose certain affordability requirements upon developers who undertake residential development projects that receive City assistance either in the form of the sale of City land at less than fair market value or in the form of financial assistance.

**"AMI"** means the median household income for the Chicago Primary Metropolitan Statistical Area as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development or any successor.

**"CCLT"** means the Chicago Community Land Trust, an Illinois not-for-profit corporation.

**"Certificate of Resale Compliance"** shall have the meaning set forth in Section 10.12.

**"City"** means the City of Chicago, an Illinois municipal corporation, and its successors and assigns.

**"Condominium Association"** means the 235 W. Van Buren Condominiums Association and its successors and assigns.

**"Condominium Instruments"** means the Declaration of Condominium Ownership for 235 W. Van Buren Condominiums, the by-laws of the 235 W. Van Buren Condominiums Association, the plat or plats of survey of the Land, and such other documents and authorized amendments thereto recorded pursuant to the provisions of the Illinois Condominium Property Act, as amended.

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"Contract Price" shall have the meaning set forth in Recital E, and is equal to the Subsidized Purchase Price plus the original principal balance of the IHDA Loan. The Contract Price applicable to any subsequent resale of the Home shall be maintained in the records of the CCLT and furnished to the Homeowner from time to time on request. The records of the CCLT shall be determinative, absent manifest error.

"Covenant Fee" means a monthly Covenant Fee in the amount of Twenty-Five Dollars (\$25.00), subject to increase as provided in Section 5.4.

"Covenant Term" shall have the meaning set forth in Article 3.

"CPI" means the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers for the Chicago metropolitan area (1982/84 = 100).

"Current Fair Market Value" means the fair market value of the Home at the time the Homeowner is selling, refinancing or otherwise transferring the Home (valued as if free of the restrictions imposed by this Restrictive Covenant) established by a qualified appraiser, reasonably acceptable to the CCLT, in accordance with Section 10.5.

"Declaration of Qualified Heir" shall have the meaning set forth in Section 10.3 (d).

"Developer" shall have the meaning set forth in Recital A.

"Home" shall have the meaning set forth in Recital D.

"Homeowner" means Lisa Shames, individually, and any subsequent owner by sale, conveyance or other transfer of any legal or beneficial interest in the Home, and all heirs, successors and assigns of such persons.

"Homeowner's Share of Market Value Appreciation" means the Market Value Appreciation multiplied by twenty five percent (25%).

"IHDA" means the Illinois Housing Development Authority, its successors and assigns.

"IHDA Debt" means the sum of the outstanding principal balance of the note secured by the IHDA Mortgage, plus all future advances, accrued interest and all reasonable costs and expenses which IHDA is entitled to recover pursuant to the terms of the IHDA Mortgage.

"IHDA Loan" shall have the meaning set forth in Recital G.

"IHDA Mortgage" means a recorded mortgage securing the IHDA Loan.

"Initial Fair Market Value" means, as of any determination date, the fair market value of the Home (valued as if free of the restrictions imposed by this Restrictive Covenant) established by a qualified appraiser, reasonably acceptable to the CCLT, in accordance with Section 10.5 at the time the Homeowner is purchasing the Home. Such Initial Fair Market Value shall be maintained in the records of the CCLT and furnished to the Homeowner from time to time on request. The records of the CCLT shall be determinative, absent manifest error.

"Land" means the real property legally described in Exhibit A.

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**"Laws"** means all present and future federal, state and local laws, ordinances, orders, judgments, codes, rules and regulations, and all documents of record, affecting the Home, including, without limitation, any applicable homeowner or condominium association covenants and requirements.

**"Market Value Appreciation"** means the Current Fair Market Value minus the Initial Fair Market Value, but in no event less than Zero Dollars (\$0).

**"Maximum Resale Price"** means the lowest of (a) the Current Fair Market Value, or (b) an amount that is Affordable to a household earning 120% of AMI, or (c) the price calculated in accordance with Section 10.10 below. The Maximum Resale Price does not include normal and customary closing costs.

**"Notice of Intent to Sell"** shall have the meaning set forth in Section 10.4.

**"Notice of Resale Restrictions"** shall have the meaning set forth in Section 10.5.

**"Option Period"** shall have the meaning set forth in Section 10.6.

**"Purchase Contract Rider"** shall have the meaning set forth in Section 10.12.

**"Purchase Price Write-Down"** shall have the meaning set forth in Recital D.

**"Qualified Heir"** means (a) the spouse or "qualified domestic partner" (as defined in Section 2-152-072 of the Municipal Code of Chicago) of the Homeowner; or (b) dependents (as defined by the IRS) of the Homeowner, or, if such Dependents are minors, a trustee or guardian for such minors.

**"Qualified Household"** means a person or group of people whose household income does not exceed one hundred percent (100%) of AMI as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development or any successor; provided that income eligibility shall be increased to 120% of AMI if the Maximum Resale Price is not Affordable to a household at 100% of AMI (as reasonably determined by the CCLT).

**"Self-Disqualifying Heir"** shall have the meaning set forth in Section 10.3(d).

**"Senior Lender"** means the holder of a Senior Mortgage.

**"Senior Mortgage"** has the meaning set forth in Exhibit E.

**"Subsequent Homeowner Declaration"** means a Subsequent Homeowner Declaration in substantially the form attached hereto as Exhibit F.

**"Subsidized Purchase Price"** has the meaning set forth in Recital H, and is equal to the original principal balance of the Senior Mortgage plus the Homeowner's down payment. The Subsidized Purchase Price does not include the Purchase Price Write-Down, the IHDA Loan and other normal and customary out-of-pocket financing and closing costs. The Subsidized Purchase Price applicable to any subsequent resale of the Home shall be maintained in the records of the CCLT and furnished to the Homeowner from time to time on request. The records of the CCLT shall be determinative, absent manifest error.

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"Transfer" shall have the meaning set forth in Section 10.2.

## ARTICLE 1. INCORPORATION OF RECITALS.

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

## ARTICLE 2. PURPOSE OF RESTRICTIVE COVENANT.

The Homeowner understands and agrees that the purpose of this Restrictive Covenant is to expand access to homeownership opportunities for low- and moderate-income households and to preserve the affordability of the Home for the Covenant Term (as defined in Article 3 below). The Homeowner has signed an Acknowledgment of Affordability Restrictions (attached hereto as Exhibit B) and a Statement of Legal Representation (attached hereto as Exhibit C), confirming the Homeowner's review, understanding and acceptance of the terms and conditions of this Restrictive Covenant (in particular, the Affordability Restrictions).

## ARTICLE 3. TERM OF RESTRICTIVE COVENANT.

The term of this Restrictive Covenant is 99 years commencing on the date hereof, unless the CCLT executes and records a notice of termination in the Office of the Recorder of Deeds of Cook County, Illinois, or unless otherwise terminated sooner as provided herein ("Covenant Term").

## ARTICLE 4. USE.

4.1 Residential Use Only. The Homeowner shall use, and shall cause all occupants to use, the Home for residential purposes only, and any incidental activities related to residential use that are permitted by the then-applicable zoning code.

4.2 Maintenance, Responsible Use and Compliance with Law. The Homeowner may not do, or permit others to do, anything in, on or about the Home which would harm others or create a nuisance. The Homeowner shall, at the Homeowner's sole expense, maintain the Home in good, safe and habitable condition in all respects and in full compliance with all applicable Laws. The Homeowner shall also, at the Homeowner's sole expense, maintain the Home in such condition as is required to maintain the insurance coverage required by Section 9.4 of this Restrictive Covenant. The Homeowner shall not commit waste or permit deterioration of the Home, and shall make all repairs and replacements necessary to keep the Home in good condition and repair.

4.3 Responsible for Others. The Homeowner is responsible for the lawful, safe and non-tortious use of the Home by all occupants and their families, friends and visitors, and anyone else using the Home with the Homeowner's consent.

4.4 Principal Residence Requirement. The Homeowner shall occupy the Home for at least nine (9) full months of every twelve (12) consecutive calendar months, unless the CCLT agrees otherwise. The Homeowner shall deliver any certifications or other information as the CCLT may reasonably request to confirm that the Homeowner is using the Home as the Homeowner's principal residence. Occupancy by the Homeowner's dependents shall be considered occupancy by the Homeowner.

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4.5 Inspection. The CCLT and its representatives may inspect the interior of the Home following written notice to the Homeowner of at least three (3) business days, but only (a) upon the occurrence of a material default, and (b) upon resale in accordance with Section 10.6. Notwithstanding the foregoing, in the event of an emergency (as reasonably determined by the CCLT), the CCLT is only obligated to give such notice as is practical under the circumstances.

## ARTICLE 5. COVENANT FEE.

5.1 Amount of Covenant Fee. The Homeowner shall pay to the CCLT a monthly Covenant Fee in the amount of Twenty-Five Dollars (\$25.00), subject to increase as provided below (the "Covenant Fee").

5.2 Payment of Covenant Fee. The Covenant Fee shall be payable, without notice, demand or setoff, to (a) the CCLT at the address specified in Section 14.1 below or at such other place as the CCLT may later designate in writing, on or before the first day of each month, (b) the CCLT via direct debit payment, or (c) Senior Lender to be placed in escrow, in which case payment shall be made as specified by the Senior Lender. If the Restrictive Covenant commences on a day other than the first of the month, the Homeowner shall pay a pro-rata portion of the Covenant Fee for the balance of the month on the date the first mortgage payment is due. If the Homeowner fails to pay the Covenant Fee within ten (10) days after such amount is due, such overdue amount shall bear interest at the rate of five percent (5%) per year from the date due through the date paid. If any amount of the Covenant Fee remains unpaid at the time the Homeowner wishes to sell the Home, the Homeowner shall pay such amount plus interest to the CCLT from the proceeds of such sale, as a condition precedent to any sale.

5.3 Reduction, Delay or Waiver of Covenant Fee. The CCLT may reduce, delay or waive entirely the Covenant Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for the Homeowner. Any such reduction, delay, or waiver must be in writing and signed by the CCLT before being effective.

5.4 Increasing Covenant Fee. In order to keep the Covenant Fee reasonably current, the CCLT may adjust such fee in each year ending in "5" or "0" by the lesser of (a) 25% of the then-applicable Covenant Fee, or (b) any increase over the previous five (5) years of the CPI, or some comparable index selected by the CCLT in its reasonable discretion if this index no longer exists. The CCLT shall give the Homeowner written notice of the new annual amount at least thirty (30) days prior to the effective date of such adjustment.

## ARTICLE 6. TAXES, ASSESSMENTS AND UTILITIES.

6.1 Taxes, Assessments and Utilities. The Homeowner shall pay when due all taxes, condominium or homeowners' association assessments, governmental assessments and charges of every kind against the Home. The Homeowner shall also pay, when due, all other service bills and utility charges that relate to the Home, including, without limitation, all charges for water, sewer, heat, air conditioning, gas, light, garbage, electricity, telephone service, power, and all other public and private services and utilities.

6.2 Homeowner's Right to Contest. The Homeowner may, in good faith and with reasonable diligence, contest the amount or validity of any taxes relating to the Home if, during any such contest, the enforcement of the lien of such taxes is stayed.



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6.3 Payments in Event of Delinquency. If the Homeowner fails to pay the taxes or other amounts specified in this Article 6 when due, then the CCLT, in addition to any other right or remedy, may pay such amounts and the Homeowner shall, within ten (10) business days after written demand, reimburse the CCLT for such payment and for reasonable expenses caused thereby.

6.4 Proof of Compliance. Within ten (10) business days after written request of the CCLT from time to time, but no more than once annually (unless the Homeowner is in default under this Restrictive Covenant), the Homeowner shall provide evidence of payment satisfactory to the CCLT of all amounts owed by the Homeowner under this Article 6.

## ARTICLE 7. ALTERATIONS.

7.1 Construction and Alteration. Any post-purchase construction in, about or to the Home requiring issuance of a permit is subject to the following conditions: (a) all costs shall be borne and paid for by the Homeowner; (b) all construction shall be performed in a good and workmanlike manner and shall comply with all applicable Laws, including the Condominium Instruments; (c) all construction shall be consistent with the permitted uses set forth in Article 4; (d) Homeowner shall furnish to the CCLT a copy of architectural drawings showing the dimensions of the improvement and copies of all permits and governmental approvals necessary for such construction prior to commencing construction; and (e) such construction shall not commence without the prior written consent of the CCLT. The value of any post-purchase construction conducted in violation of this Section 7.1 will be deducted from the appraisal used to determine the Current Fair Market Value under Section 10.5 below.

7.2 Prohibited Liens. If any mechanic's, laborer's, materialman's or statutory lien is filed against the Home, the Homeowner shall cause the lien to be discharged of record within sixty (60) days thereafter by payment, deposit, bond, order of a court of competent jurisdiction or as otherwise permitted by law. If the Homeowner fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, the CCLT may, but shall not be obligated to, pay any sums secured by the lien and the Homeowner shall, within ten (10) business days after written demand, reimburse the CCLT for such payment and for reasonable expenses caused thereby. The Homeowner may, at the Homeowner's sole expense, contest the validity of any lien against the Home if the Homeowner posts a bond in the amount of, or provides title insurance over, the contested lien, and diligently prosecutes the contested lien and causes the removal of the same. The Homeowner agrees to indemnify, defend and hold the CCLT harmless from and against any liens arising out of any construction or other work on the Home.

## ARTICLE 8. RESTRICTIONS ON FINANCING.

8.1 CCLT's Consent Required to Mortgage and Refinance. The Homeowner may not mortgage, refinance or in any other manner encumber any of its interest in the Home without the prior written consent of the CCLT, which shall be in the CCLT's sole and absolute discretion, with the exception of a Senior Mortgage and the IHDA Mortgage. If the Homeowner wishes to refinance its Senior Mortgage, or sell the Home, the Homeowner (or the prospective buyer) must give the CCLT copies of every document to be recorded in connection with the refinancing or sale in advance of the closing. **THESE RESTRICTIONS MAY PROHIBIT THE HOMEOWNER FROM GETTING ADDITIONAL LOANS THAT USE THE HOME AS COLLATERAL, INCLUDING, WITHOUT LIMITATION, LOANS TO REPAY CREDIT CARD DEBT, LOANS TO PURCHASE AUTOMOBILES, HOME EQUITY LOANS, DEBT**

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**CONSOLIDATION LOANS OR LOANS TO FINANCE THE PURCHASE OF OTHER PERSONAL PROPERTY.** The Homeowner acknowledges and agrees that the requirements of this Section 8.1 are necessary to ensure the continued affordability of the Home to the Homeowner and to minimize the risk of loss of the Home through default and foreclosure. The Homeowner shall pay to the CCLT, at the CCLT's option, all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the CCLT in connection with approving any mortgage or refinancing. Any lien purported to be granted by the Homeowner to any party that is done in violation of this Section 8.1 shall be absolutely void.

**8.2 Rights of Senior Lender.** Any Senior Lender shall have the rights set forth in Exhibit E attached hereto, and any Senior Mortgage shall be subject to the provisions of such Exhibit E.

**8.3 Removal of Certain Provisions Pursuant to Foreclosure.** In the event of a transfer of title to the Home through foreclosure or recording of a deed in lieu of foreclosure to the Senior Lender in accordance with the provisions of this Restrictive Covenant, the Affordability Restrictions shall be released and thereupon shall have no further force or effect, provided that (a) the Senior Lender has given written notice to the CCLT in accordance with Exhibit E of a default under the Senior Mortgage, (b) the CCLT has not cured the default under the Senior Mortgage in accordance with Exhibit E; (c) the Senior Lender has given the CCLT the opportunity to acquire the Home in accordance with Exhibit E; and (d) if the CCLT does not acquire the Home, any proceeds from any subsequent sale of the Home by the Senior Lender or an affiliate of the Senior Lender, in excess of all sums secured by the Senior Mortgage, if any, which the CCLT is entitled to receive pursuant to Section 8.4 below are paid to the CCLT. Any person (including the transferees, assignees or successors of the Senior Lender) receiving title to the Home through a foreclosure or deed in lieu of foreclosure of the Senior Mortgage shall receive title to the Home free and clear of such restrictions. Notwithstanding the foregoing, if the Condominium Association acquires an interest in the Home through foreclosure or subsequent to foreclosure or sale in lieu of foreclosure, then all such Affordability Restrictions shall be revived according to the original terms.

**8.4 CCLT's Right to Proceeds in Excess of Maximum Resale Price.** The Homeowner agrees that any payment to the Homeowner in excess of the Maximum Resale Price in the event of foreclosure or sale in lieu of foreclosure would undermine the affordability goals of this Restrictive Covenant. Accordingly, in the event of foreclosure or sale in lieu of foreclosure, the CCLT shall calculate the Maximum Resale Price in accordance with Section 10.10 below and Senior Lender or IHDA shall apply the sale proceeds as follows:

- (a) first, to the Senior Lender, to pay all sums secured by the Senior Mortgage;
- (b) second, to IHDA, to pay all sums secured by the IHDA Mortgage, if any;
- (c) third, to the City to recapture the Purchase Price Write-Down;
- (d) fourth, to any junior lender approved pursuant to Section 8.1 above, in order of lien priority, to pay all sums owing to such approved junior lenders;
- (e) fifth, to the Condominium Association for the lien of any overdue condominium assessments;

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(f) sixth, to the Homeowner, to pay the difference between the Maximum Resale Price at the time of foreclosure or sale in lieu of foreclosure and any amounts owing as set forth above; and

(g) seventh, the balance to the CCLT.

The Homeowner hereby irrevocably assigns to the CCLT the Homeowner's rights to any net proceeds of sale of the Home in excess of the Maximum Resale Price (after payment of all amounts set forth above), and authorizes and instructs the Senior Lender, IHDA or any party conducting any sale to pay the amount of said excess proceeds directly to the CCLT. If, for any reason, such excess proceeds are paid to the Homeowner, the Homeowner hereby agrees to pay the amount of such excess proceeds to the CCLT within seven (7) days of receipt of such proceeds. The Homeowner's payment obligations set forth in this Article 8 shall survive the expiration or termination of this Restrictive Covenant.

**8.5 Amendments Subject to Approval by Senior Lender.** Any amendments to this Restrictive Covenant shall be subject to the written approval of the Senior Lender, which approval shall not be unreasonably withheld or delayed, and which shall be deemed given if the Senior Lender does not respond in writing within thirty (30) days after receipt of such a request. Notwithstanding the foregoing, the Senior Lender's approval under this Section 8.5 shall not be required for adjustments in the Covenant Fee pursuant to Section 5.3.

**8.6 Mortgage Payments.** The Homeowner shall pay, when due, monthly principal and interest payments, and any other sums owing under the Senior Mortgage, the IHDA Mortgage and any other mortgage secured by the Home, and shall further perform and observe all other material obligations, terms and provisions under such mortgages. If the Homeowner receives a notice of default under any mortgage secured by the Home, the Homeowner shall notify the CCLT of such default within three (3) business days after receipt of such notice.

## **ARTICLE 9. LIABILITY, INSURANCE, DAMAGE, EMINENT DOMAIN.**

**9.1 Homeowner's Liability.** The Homeowner assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy and use of the Home. The CCLT shall not be liable to the Homeowner or any third party for any losses, costs, damages, harms, claims or lawsuits connected with the Home.

**9.2 Indemnification of CCLT and City.** The Homeowner shall, and does hereby, indemnify, protect, defend and hold harmless the CCLT and the City, and the CCLT's and the City's agents, employees, officers, successors, designees and assigns, from and against any and all claims, damages, liabilities, obligations, losses, causes of action, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs) arising directly or indirectly from: (a) the Homeowner's use of the Home, or any activity, work or other things done, permitted or suffered by the Homeowner in, on or about the Home; (b) the Homeowner's breach of this Restrictive Covenant or violation of any applicable Laws; (c) any act or omission of the Homeowner, or any guest or invitee of the Homeowner, or anyone claiming by, through or under the Homeowner; or (d) any cause in, on or about the Home. The Homeowner hereby assumes all risk of damage to property or injury to persons in, on or about the Home, from any cause, and the Homeowner hereby waives all claims in respect thereof against the CCLT, the City, and the CCLT's and/or the City's respective agents, employees, officers, successors, designees and assigns. This Section 9.2 shall survive the expiration or termination of this Restrictive Covenant.

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9.3 Payment by CCLT. If the CCLT pays any sum that is the Homeowner's responsibility or liability under this Restrictive Covenant, the Homeowner shall, within ten (10) business days after written demand, reimburse the CCLT for such payment and for reasonable expenses caused thereby.

9.4 Insurance. The Homeowner shall, at the Homeowner's sole expense, keep the interior of the Home (i.e., interior walls, flooring, carpeting, appliances, built-in cabinets, shelves, and any other installations or additions which are the Homeowner's insurance responsibility under the Condominium Instruments) continuously insured against loss or damage by fire and the extended coverage hazards for its full replacement value. The Homeowner shall keep the Home continuously insured throughout the Covenant Term in such amounts and against such risks and liabilities as the Senior Lender requires, or, if there is no Senior Lender, in such amounts and against such risks and liabilities as the CCLT may reasonably require, provided that such insurance shall specifically insure the Homeowner against all liability assumed under this Restrictive Covenant and imposed by law. All insurance policies shall name the CCLT and the City as additional insureds and loss payee, and shall also contain endorsements providing that they shall not be canceled, reduced in amount of coverage or otherwise modified in any material respect, without prior written notice to the CCLT of at least thirty (30) days. At the CCLT's request, the Homeowner shall provide copies of all policies and renewals of policies or other evidence of insurance. Subject to the rights of any Senior Lender and IHDA, the CCLT shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance. The Homeowner shall pay the insurance premiums as they become due, and shall comply with all insurance requirements at any time in force; provided, however, the Homeowner's compliance, in whole or in part, with this Section 9.4 shall not be deemed to limit, in any way or to any extent, the liabilities or obligations of the Homeowner to the CCLT under the terms of this Restrictive Covenant. If the Homeowner fails to maintain the insurance coverage described in this Section 9.4, the CCLT may obtain such coverage, and the Homeowner shall, within ten (10) business days after written demand, reimburse the CCLT for such cost and for reasonable expenses caused thereby. Notwithstanding anything herein to the contrary, Homeowner shall be deemed to have satisfied its obligation to make the insurance payments required by this Article 9 and tax payments required by Article 6 so long as it is making such payments through an escrow established by the Senior Lender for such purposes, in which case the Homeowner shall provide the CCLT copies of any annual escrow accounting provided to the Homeowner by the Senior Lender promptly upon the CCLT's written request.

9.5 Damage and Destruction.

(a) Obligation to Restore. Except as provided in subsection (b) below, if the Home is damaged by fire or any other cause, the Homeowner shall immediately give written notice to the CCLT, and the Homeowner shall promptly repair or restore the Home, as nearly as practicable, to its condition immediately prior to the damage and this Restrictive Covenant shall remain in full force and effect. The Homeowner shall also promptly and with due diligence take all steps necessary to ensure that the Home does not constitute a danger to people or property.

(b) Termination of Restrictive Covenant and Distribution of Insurance Proceeds. If repair or restoration is not economically feasible, or is otherwise prohibited under the Senior Mortgage, IHDA Mortgage or Condominium Instruments, then the Homeowner may terminate this Restrictive Covenant by delivering written notice to the CCLT within sixty (60) days after the date of the damage. Subject to the terms of the

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Senior Mortgage and IHDA Mortgage, any insurance proceeds shall be applied in the order provided for in Section 8.4, with the Maximum Resale Price determined as of the date immediately before the damage in accordance with Section 10.10.

## 9.6 Eminent Domain.

(a) Obligation to Restore. Except as provided in subsection (b) below, in the event of any taking under the power of eminent domain, or conveyance in lieu of condemnation, the Homeowner shall promptly apply the proceeds of any such taking to the repair or restoration of the Home, as nearly as practicable, to its condition immediately prior to the taking and this Restrictive Covenant shall remain in full force and effect.

(b) Termination of Restrictive Covenant and Distribution of Condemnation Award. In the event of a total taking (or partial taking, if repair or restoration is not economically feasible or is otherwise prohibited under the Senior Mortgage, IHDA Mortgage or Condominium Instruments), the Restrictive Covenant shall terminate as of the date the Homeowner is required to give up possession of the Home. Subject to the terms of the Senior Mortgage and IHDA Mortgage, any condemnation award shall be applied in the order provided for in Section 8.4, with the Maximum Resale Price determined as of the date immediately before the taking in accordance with Section 10.10.

## ARTICLE 10. RESALE AND TRANSFER RESTRICTIONS.

10.1 Intent. The CCLT and the Homeowner agree that the terms of this Restrictive Covenant, and in particular this Article 10, are intended to preserve the affordability of the Home for low- and moderate-income households and to expand access to homeownership opportunities for such households. Homeowner acknowledges that but for the Affordability Restrictions, the City would have been unwilling to provide financial assistance to the Developer (thereby enabling the Homeowner to buy the Home for a price materially below its fair market value). Accordingly, the parties believe, acknowledge and agree that the restraints on alienation contained in this Restrictive Covenant are reasonable under the circumstances of the transaction and the public policy of the City of Chicago, State of Illinois and the United States.

10.2 Resale to Qualified Household at Restricted Price. Except as provided in Section 10.3 below, the Homeowner may not sell or otherwise directly or indirectly transfer any interest in the Home, except (a) to the CCLT (or its assignee) or a Qualified Household pursuant to the procedures set forth in this Article 10, (b) for an amount equal to or less than the Maximum Resale Price, and provided that (c) the buyer (excluding the CCLT) signs a Subsequent Homeowner Declaration in substantially the form attached hereto as Exhibit F. Any other purported transfer shall be null and void and confer no right, title or interest whatsoever upon the purported transferee. As used herein, the term "transfer" means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Home, including, without limitation, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, a contract for sale, or a deed of trust.

10.3 Exceptions to Transfer Restrictions. The following transfers shall not be subject to this Article 10:

- (a) a transfer to a Senior Lender or IHDA in accordance with Article 8; or

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(b) a transfer to a spouse or "qualified domestic partner" (as defined in Section 2-152-072 of the Municipal Code of Chicago) of the Homeowner where the spouse or domestic partner becomes the owner or co-owner of the Home, or into an inter vivos trust in which the Homeowner is the beneficiary, provided the Homeowner shall provide written notice of all such transfers to the CCLT, and the Homeowner shall continue to occupy the Home as his or her principal place of residence; or

(c) a transfer between spouses as part of a marriage dissolution proceeding, provided the transferee shall occupy the Home as his or her principal residence and sign a Subsequent Homeowner Declaration; or

(d) a transfer to a Qualified Heir by devise, bequest or the laws of intestacy following the death of the Homeowner, provided the Qualified Heir shall occupy the Home as his or her principal place of residence and sign a declaration agreeing to be bound by the Restrictive Covenant ("Declaration of Qualified Heir"). Any other heirs, legatees or devisees of the Homeowner must, in addition to signing a Declaration of Qualified Heir, demonstrate to the CCLT's reasonable satisfaction that he or she is a Qualified Household, or, if unable to do so, must transfer the Home pursuant to the procedures set forth in this Article 10. If there is more than one heir or devisee, all heirs or devisees shall be deemed qualified if any one is a Qualified Heir and such Qualified Heir intends to occupy the Home as his or her principal place of residence. Within thirty (30) days after the Homeowner's death, the administrator of the Homeowner's estate or any person inheriting the Home must give written notice to the CCLT of the death. Within sixty (60) days after the CCLT's written request, any person inheriting the Home must provide the CCLT with documentation of his or her relationship to the Homeowner, and, if necessary, evidence of income-eligibility. If the heirs fail to provide this documentation, they shall be deemed non-qualifying, and must transfer the Home pursuant to the procedures set forth in this Article 10. Such non-qualifying heirs may own and occupy the Home for up to twelve (12) months prior to providing a Notice of Intent to Sell to the CCLT pursuant to Section 10.4 below.

In the case of multiple heirs or devisees, if any heir or devisee is unwilling to sign a Declaration of Qualified Heir (a "Self-Disqualifying Heir"), the CCLT shall waive such requirement if such Self-Disqualifying Heir executes and delivers to the CCLT a quit claim deed in blank conveying his or her right, title and interest in the Home. The CCLT shall complete such deed with the names of all heirs or devisees that actually execute and deliver to the CCLT a Declaration of Qualified Heir. Notwithstanding anything apparently to the contrary in this Lease, a Qualified Heir may pay a Self-Disqualifying Heir to relinquish his or her interest in the Land and the Home, but any such payment shall not increase the Maximum Resale Price due the Qualified Heir upon ultimate disposition of his or her interest in the Home.

**10.4 Homeowner's Notice of Intent to Sell.** If the Homeowner wishes to sell the Home, the Homeowner must give the CCLT written notice in substantially the form attached hereto as Exhibit G ("Notice of Intent to Sell") at least one hundred twenty (120) days before the anticipated conveyance date. The Homeowner may not hire a real estate agent or broker, or list the Home for sale with a multiple listing service or otherwise advertise the Home for sale, unless or until the CCLT has waived its purchase option in accordance with Section 10.6 below. Any contract, transfer, conveyance or assignment granted or purported to be granted without compliance with the foregoing shall be absolutely void and shall pass no title or equitable

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interest in the Home. The Homeowner may withdraw its Notice of Intent to Sell in writing any time before the CCLT exercises its purchase option.

**10.5 Appraisal.** Within ten (10) business days after the CCLT's receipt of the Notice of Intent to Sell, the CCLT shall commission an appraisal of the Home to determine its Current Fair Market Value. The Homeowner shall pay the cost of the appraisal from the closing proceeds, or, if the Homeowner withdraws its Notice of Intent to Sell, upon the CCLT's request. The appraiser shall deliver a copy of the appraisal to both parties. Within ten (10) business days after the CCLT's receipt of the appraisal, the CCLT shall deliver to the Homeowner a notice specifying the Maximum Resale Price based upon this figure and the maximum qualifying income for a Qualified Household ("Notice of Resale Restrictions"). This same procedure shall apply in the event of any refinancing, foreclosure, sale in lieu of foreclosure, or termination of the Restrictive Covenant, except that, in the event of any refinancing, the Homeowner is responsible, at its sole expense, for obtaining an appraisal of the Current Fair Market Value from a qualified appraiser approved in advance by the CCLT.

**10.6 CCLT's Purchase Option.** The CCLT shall have the option to purchase the Home for the Maximum Resale Price in the event of any sale or other transfer of the Home. The CCLT must exercise or waive its purchase option by delivering written notice to the Homeowner within thirty (30) days after the CCLT's receipt of the appraisal (the "Option Period"). The CCLT may either purchase the Home directly or assign its purchase option to a Qualified Household. In order to decide whether to exercise the purchase option, the CCLT (or its assignee) may inspect the Home within the Option Period. The CCLT (or its assignee) must complete the purchase of the Home within (a) sixty (60) days after the expiration of the Option Period, or (b) one hundred twenty (120) days after the CCLT's receipt of the Notice of Intent to Sell, whichever is later (or a later date if the parties agree in writing), in which event the Homeowner shall convey good and marketable title to the Home to the CCLT (or its assignee) by warranty deed in accordance with the terms of a residential real estate contract reasonably acceptable to the CCLT and the Homeowner.

**10.7 Resale Fee.** If the CCLT exercises its purchase option, the Homeowner shall pay to the CCLT, from the closing proceeds of any sale, a fee in the amount of 3% of the Base Price (calculated in accordance with Section 10.10 below) for the CCLT's costs and expenses of selling the Home to a Qualified Household.

**10.8 Waiver of Purchase Option.** If the CCLT does not exercise its purchase option, or if, for reasons other than Homeowner delay, the CCLT (or its assignee) fails to complete the purchase of the Home within the time period allowed under Section 10.6 above, the Homeowner may request, and the CCLT shall issue, a certificate in recordable form stating that the CCLT has waived its purchase option and that the Homeowner may sell the Home to any Qualified Household for not more than the then-applicable Maximum Resale Price.

**10.9 Revival of Purchase Option.** If a sale of the Home does not occur within one (1) year after the expiration of the Option Period, then the CCLT's purchase option shall be reinstated and the CCLT shall again have all of the purchase rights as to such sale or transfer as stated above. In such event, the CCLT must exercise or waive its purchase option by delivering written notice to the Homeowner within thirty (30) days after such one-year period.

**10.10 Calculation of Maximum Resale Price.** The Maximum Resale Price shall mean the lower of (a) the Current Fair Market Value, or (b) an amount that is Affordable to a household earning 120% of AML, or (c) the price calculated as follows:

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**Step 1: Establish Market Value Appreciation of Home**

$$\begin{aligned} & \text{Current Fair Market Value} \\ - & \text{Initial Fair Market Value} \\ = & \text{Market Value Appreciation} \end{aligned}$$

**Step 2: Calculate Homeowner's Share of Market Value Appreciation**

$$\begin{aligned} & \text{Market Value Appreciation} \\ \times & \text{25\%} \\ = & \text{Homeowner's Share of Market Value Appreciation} \end{aligned}$$

**Step 3: Calculate Base Price**

$$\begin{aligned} & \text{Homeowner's Share of Market Value Appreciation} \\ + & \text{IFDA Debt (if any) Due Upon Resale} \\ + & \text{Subsidized Purchase Price} \\ = & \text{Base Price} \end{aligned}$$

**Step 4: Calculate Maximum Resale Price**

$$\begin{aligned} & \text{Base Price} \\ + & \text{Resale Fee (3\% of Base Price if CCLT exercises purchase option)} \\ = & \text{Maximum Resale Price**} \end{aligned}$$

\*\* = The Maximum Resale Price will equal the Base Price if the CCLT does not exercise its purchase option. In other words, the Homeowner is not obligated to pay a Resale Fee unless the CCLT purchases the Home from the Homeowner (or assigns its right to purchase the Home to a Qualified Household) pursuant to this Article 10. The Maximum Resale Price does not include normal and customary closing costs.

10.11 No Guarantee of Maximum Resale Price. Nothing in this Restrictive Covenant constitutes a promise or guarantee by the CCLT that the Homeowner will be able to resell the Home for the Maximum Resale Price or any other price.

10.12 Approval of Transfer. If the CCLT does not exercise its purchase option in accordance with Section 10.6 above, the Homeowner may sell the Home to a Qualified Household for a price not to exceed the Maximum Resale Price, but no closing may occur, and no sale or other transfer of the Home shall be valid, until the CCLT has verified in writing that such transfer is a permitted transfer. If the Homeowner wishes to enter into a purchase contract, the Homeowner shall attach to the contract a rider in substantially the form of Exhibit H attached hereto (the "Purchase Contract Rider"), stating that the sale is subject to the CCLT's verification that the prospective buyer is income-qualified and the purchase price does not exceed the Maximum Resale Price. The Homeowner shall also distribute to any prospective buyer an Acknowledgement of Affordability Restrictions and such other information and disclosure documents as the CCLT may request. In order to determine whether a prospective buyer is income-qualified, the Homeowner shall deliver to the CCLT any information reasonably required by the CCLT to determine a prospective buyer's income eligibility. Within ten (10) business days after receipt of all required buyer information, the CCLT shall deliver to the



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Homeowner either (a) a certificate in recordable form certifying that (i) the prospective buyer of the Home is a Qualified Household, and (ii) the proposed purchase price does not exceed the Maximum Resale Price ("Certificate of Resale Compliance"), or (b) if the CCLT determines that a proposed sale does not comply with the requirements of this Restrictive Covenant, a notice of noncompliance, stating in reasonable detail the reasons for the finding of noncompliance. The Homeowner, any good faith buyer of the Home, any title company and any lender providing purchase money financing may rely upon the Certificate of Resale Compliance, and may record the certificate in connection with the transfer of the Home. If the proposed sale does not occur within six (6) months after the date the CCLT issues the Certificate of Resale Compliance, the CCLT's approval rights under this Section 10.12 shall be reinstated.

**10.13 REASONABLE RESTRAINT ON ALIENATION. THE HOMEOWNER ACKNOWLEDGES AND AGREES THAT TO THE EXTENT ANYTHING IN THIS ARTICLE 10 OR ANY OTHER PROVISION IN THIS RESTRICTIVE COVENANT 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 PRESERVING AFFORDABLE HOUSING, (D) SHOULD BE ENFORCED AS WRITTEN, AND (E) WAS A MATERIAL INDUCEMENT TO THE CITY'S INITIAL DECISION TO PROVIDE FINANCIAL ASSISTANCE TO THE DEVELOPER, WHICH ENABLED THE HOMEOWNER TO BUY THE HOME FOR A PRICE MATERIALLY BELOW ITS FAIR MARKET VALUE. THE HOMEOWNER, THEREFORE, KNOWINGLY AND VOLUNTARILY, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO RAISE ANY DEFENSE TO THE ENFORCEMENT OF THE COVENANTS, CONDITIONS, RIGHTS AND RESTRICTIONS CONTAINED HEREIN, WHETHER AT LAW OR IN EQUITY.**

## **ARTICLE 11. LEASING PROHIBITED.**

The Homeowner may not lease the Home without the CCLT's prior written consent, which shall be in the CCLT's sole and absolute discretion. Any rents, profits, or proceeds from any prohibited lease or other occupancy agreement shall be paid to and be the property of the CCLT.

## **ARTICLE 12. DEFAULT.**

**12.1 Monetary Default by Homeowner.** It shall be an "Event of Default" if the Homeowner fails to pay any amount due under this Restrictive Covenant, when due, and such failure is not cured by the Homeowner within thirty (30) days after written notice of default from the CCLT.

**12.2 Non-Monetary Default by Homeowner.** Each of the following events shall constitute an "Event of Default" under this Restrictive Covenant:

(a) The Homeowner violates any of the Affordability Restrictions set forth in Section 4.4 (residency), Section 7.1 (construction), Article 8 (financing), Article 10 (resale and transfer), and Article 11 (leasing), and, for any violation that can be cured, such violation is not cured within thirty (30) days after written notice of default from the CCLT.

(b) The Homeowner fails to maintain the Home in compliance with Section 4.2 and such failure continues for a period of sixty (60) days after written notice of

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default from the CCLT; provided, however, if such default constitutes an emergency condition (in the CCLT's reasonable judgment), the CCLT shall only be obligated to give such notice and opportunity to cure as is practical (in the CCLT's reasonable judgment) under the circumstances.

(c) There is a default under the Senior Mortgage, IHDA Mortgage or other financing secured by the Home, and such default continues beyond all applicable cure periods and permits foreclosure thereunder.

(d) The Homeowner fails to observe or perform any other material term in this Restrictive Covenant, and such failure continues for a period of sixty (60) days after written notice of default from the CCLT, or such longer period as shall be reasonably necessary to cure the default, so long as the Homeowner promptly commences to cure the default and proceeds diligently to complete the cure; provided, however, if such default constitutes an emergency condition (in the CCLT's reasonable judgment), the CCLT shall only be obligated to give such notice and opportunity to cure as is practical (in the CCLT's reasonable judgment) under the circumstances.

(e) The Homeowner is judicially declared bankrupt or insolvent according to law, or a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of the Homeowner's property by a court of competent jurisdiction, or the Homeowner files a voluntary petition for relief or a petition against the Homeowner in a proceeding under the federal bankruptcy laws or other insolvency laws is filed and not withdrawn or dismissed within forty-five (45) days thereafter.

(f) The Homeowner or any persons or entities acting at the direction of the Homeowner or with the Homeowner's knowledge or consent gave or shall give materially false, misleading, or inaccurate information or statements to the CCLT (or failed or shall fail to provide the CCLT with material information) in connection with the purchase of the Home, a subsequent disposition of the Home or the execution of this Restrictive Covenant (or Subsequent Homeowner Declaration) or the Homeowner's obligations under this Restrictive Covenant.

**12.3 CCLT's Remedies.** If an Event of Default occurs, the CCLT shall have, in addition to all other rights and remedies provided in this Restrictive Covenant, at law or in equity, the right, at the CCLT's option, without further notice or demand of any kind, to do the following:

(a) cure the default and charge the cost thereof to the Homeowner, which amount shall then be payable within ten (10) business days after written demand;

(b) seek injunctive relief to prevent or remedy any threatened or actual violation or to recover damages, or both;

(c) seek specific performance;

(d) rescind or have declared void any sale or transfer that violates this Restrictive Covenant, or recoup any funds from any such sale or transfer;

(e) void any rental arrangement that violates this Restrictive Covenant; and

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(f) subject to the rights of the Senior Lender and IHDA, and upon application to a court of competent jurisdiction, appoint a receiver to take possession of the Home.

The Homeowner hereby mortgages, grants and conveys to the CCLT a lien upon the Home to secure the payment of any amounts due under this Restrictive Covenant, which lien may be either foreclosed in the same manner as a mortgage lien or enforced in equity.

12.4 Default by the CCLT. The CCLT shall in no event be in default in the performance of any of its obligations under the Restrictive Covenant unless and until the CCLT has failed to perform such obligations within thirty (30) days after written notice from the Homeowner to the CCLT properly specifying the CCLT's failure to perform any such obligation, or such longer period as shall be reasonably necessary to cure such default, provided the CCLT promptly commences to cure said default and proceeds diligently thereafter to complete such cure.

12.5 Remedies Cumulative. No right, power or remedy herein or otherwise conferred upon or reserved to the CCLT 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.

## ARTICLE 13. MEDIATION AND ARBITRATION.

13.1 Mediation. If any dispute arises between the CCLT and the Homeowner concerning the terms of this Restrictive Covenant that cannot be resolved by the parties (excepting emergency situations as determined by the CCLT), either party may institute mediation proceedings under the auspices of a mutually agreed mediator (or, if the parties are unable to agree, the American Arbitration Association pursuant to its mediation rules and procedures). The mediation shall be held and completed within thirty (30) days after a party's request, and the CCLT and the Homeowner must participate in such proceedings in good faith. If the matter remains wholly or partially unresolved by mediation, the parties shall resolve the dispute by arbitration pursuant to the fast-track procedures under the then-existing rules of the American Arbitration Association, except that any dispute relating to the legal validity of any provision of this Restrictive Covenant is specifically excluded from this Article 13 and shall be subject to judicial resolution.

13.2 Arbitration. In the event arbitration is necessary, either party may give written notice to the other of its selection of a disinterested arbitrator. Within ten (10) business days after the receipt of this written notice, the other party may, by written notice to the initiating party, appoint a disinterested arbitrator of its own choice. These two arbitrators shall select a third arbitrator. If the other party fails to name an arbitrator within ten (10) business days after receiving notice from the initiating party, the arbitrator selected by the initiating party shall be the sole arbitrator. The arbitrator (or arbitrators) shall hold a hearing within thirty (30) days after the initiating party's written notice. At the hearing, the CCLT and the Homeowner may present evidence and question witnesses in the presence of each other. Within thirty (30) days after the hearing, the arbitration panel (or sole arbitrator) shall make a written report to the CCLT and the Homeowner of its findings and decisions, including a personal statement by each arbitrator of his/her decision and the reasons for it. The arbitration panel (or sole arbitrator) shall decide the dispute in accordance with the substantive law of the jurisdiction and what is just and equitable under the circumstances. The decisions and awards of the majority of the arbitration panel (or sole arbitrator) shall be binding and final. The prevailing party shall be entitled to all costs

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reasonably incurred (including reasonable attorneys' fees) in connection with any arbitration proceedings.

## ARTICLE 14. GENERAL PROVISIONS.

14.1 Notices. All notices given by the CCLT and the Homeowner in connection with this Restrictive Covenant shall be in writing and delivered to the addresses set forth below by first class mail, postage prepaid, personal service or overnight courier:

If to the CCLT: Chicago Community Land Trust  
c/o Department of Housing and Economic  
Development  
121 North LaSalle Street, Suite 1000  
Chicago, Illinois 60602

with a copy to: City of Chicago  
Department of Law, Real Estate Division  
121 North LaSalle Street, Suite 600  
Chicago, Illinois 60602

If to the Homeowner: Lisa Shames,  
or the Owner of Record  
233 West Van Buren, Unit #1618  
Chicago, IL 60607

Any notice or other communication shall be deemed to have been given upon deposit in the U.S. mail, one (1) business day after deposit with a courier service for next business day delivery, or upon personal service. Notice to any one homeowner shall constitute notice to all Homeowners. The parties, by notice given hereunder may designate a substitute address. The refusal to accept delivery by any party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section 14.1 shall constitute delivery.

14.2 Brokers. The Homeowner is solely responsible for any broker's commission or claim in connection with this Restrictive Covenant, or any permitted transfer of the Home. The Homeowner agrees to indemnify, defend and hold the CCLT harmless from and against any claim against the CCLT relating to any broker's commission or claim.

14.3 Severability. If any provision of this Restrictive Covenant or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Restrictive Covenant or the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

14.4 Duration. It is the intention of the parties that the CCLT's option to purchase and all other rights of the CCLT and the Homeowner under this Restrictive Covenant shall continue in effect for the full Covenant Term, and such option and other rights shall be considered to be coupled with an interest. If any such option or right shall be construed to be subject to any rule of law limiting its duration, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the last survivor of President George W. Obama as of the execution date of this Restrictive Covenant.

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14.5 Right of First Refusal in Lieu of Option. If a court of competent jurisdiction determines that the purchase option set forth in Article 10 is, for any reason, unenforceable, the CCLT shall have a right of first refusal to purchase the Home in accordance with Exhibit D attached hereto. Any sale or transfer contrary to this section, when applicable, shall be null and void.

14.6 Waiver. The waiver by the CCLT at any given time of any term, covenant or condition of this Restrictive Covenant, or the failure of the CCLT to take action with respect to any breach of any such term, covenant or condition, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition. The CCLT may grant waivers in the terms of this Restrictive Covenant, but such waivers must be in writing and signed by the CCLT before being effective. The CCLT's acceptance of Covenant Fee payments shall not be deemed to be a waiver of any preceding breach by the Homeowner of any term, covenant or condition of this Restrictive Covenant, other than the failure of the Homeowner to pay the particular Covenant Fee so accepted, regardless of the CCLT's knowledge of such preceding breach at the time of acceptance of such Covenant Fee payment.

14.7 Construction. Whenever in this Restrictive Covenant a pronoun is used it shall be construed to represent either the singular or the plural, masculine, feminine or neuter, as the case shall demand.

14.8 Captions. The captions appearing in this Restrictive Covenant are inserted for convenience of reference only, and do not in any way limit or amplify the terms or conditions of this Restrictive Covenant.

14.9 Assignment of Rights and Delegation of Duties. The CCLT may assign its rights or delegate its duties under this Restrictive Covenant, in whole or in part, without the consent of the Homeowner, to the City or another not-for-profit corporation approved by the City. Any reference herein to the CCLT shall include the CCLT, its successors and assigns.

14.10 Entire Agreement; Parties Bound; Amendments. This Restrictive Covenant sets forth the entire agreement between the CCLT and the Homeowner with respect to the subject matter hereof and supersedes any prior agreements, negotiations and discussions, provided that the foregoing is not intended to negate the effectiveness of any factual representations made by the Homeowner to the CCLT in connection with the origination of this Restrictive Covenant. This Restrictive Covenant shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and, except as otherwise provided in this Restrictive Covenant, their respective heirs, executors, administrators, legal representatives, successors and assigns. All covenants and agreements of this Restrictive Covenant shall run with the land. This Restrictive Covenant may not be modified or amended in any manner without the prior written consent of the parties hereto or their legal representatives. No term of this Restrictive Covenant may be waived or discharged orally or by any course of dealing.

14.11 Covenants to Run With the Land. The covenants, conditions, rights and restrictions set forth in this Restrictive Covenant shall run with the land and shall be binding upon each Homeowner for the benefit of and enforceable by the CCLT, its successors and assigns, for the Covenant Term. The Homeowner agrees that any and all requirements of the laws of the State of Illinois to be satisfied in order for the provisions of this Restrictive Covenant to constitute a restrictive covenant running with the land shall be deemed to be satisfied in full, and that any privity of estate requirements are also deemed to be satisfied in full. Each and

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every contract, deed or other instrument hereafter executed conveying the Home or any interest therein shall be deemed to include and incorporate by this reference the covenants, conditions, rights and restrictions contained herein.

14.12 Governing Law. This Restrictive Covenant shall be interpreted in accordance with and governed by the laws of the State of Illinois. The language in all parts of this Restrictive Covenant shall be, in all cases, construed according to its fair meaning and not strictly for or against the CCLT or the Homeowner.

14.13 Joint and Several Obligations. If more than one person signs this Restrictive Covenant as the Homeowner, the obligations and liability set forth herein shall be deemed joint and several obligations and liability of each such party, and any notice required or permitted by the terms of this Restrictive Covenant may be given to any one person with the same force and effect as if given to all.

14.14 Time of Essence. Time is of the essence of this Restrictive Covenant and each and all of its provisions in which performance is a factor, and all provisions herein and all provisions relating thereto, shall be strictly construed.

14.15 Calculation of Time. Unless specifically stated otherwise, any reference to a specific period of days shall be interpreted as a reference to calendar days; provided however, that if the final date of any time period falls on a Saturday, Sunday or legal holiday under the laws of the City, State of Illinois or the United States of America, then such time period shall be automatically extended to the next business day.

14.16 Counterparts. This Restrictive Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single, integrated instrument.

14.17 Incorporation of Definitions, Recitals and Exhibits. The definitions and recitals set forth at the beginning of this Restrictive Covenant, and all exhibits referred to herein and attached hereto, are incorporated herein by this reference and made a part hereof.

14.18 Further Assurances. The Homeowner covenants and agrees to take such further actions and to execute and deliver such additional documents as may be necessary or desirable to: implement this Restrictive Covenant, correct any scrivener's error contained herein or in any related document, restate the Homeowner's obligations, and otherwise assure the continued affordability of the Home consistent with the objectives of this Restrictive Covenant.

14.19 Conflict. In case of a conflict between the terms and conditions of this Restrictive Covenant and the Condominium Instruments, the Restrictive Covenant shall govern and control. The language of this Section 14.19 shall not be interpreted so as to relieve the Homeowner of the obligation to comply with the requirements of any other document affecting the Home.

14.20 Third-Party Beneficiaries. The City is hereby made a third party beneficiary of this Restrictive Covenant and is authorized to enforce all of the terms contained herein.

*(Signature Page Follows)*

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IN WITNESS WHEREOF, the undersigned have caused this Restrictive Covenant to be executed on or as of the date first above written.

HOMEOWNER(S):



\_\_\_\_\_  
Lisa Shames

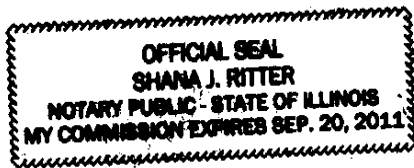
STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK     )

I, Shana J Ritter, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Lisa Shames, individually, personally known to me to be 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/he signed and delivered the foregoing instrument as her/his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my notarial seal this 18<sup>th</sup> day of August, 2011.

Shana J Ritter  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 9.20.11



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## EXHIBIT A

### LEGAL DESCRIPTION OF LAND

THAT PART OF LOTS 65, 66, 67, 68, 69, 70, 71, 72, 73 AND 74 (TAKEN AS A TRACT) IN BLOCK 90 IN SCHOOL SECTION ADDITION TO CITY OF CHICAGO, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0915934034, AS AMENDED FROM TIME TO TIME.

Commonly known as: 235 West Van Buren, Chicago, IL 60607

#### Underlying PINS:

17-16-238-001-0000  
17-16-238-002-0000  
17-16-238-003-0000  
17-16-238-004-0000  
17-16-238-005-0000  
17-16-238-006-0000  
17-16-238-007-0000  
17-16-238-008-0000

(PINS affect the underlying land and other property)

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

## EXHIBIT A-1

### LEGAL DESCRIPTION OF CONDOMINIUM UNIT

UNIT 1618 IN THE 235 W. VAN BUREN CONDOMINIUMS, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF LOTS 65, 66, 67, 68, 69, 70, 71, 72, 73 AND 74 (TAKEN AS A TRACT) IN BLOCK 90 IN SCHOOL SECTION ADDITION TO CITY OF CHICAGO, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0915934034, AS AMENDED FROM TIME TO TIME, TOGETHER WITH AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS.

Commonly known as: 235 West Van Buren, Unit 1618, Chicago, IL 60607

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17-16-238-006-0000  
17-16-238-007-0000  
17-16-238-008-0000

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Property of Cook County Clerk's Office

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## EXHIBIT B

### HOMEOWNER'S ACKNOWLEDGMENT OF AFFORDABILITY RESTRICTIONS

**TO:** Chicago Community Land Trust ("CCLT")


**DATE:** August 19, 2011

I am giving this letter to the CCLT to be made an exhibit to an Affordable Housing Restrictive Covenant and Agreement ("Restrictive Covenant") between the CCLT and me. I am buying the condominium unit located at 235 West Van Buren, Unit 1618, Chicago, Illinois 60607, which will be subject to the Restrictive Covenant.

I understand now the terms and conditions of the Restrictive Covenant affect my rights as a homeowner, now and in the future. In particular, I understand and agree that:

- Permanent Affordability. The purpose of the Restrictive Covenant is to keep housing affordable for future generations of low- and moderate-income households. I support this goal.
- Resale Restrictions. The CCLT controls the resale of my home. If I want to sell my home, I must sell it to another income-eligible buyer (or to the CCLT) for a restricted resale price determined in accordance with the resale formula in the Restrictive Covenant. If I violate the resale restrictions, the Restrictive Covenant gives the CCLT the right, among other remedies, to sue for damages or terminate the Restrictive Covenant and recover any sale proceeds. I realize this limits my ability to resell my home (a "restraint on alienation") but I agree that this limitation is reasonable under the circumstances set forth in the Restrictive Covenant.
- Refinancing Restrictions. The Restrictive Covenant may keep me from obtaining a home equity loan, debt consolidation loan, car loan or a similar loan that would use the home as collateral. I acknowledge that this constitutes a restraint on alienation, but likewise agree that it is a reasonable restraint under the circumstances of the Restrictive Covenant.
- Principal Residence. I must occupy and use my home as a principal residence. I cannot lease it, and if I move out, I must sell it. I cannot continue to own the home as an absentee owner.
- Heirs. I can leave my home to certain members of my household and, after my death, they can own the home for as long as they want to live in it and comply with the Restrictive Covenant, including, without limitation, the Affordability Restrictions expressed in the Restrictive Covenant, or they can sell it on the terms permitted by the Restrictive Covenant.

I will honor the terms of the Restrictive Covenant. I consider these terms fair to me and others.

By:   
\_\_\_\_\_  
Lisa Shames, individually

# UNOFFICIAL COPY

## EXHIBIT C

### STATEMENT OF LEGAL REPRESENTATION

**TO:** Chicago Community Land Trust ("CCLT")

**DATE:** August 19, 2011

I am buying the condominium unit located at 235 West Van Buren, Unit 1618, Chicago, Illinois 60607, which will be subject to an Affordable Housing Restrictive Covenant and Agreement ("Restrictive Covenant") between the CCLT and me.

My lawyer, Arvi Shah, has explained to me the terms and conditions of the Restrictive Covenant. I understand how these terms and conditions affect my rights as a homeowner, now and in the future.

By: 

\_\_\_\_\_  
Lisa Shames, individually

PROPERTY OF COOK COUNTY CLERK'S OFFICE