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Doc#: 1133541070 Fee: \$98.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/01/2011 03:10 PM Pg: 1 of 32

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 16-09-104-048-0000

Address:

Street: 5317 W. Chicago Ave.

Street line 2:

City: Chicago

State: IL

ZIP Code: 60651

Lender: Illinois Housing Development LLC

Borrower: New Moms Housing Development LLC

Loan / Mortgage Amount: \$6,216,548.00

This property is located within the program area and is exempt from the requirements of 765 ILC § 77/70 et seq. because it is commercial property.

Certificate number: D6F25A2A-FB54-4F38-8AAD-37491E6E15A7

Execution date: 11/23/2011

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**THIS INSTRUMENT WAS
PREPARED BY AND AFTER
RECORDING RETURN TO:**

Nicolette Sonntag, Esq.
Illinois Housing Development
Authority
401 N. Michigan Ave.
Chicago, Illinois 60611

**Permanent Tax Index
Identification No.:**
16-09-104-048-0000
and 16-09-104-001-0000

Property Address:
5317 West Chicago Avenue
Chicago, Illinois

**NSP Program
NSP-75004**



MS 483459 7/1/11

First American Title Order #

MORTGAGE, SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT OF RENTS AND LEASES

**THIS MORTGAGE, SECURITY AGREEMENT AND COLLATERAL
ASSIGNMENT OF RENTS AND LEASES ("Mortgage"),** dated as of the 23rd day of November, 2011, made by **NEW MOMS HOUSING DEVELOPMENT LLC**, an Illinois limited liability company ("**Mortgagor**"), to the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY ("Mortgagee")**, a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., as amended from time to time (the "**Act**"), and the rules promulgated under the Act, as amended and supplemented (the "**Rules**");

RECITALS:

A. Mortgagor is the fee owner of certain real property upon which a housing development will be constructed located at 5317 West Chicago Avenue, Chicago, Illinois on the real property legally described on **Exhibit A** attached hereto and by this reference made a part hereof (such real property and the improvements now or hereafter located thereon, are referred to

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collectively herein as the "Real Estate"; the Real Estate and the improvements constructed on it are referred to in this Mortgage as the "Premises."

B. Mortgagee has applied for and received an allocation of funds ("NSP Funds") from the United States Government under the Neighborhood Stabilization Program (the "Neighborhood Stabilization Program") as authorized by Title III of Division B of the Housing and Economic Recovery Act of 2008, Public Law 110-289 ("HERA"), applicable NSP Laws (as defined in the NSP Agreement as hereinafter defined), as the same may be amended and supplemented from time to time, and which are hereby incorporated herein by reference.

C. New Moms, Inc., formerly known as New Moms, an Illinois not-for-profit corporation ("Subgrantee") has applied for an award of Neighborhood Stabilization Program funds, in connection with the Neighborhood Stabilization Program objective to benefit Low, Moderate and Middle Income Persons as set forth in 24 CFR 570, as supplemented by the October 2008 Notice and the June 2009 Notice, and as further amended, supplemented or revised from time to time (the "National Objective").

D. Subject to the terms and conditions set forth in that certain Neighborhood Stabilization Program Agreement dated as of April 27, 2010 by and between the Mortgagee and the Subgrantee, as amended by that certain First Amendment to Neighborhood Stabilization Program Agreement dated as of August 24, 2010 by and between the Mortgagee and the Subgrantee, the Mortgagee agreed to award Subgrantee a portion of the NSP Funds to be used by Subgrantee in connection with certain activities in furtherance of the National Objective and other uses of NSP Funds permitted under the NSP Laws (the "NSP Agreement"). Subgrantee is the sole managing member and the sole member of the Mortgagor.

E. The Subgrantee and the City of Chicago, an Illinois municipal corporation, entered into that certain Agreement for the Sale and Redevelopment of Land dated as of September 27, 2010 (the "Development Agreement"), and the Subgrantee and Mortgagor agreed that the Subgrantee would allocate all of the NSP Funds granted to Subgrantee pursuant to the terms of the NSP Agreement for an Eligible Use by Mortgagor for the construction and development of the real property commonly known as 5317 West Chicago Avenue, Chicago, Illinois, more particularly described in Exhibit A attached hereto and made a part hereof (individually and collectively known as the "Property").

F. Mortgagee has agreed to grant Mortgagor a portion of the NSP Funds in the maximum amount of Six Million Two Hundred Sixteen Thousand Five Hundred Forty-Eight and No/100 Dollars (\$6,216,548.00) (the "Grant"), to be used by Mortgagor in connection with the National Objective for the construction and development of the Property.

D. The Grant is evidenced, secured and governed by, among other things: (a) that the NSP Agreement, (b) the that certain Regulatory and Land Use Restriction Agreement, of even date herewith, by and between the Mortgagor and the Mortgagee (the "Regulatory Agreement"), (c) this Mortgage, (d) that certain Neighborhood Stabilization Program Loan Agreement (together with any renewals, modifications, extensions, amendments and replacements) (the "Loan Agreement"), (e) that certain Mortgage Note (together with any renewals, modifications, extensions, amendments and replacements), (the "Note") of even date herewith, as evidence of

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the obligations of Mortgagor with respect to the Grant, (f) that certain Guaranty of Completion and Payment even date herewith, executed by the Guarantor (as defined in the Guaranty) for the benefit of Mortgagee (the "Guaranty"), (g) the Environmental Indemnity executed by Mortgagor and Subgrantee, as indemnitors, and delivered to Mortgagee, as indemnitee (the "Environmental Indemnity"), and (h) the Collateral Assignment of Membership Interest of even date herewith, executed by all of the members of Mortgagor (the "Collateral Assignment"). The NSP Agreement, the Regulatory Agreement, the Note, this Mortgage, the Guaranty, the Environmental Indemnity, the Collateral Assignment, the Construction Escrow Agreement and all other documents that evidence, govern or secure the Grant are sometimes collectively referred to as the "Grant Documents." Each non-grammatical capitalized term not defined in this Mortgage shall have the meaning ascribed to it in the NSP Agreement.

AGREEMENTS

NOW, THEREFORE, Mortgagor, to secure the (a) obligation of the Mortgagor to pay the Grant as required per the Grant Documents, including without limitation, the obligation to repay such amount "recaptured" by the Mortgagee pursuant to the Regulatory Agreement) (also known herein as the "Mortgage Debt"), which includes, but is not limited to, (i) so much of the Grant as Mortgagee may hereafter advance to Mortgagor and (ii) any and all other costs and expenses of Mortgagee attributable to Mortgagor, as determined by Mortgagee, pursuant to the Grant Documents and this Mortgage, such payments to be made at the times, manner and place specified in the Grant Documents; and (b) the performance and observance of all of the provisions and covenants of this Mortgage and the other Grant Documents, does by these presents MORTGAGE AND WARRANT and grant a security interest in the Premises and all of its estate, title and interest in the Premises to Mortgagee, its successors and assigns (the Premises, together with the property described in the next succeeding paragraphs, are referred to as the "Project" or the "Development").

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf ("Improvements");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

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TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including "health-care-insurance receivables," escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Project and/or the businesses and operations conducted by Mortgagor thereon, to be applied against the Mortgage Debt; provided, however, that Mortgagor, so long as no Default (as hereinafter defined) has occurred hereunder, may collect rent as it becomes due;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Project, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Mortgage Debt (as hereinafter defined); notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code of the State of Illinois in effect from time to time ("Code")), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee, as a secured party, and Mortgagor, as Debtor, all in accordance with the Code; and

TOGETHER WITH all of Mortgagor's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Code) now owned or hereafter acquired and related to the Project, including, without limitation, all of Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Mortgagor is or may become a party and which relate to the Project; (ii) all obligations and indebtedness owed to Mortgagor thereunder; (iii) all intellectual property related to the Project; and (iv) all choses in action and causes of action relating to the Project;

TOGETHER WITH all of Mortgagor's accounts now owned or hereafter created or acquired as relate to the Project, including, without limitation, all of the following now owned or

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hereafter created or acquired by Mortgagor: (i) accounts, contract rights, health-care-insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to the Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code), and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Project;

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Project or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Project or proceeds of any sale, option or contract to sell the Project or any portion thereof.

TO HAVE AND TO HOLD the Project, unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Project after the occurrence of any Default; Mortgagee hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Recitals.**

All of the foregoing recitals are made a part hereof.

2. **Incorporation of Other Documents.**

The other Grant Documents are each hereby incorporated by reference herein and made a part hereof, and without limiting the generality of **Paragraph 11** hereof, any default by Mortgagor under any of the other Grant Documents that is not cured within any applicable cure or grace period shall constitute a Default as defined in **Paragraph 11** hereof under this Mortgage.

2A. **Future Advances.**

Mortgagee has bound itself and does hereby bind itself to make advances pursuant to and subject to the terms of the NSP Agreement, and the parties hereby acknowledge and intend that all such advances, including future advances whenever hereafter made, shall be a lien from the time this Mortgage is recorded, as provided in Section 15-1302(b)(1) of the Illinois Mortgage

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Foreclosure Law, 735 ILCS 5/15-1101 *et seq.* (the "Foreclosure Act").

3. **Maintenance, Repair and Restoration of Improvements; Contest of Mechanics Lien Claims**

(a) Mortgagor shall (i) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Project that may become damaged or be destroyed; (ii) keep the Project in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien; provided that Mortgagor may contest the validity or amount of any such lien in good faith, so long as Mortgagor posts a bond or other security reasonably satisfactory to Mortgagee and otherwise complies with all applicable laws, rules and regulations governing such contest; (iii) subject to the right to contest described in **Paragraph 3(b)** below, pay when due, including any applicable grace or cure periods, any indebtedness that may be secured by a lien or charge on the Project, and upon request, exhibit satisfactory evidence of the discharge of such lien to Mortgagee; (iv) obtain all Federal, State and local governmental approvals required by law for the acquisition, construction, ownership and operation of the Project; (v) complete, within a reasonable time (and in any event within the time periods specifically set forth in the Grant Documents, as the same may be extended for force majeure events, if applicable), any building or other improvements now or at any time in process of erection upon the Project; (vi) cause the Project to comply with all requirements of law, municipal ordinances and restrictions of record with respect to the Project and the use thereof; (vii) make no material alterations (as determined by Mortgagee in its sole discretion) in the Project without Mortgagee's written approval, (viii) following completion of the rehabilitation and/or construction of the Project, suffer or permit no change in the general nature of the occupancy of the Project without Mortgagee's written consent; (ix) initiate or acquiesce in no zoning variation or reclassification of the Project without Mortgagee's written consent; (x) pay each item of the Mortgage Debt when due according to the terms of this Mortgage and the other Grant Documents; (xi) pay when due, any indebtedness that may be secured by a lien or charge on the Development superior to the lien of this Mortgage, and upon request, exhibit satisfactory evidence of the discharge of such senior lien to Mortgagee; and (xii) not suffer or permit any entry onto the Real Estate for purposes of mining or other extraction of coal, oil, gas, minerals or similar substances, or any similar activities. In addition, Mortgagor shall, immediately after learning of the same, notify Mortgagee in writing of any past, present or contemplated future mining or similar activities located upon, under or adjacent to the Real Estate.

(b) Mortgagor, or any party obligated to Mortgagor to do so, may in good faith and with reasonable diligence contest the validity or amount of any mechanics lien and defer its payment and discharge of any such mechanics' lien during the pendency of such contest, so long as: (i) such contest has the effect of preventing the sale or forfeiture of the Development or any part of or interest in it, to satisfy such mechanics' lien; (ii) within ten (10) days after Mortgagor has notice of the filing of such mechanics' lien, Mortgagor has notified Mortgagee in writing of Mortgagor's intention to contest, or to cause another party to contest, it; and (iii) Mortgagor has obtained a title insurance endorsement over such mechanics' lien insuring Mortgagee against loss or damage in connection with it.

4. **Insurance.**

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Mortgagor shall keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Project continuously insured against loss or damage by fire or other hazards (including mining subsidence insurance), and such other appropriate insurance as may be required by Mortgagee, all naming only Mortgagee as loss payee, or additional insured, as the case may be (the naming by Mortgagor of any party other than Mortgagee as a loss payee or additional insured to be permissible only with the prior written consent of Mortgagee), and in form and substance reasonably satisfactory to Mortgagee, including, without limitation of the generality of the foregoing, rent loss insurance, business interruption insurance and flood insurance (if and when the Project lies within an area designated by an agency of the Federal government as a flood risk area). Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may reasonably require. All policies of insurance to be furnished hereunder shall be in forms, companies and amounts satisfactory to Mortgagee, with mortgagee clauses and such other endorsements as may be reasonably required by Mortgagee from time to time, attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Mortgagee. Mortgagor shall deliver all policies, including additional and renewal policies, to Mortgagee, and shall deliver renewal policies to Mortgagee not less than ten (10) days prior to the respective dates of expiration of such policies. Mortgagor shall immediately reimburse Mortgagee for any premiums paid for insurance procured by Mortgagee due to Mortgagor's failure to provide evidence of insurance as required herein or reasonably deemed necessary by Mortgagee to secure its interest under this Mortgage. From and after the date of entry of any judgment of foreclosure, all rights and powers conferred on Mortgagee by this **Paragraph 4** shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale.

5. **Adjustment of Losses With Insurer and Application of Proceeds of Insurance.** In case of loss or damage by fire or other casualty, Mortgagor is authorized to settle and adjust any claim under insurance policies which insure against such risks, subject to the approval of Mortgagee; provided that no such approval shall be required for any loss or damage arising from a fire or other casualty not exceeding Fifty Thousand and 00/100 Dollars (\$50,000.00); provided, further, that if at the time of loss or damage there exists a default hereunder, whether or not the notice and cure periods described in **Paragraph 11** hereof have run, Mortgagee is authorized to settle and adjust any claim under insurance policies which insure against such risks. Mortgagee is authorized to collect and issue a receipt for any such insurance money. Such insurance proceeds shall be held by Mortgagee and shall be used to fund the cost of the rebuilding or restoration of buildings or improvements at the Project. Irrespective of whether such insurance proceeds are or are not adequate for such purpose, the Project shall be so restored, repaired or rebuilt by Mortgagor so as to be of at least equal value and substantially the same character as existed prior to such damage or destruction. If the cost of rebuilding, repairing or restoring the Project can reasonably be expected to exceed the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), then Mortgagor must obtain the written consent of Mortgagee to the plans and specifications for such work before such work shall be commenced. In any case where the insurance proceeds are made available for repairing, rebuilding and restoring, such proceeds shall be disbursed in the manner and under the conditions that Mortgagee may require

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and upon Mortgagee's being furnished with satisfactory evidence of the estimated cost of completion thereof and with architect's certificates, waivers of lien, contractor's and subcontractors' sworn statements and other evidence of cost and payments satisfactory to Mortgagee. If the estimated cost of completion exceeds the amount of the insurance proceeds available, Mortgagor shall, within ten (10) days following written demand of Mortgagee, deposit with Mortgagee in cash the amount of such estimated excess cost. No payment made prior to the final completion of the work performed shall exceed ninety percent (90%) of the value of the work performed from time to time, and at all times, the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be sufficient to pay for the cost of completion of the work, free and clear of any liens. Any surplus which may remain out of said insurance proceeds after payment of such cost of rebuilding, repairing or restoring shall, be applied toward the Mortgage Debt or be paid to any party entitled thereto, without interest. Any additional monies advanced by Mortgagee to Mortgagor for the repairing, rebuilding or restoring of the Project shall be added to the Mortgage Debt and shall be secured by this Mortgage.

6. **Payment of Taxes, Insurance Premiums, Utility Charges.**

Mortgagor shall pay when due all real estate taxes, assessments, water rates, sewer, gas or electric charges, insurance premiums and any imposition or lien on the Project, and if any of the same is not fully paid on or before said due date, then Mortgagee may, at its option and upon reasonable prior notice to Mortgagor, pay the same. The sum or sums so paid by Mortgagee shall be added to the Mortgage Debt and shall bear interest at the Default Rate, as stated in the Note. Mortgagee shall have the right to declare immediately due and payable any amount paid by it for any such real estate tax, assessment, water rate, sewer, gas or electric charge, insurance premium or imposition or lien, whether or not the same shall have priority over this Mortgage. Mortgagor shall, upon written request of Mortgagee, furnish to Mortgagee duplicate receipts evidencing payment of taxes and assessments, insurance premiums and utility charges. Notwithstanding the foregoing, Mortgagor may contest the validity or amount of any real estate taxes in good faith; provided that Mortgagor shall pay such taxes in full under protest on or before their due date and such protest shall be pursued by Mortgagor in accordance with all applicable laws, rules and regulations governing such contest.

7. **Limitations on Sale, Assignments, Transfers, Encumbrances and Changes in Control.**

(a) Mortgagor agrees that in determining whether or not to make the Grant, Mortgagee evaluated the background and experience of Mortgagor in owning and operating property such as the Project, found them acceptable and relied and continues to rely upon the same as the means of maintaining the value of the Project which is Mortgagee's primary security for the Note. Mortgagor is experienced in borrowing money and owning and operating property such as the Project, has been ably represented by a licensed attorney in the negotiation and documentation of the Grant and bargained at arms' length and without duress of any kind for all of the terms and conditions of the Grant, including this provision. Mortgagor further recognizes that any further financing placed upon the Project (i) could divert funds which would otherwise be used to pay the Note secured hereby, (ii) could result in acceleration and foreclosure of the

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additional encumbrance which would force Mortgagee to take measures and incur expenses to protect its security, (iii) would detract from the value of the Project should Mortgagee come into possession thereof with the intention of selling same, and (iv) would impair Mortgagee's right to accept a deed in lieu of foreclosure, because a foreclosure by Mortgagee would be necessary to clear the title to the Project.

In accordance with the foregoing, and for the purposes of (i) protecting Mortgagee's security for the repayment of the Mortgage Debt and the performance of Mortgagor's obligations under the Grant Documents; (ii) preserving the value of the Project; (iii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; and (iv) keeping the Project free of subordinate financing liens, Mortgagor agrees that if this Paragraph be deemed a restraint on alienation, that it is a reasonable one, and that Mortgagor shall not, without the prior written consent of Mortgagee, create, effect, consent to, suffer or permit any Prohibited Transfer (as defined herein). A "Prohibited Transfer" shall include any sale or other conveyance, transfer, lease or sublease, mortgage, refinancing, assignment, pledge, grant of a security interest, grant of any easement, license or right-of-way affecting the Project, hypothecation or other encumbrance of the Project, any interest therein, any interest in Mortgagor's interest in the Project or any interest in Mortgagor, in each case whether any such Prohibited Transfer is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, however, that Mortgagor may grant easements, licenses or rights-of-way over, under and upon the Project, so long as such easements, licenses or rights-of-way do not diminish the value or usefulness of the Project, as reasonably determined by Mortgagee in advance in writing. Mortgagee's written approval as required in this **subparagraph (a)** shall be granted, conditioned or withheld in Mortgagee's sole discretion.

(b) In addition to the matters set forth in **subparagraph (a)** above, any sale, conveyance, assignment, pledge, hypothecation or other transfer of all or any part of:

- (i) any right to manage or receive the rents and profits from the Project, or
- (ii) any partnership interest, stock ownership interest, membership interest or other interest in any entity or person comprising Mortgagor,

shall be deemed a sale, conveyance, assignment, hypothecation or other transfer for the purposes of the restrictions imposed by the foregoing **subparagraph (a)**. Furthermore, Mortgagor shall not, without the prior written consent of Mortgagee, permit the transfer of "control" of the Project to any other person or legal entity. For the purposes of the foregoing sentence, the term "control" shall mean the power to direct or cause the direction of the management and policies of the Project by the voting of securities or by contract.

Without limitation of the foregoing, any withdrawal, removal, replacement, and/or addition of a general partner of the Mortgagor shall constitute a Prohibited Transfer unless, prior to such withdrawal, removal, replacement and/or addition, (i) Mortgagor has furnished Mortgagee with all information which Mortgagee may require regarding such withdrawal, removal, replacement, and/or addition with reasonable promptness and (ii) Mortgagee has approved in writing such withdrawal, removal, replacement, and/or addition (including, without

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limitation, the identity of the proposed substitute general partner), which approval may be granted or denied in Mortgagee's sole discretion.

The provisions of this Paragraph shall not apply to (i) liens securing the Mortgage Debt, (ii) the lien of current taxes and assessments not yet due or payable, (iii) liens or encumbrances specifically permitted by the terms hereof or contested in accordance with the terms of this Mortgage or otherwise expressly permitted by Mortgagee specifically that certain Junior Mortgage, Security Agreement and Financing Statement from the Mortgagor to the City of Chicago, Illinois ("Junior Lender") securing a note of even date therewith in the original principal amount of Three Million Seven Hundred Forty-Four Thousand Four Hundred Sixty-One and No/100 Dollars (3,744,461.00) in favor of the Junior Lender and other loan documents approved by the Mortgagee securing said loan to the Junior Lender, (iv) residential leases of individual units of the Project entered into in the ordinary course of business, provided that such leases have been entered into in conformity with the Regulatory Agreement, (v) a transfer of limited partnership interests in Mortgagor or a transfer of interests in the limited partner(s) of Mortgagor.

8. Acknowledgment of Mortgage Debt.

Within five (5) days after any written request by Mortgagee, Mortgagor shall furnish to Mortgagee a written statement, duly acknowledged certifying the amount of the Mortgage Debt and whether any offsets or defenses exist against the Mortgage Debt.

9. Assignment of Rents and Leases.

As additional security for the payment of the Mortgage Debt, and for the faithful performance of all other obligations contained herein, Mortgagor hereby assigns to Mortgagee all of its right, title and interest as landlord in all current and future leases of the Project and to any rents due and security deposits (held by Mortgagor) under such current or future leases of the Project. Notwithstanding anything herein to the contrary, so long as there has been no Default, Mortgagor shall have the right to collect all rents, security deposits, income and profits from the Project and to retain, use and enjoy the same.

Nothing in this Mortgage or any of the other Grant Documents shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of the landlord under any of the leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay.

From and after a Default hereunder, Mortgagee, in addition to the remedies set forth in **Paragraph 12** hereof, is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce the assignment set forth in this **Paragraph 9** and to collect the rents, income and profits assigned hereunder, including the right of Mortgagee or its designee to enter upon the Project, or any part thereof, and to the extent permitted by law, with or without force and with or without process of law, with power to eject or dispossess tenants and to rent or lease any portion of the Project on any terms approved by Mortgagee and take

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possession of all or any part of the Project together with all personal property, fixtures, documents, books, records, papers and accounts of Mortgagor relating thereto, and to exclude Mortgagor, its agents and servants wholly therefrom. Mortgagor hereby grants full power and authority to Mortgagee to exercise all rights, privileges and powers herein granted at any and all times from and after such Default, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Project and of any indebtedness or liability of Mortgagor to Mortgagee, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing rebuilding and restoring the Project or of making the same rentable, reasonable attorneys' fees incurred in connection with the enforcement of this Mortgage, and of amounts due from Mortgagor to Mortgagee on the Note and the Mortgage, all in such order as Mortgagee may determine. Mortgagee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the landlord under any of the leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Mortgagor in the leases until such time as Mortgagee forecloses the Mortgage, or acquires title to the Project through deed in lieu of foreclosure, and takes physical possession of the Project. Mortgagor hereby agrees to indemnify Mortgagee and to hold Mortgagee harmless from any liability, loss or damage, including, without limitation, reasonable attorneys' fees, which may be incurred by it under the leases or by reason of the assignment provided herein and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the leases, except for those losses which occur due to Mortgagee's gross negligence or willful misconduct. It is further understood that Mortgagee shall not be responsible for the control, care, management or repair of the Project, or parts thereof, nor shall Mortgagee be liable for the performance of any of the terms and conditions of any of the leases, or for any waste of the Project by any tenant under any of the leases or by any other person, or for any dangerous or defective condition of the Project or for any negligence in the management, upkeep, repair or control of the Project resulting in loss or injury or death to any lessee, licensee, employee or stranger until such time as Mortgagee forecloses the Mortgage or takes complete physical possession of the Project through process of law, and Mortgagee shall be responsible and liable only for its own actions or omissions occurring after such foreclosure and possession.

10. Security Interest.

Mortgagor hereby irrevocably authorizes Mortgagee at any time and from time to time to file in any jurisdiction any initial financing statements, and any amendment thereto that (a) indicate the Collateral (as hereinafter defined) (i) as all assets of the Mortgagor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or (ii) as being of an equal or lesser scope or within greater detail, and (b) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Mortgagor is an organization, the type of organization and any organization identification number issued to the Mortgagor, and (ii) in the case of a

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financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or Mortgagee agrees to furnish any such information to the Mortgagee promptly upon request. The Mortgagee further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by the Mortgagee in any jurisdiction prior to the date of this Agreement.

11. Events of Default.

The whole of the Mortgage Debt and any other amounts payable to Mortgagee pursuant hereto shall immediately become due and payable at the option of Mortgagee, its successors and assigns, and Mortgagee shall have the right to an order of court directing Mortgagee to specifically perform its obligations hereunder (the irreparable injury to Mortgagee and inadequacy of any remedy at law being expressly recognized by Mortgagee), upon the happening of any one or more of the following events (each of which is hereinafter called a "Default"):

(a) A failure by Mortgagee to pay any amount when due under the Note, this Mortgage, the NSP Agreement, the Regulatory Agreement or any other Grant Document;

(b) A default by Mortgagee in the observance or timely performance of any other covenants, agreements or conditions contained or required to be kept or observed under the NSP Agreement, the Regulatory Agreement, the Note, this Mortgage, the Construction Escrow Agreement or any other Grant Document or any other agreement, document or instrument evidencing, securing or relating to the Grant not cured within the applicable cure period, if any, specified herein or therein, as the case may be;

(c) Failure to pay, on or before the due date, any real estate tax, assessment, water rate, sewer, gas or electric charge, insurance premium, any reserve required by Mortgagee, or any charge or imposition heretofore or hereafter made, which is or may become a lien on the Project and such failure is not cured by Mortgagee within ten (10) days after notice to Mortgagee, subject to Mortgagee's right to contest pursuant to **Paragraph 6(a)** hereof;

(d) Failure to comply with the terms contained in **Paragraph 27** below within sixty (60) days after notice and demand given by Mortgagee ("Compliance Period"); provided, however, if any demand concerns the payment of any tax or assessment, and such payment is due prior to the expiration of the Compliance Period, then Mortgagee shall pay the tax or assessment prior to the expiration of the Compliance Period;

(e) Failure on the part of Mortgagee, after completion of the construction of the Project, to maintain the Project in a rentable and tenantable state of repair, within thirty (30) days after notice of the condition of the Project is given to Mortgagee by Mortgagee; or, failure on the part of Mortgagee to maintain the Project in a status required by any governmental entity within thirty (30) days (or such shorter period as may be required by the Federal, State or municipal entity claiming jurisdiction over the Project) after notice of a violation of law is given by such governmental entity claiming jurisdiction of the Project; or failure on the part of Mortgagee to comply with any of the statutes, requirements, orders or decrees of any Federal, State or municipal entity relating to the use of the Project, or of any part thereof; provided, however, that

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if the condition is not reasonably curable despite Mortgagor's diligent efforts to cure the same within said thirty (30) days, or such shorter period as may be required by the Federal, State or municipal entity claiming jurisdiction over the Project, Mortgagor shall have such additional time as is reasonably necessary to cure such condition so long as Mortgagor continues to make good faith diligent efforts to cure such condition, and provided further, however, that in no event shall Mortgagor have more than the lesser of ninety (90) days or the time required by the Federal, State or municipal entity claiming jurisdiction over the Project to cure such condition;

(f) Failure to permit Mortgagee, its agents or representatives, at any and all reasonable times and upon reasonable prior written notice to inspect the Project, or to examine and make copies of the books and records of Mortgagor;

(g) If a petition in bankruptcy is filed by or against Mortgagor, or a receiver or trustee of the property of Mortgagor is appointed, or if Mortgagor makes an assignment for the benefit of creditors or is adjudicated insolvent by any State or Federal court, except that in the case of an involuntary petition, action or proceeding under any bankruptcy laws or for the appointment of a receiver or trustee of the property of Mortgagor, Mortgagor shall have ninety (90) days after the service of such petition or the commencement of such action or proceeding, as the case may be, within which to obtain a dismissal of such petition, action or proceeding, provided that Mortgagor is not otherwise in default under the terms of this Mortgage, including, but not limited to default in the payment of any amounts due hereunder;

(h) Failure to comply with the Act, the National Objective, the Rules, the NSP Laws, the Regulations (all as the same may be amended and supplemented from time to time), or any other rules, policies and procedures and regulations duly promulgated from time to time by Mortgagee, within thirty (30) days after Mortgagee gives Mortgagor notice of such failure; provided, however, that if the default is not reasonably curable despite Mortgagor's diligent efforts to cure the same within such thirty (30) days, Mortgagor shall have such additional time as is reasonably necessary to cure such default so long as Mortgagor continues to make good faith, diligent efforts to cure such default, and provided further, however, that in no event shall Mortgagor have more than one hundred twenty (120) days to cure such default;

(i) The occurrence of a Prohibited Transfer;

(j) Breach of any of the other obligations, covenants or conditions contained or required to be kept or observed in any of the provisions of this Mortgage not cured within thirty (30) days after notice to Mortgagor; provided, however, that if such breach is of a nature such that it cannot be cured within thirty (30) days, then, so long as the cure is commenced within said thirty (30) days, and Mortgagor continues to make good faith, diligent efforts to cure such breach, in mortgagee's sole discretion, it shall not be considered to be a Default, and provided further, however, that in no event shall Mortgagor have more than ninety (90) days to cure such Default.

(k) If (i) Mortgagor permits any other lien or security agreement to exist on the Premises or (ii) the holder of any lien or security interest on the Premises (without implying

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Mortgagee's consent to the existence, placing or permitting of any such lien or security interest) institutes foreclosure or other proceedings; or

- (l) the breach of any representation or warranty under the Grant Documents.

12. **Mortgagee's Remedies.** Upon a Default, the holder of the Note and this Mortgage, as attorney-in-fact of Mortgagor or the then owner of the Project, shall possess all the powers, rights, remedies and authority of Mortgagor, as the landlord of the Project, with power to eject or dispossess tenants and to rent or lease any portion or portions of the Project, and in such event, Mortgagor shall, on demand, surrender possession of the Project to the holder of this Mortgage, and such holder may enter upon the Project and rent or lease the same on any terms approved by such holder, and may collect all the rents therefrom which are due or become due, and may apply the same, after payment of all charges and expenses, including the making of repairs that, in its judgment, may be necessary, on account of the Mortgage Debt. In the case of such a Default, the holder of this Mortgage, by virtue of such right to possession or as the agent of Mortgagor, may dispossess by legal proceedings, or other legally available means, any tenant defaulting in the payment to the holder of this Mortgage of any rent, and Mortgagor hereby irrevocably appoints the holder of this Mortgage its agent for such purposes. If the then owner of the Project is an occupant of any part of the Project, such occupant agrees to surrender possession of the Project to the holder of this Mortgage immediately upon any such Default, and, if such occupant remains in possession, its possession shall be as tenant of the holder of this Mortgage, and such occupant agrees to pay monthly in advance to the holder of this Mortgage a rental determined by the holder of this Mortgage (in its sole discretion) for the portion of the Project so occupied, and in default of so doing, such occupant may also be dispossessed by the usual summary proceedings. Mortgagor makes these covenants for itself and, to the extent possible, for any subsequent owner of the Project, and these covenants shall become effective, immediately after the happening of any such Default, solely on the determination of the then holder of this Mortgage, who shall give notice of such determination to the Mortgagor or the then owner of the Project. In the case of foreclosure or the appointment of a receiver of rents, the covenants herein contained shall inure to the benefit of the holder of this Mortgage or any such receiver. In addition to the provisions of this Paragraph 12, if and when Mortgagee is placed in possession, Mortgagee shall have all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the Foreclosure Act.

Mortgagee has filed a Uniform Commercial Code Financing Statement to evidence the security interest in the Collateral Assignment and upon a Default, and so long as such Default is continuing, the holder of the Note and this Mortgage, shall have all the right, which it may exercise in its sole and absolute discretion, in addition to any other remedy contained in any of the Grant Documents, at law or in equity, to institute the proper procedure to effectuate the Collateral Assignment and become the owner of all of the ownership interest in Mortgagee.

13. **Foreclosure; Expense of Litigation.**

When the Mortgage Debt, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to (a) foreclose the lien hereof for such Mortgage Debt or any part thereof and/or (b) take any other action, or exercise any right, power or remedy

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in accordance with the Illinois Mortgage Foreclosure Act, as may be amended from time to time. (Ch 735 Section 5/15-1101 et. seq., Illinois Compiled Statutes.) In any civil action to foreclose the lien hereof, there shall be allowed and included as additional Mortgage Debt in the order or judgment for sale 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 (which may be estimated as to items to be expended after entry of the order or judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, surveys and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary, either to prosecute such civil actions or to evidence to bidders at any sale which may be had pursuant to such order or judgment, the true condition of the title to or the value of the Project. All expenditures and expenses of the nature in this paragraph mentioned, and such reasonable expenses and fees as may be incurred in the protection of the Project and maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Project, including probate, bankruptcy and appellate proceedings, or in preparations for the commencement or defense of any such proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate, and shall be secured by this Mortgage. In case of a foreclosure sale, the Project may be sold in one or more parcels.

14. Application of Proceeds of Foreclosure Sale.

The proceeds of any foreclosure sale of the Project shall be distributed and applied in the following order of priority: first, to all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, to all other items which may, under the terms hereof, constitute secured indebtedness additional to the Mortgage Debt, with any interest at the Default Rate due thereon as herein provided; third, to any accrued interest at the Default Rate remaining due and unpaid on the Note, and fourth, to all principal remaining unpaid on the Note, with any surplus to Mortgagor, its successors or assigns, as their rights may appear.

15. Appointment of Receiver.

Mortgagor agrees that, upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Project. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Project or whether the same shall be then occupied as a homestead or not, and the Mortgagee hereunder or any holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Project during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Project during the whole of said period. The court, from time to time, may authorize the receiver to

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apply the net income from the Project that is in its possession in payment in whole or in part of: (a) the Mortgage Debt, or by any judgment or order foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to a foreclosure sale of the Project; and/or (b) the deficiency in case of a sale of the Project and deficiency thereunder. In addition to the powers granted by this **Paragraph 15**, such receiver shall have all rights, powers, immunities and duties as provided for in Section 15-1704 of the Foreclosure Act.

15A. Protective Advances.

All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Foreclosure Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Foreclosure Act, including those provisions of the Foreclosure Act hereinbelow referred to:

(a) all advances by Mortgagee in accordance with the terms of this Mortgage to: (i) preserve, maintain, repair, restore or rebuild the Project; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in subsection (b) (5) of Section 15-1302 of the Foreclosure Act;

(b) payments by Mortgagee of: (i) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Project or any part thereof; (ii) other obligations authorized by this Mortgage; or (iii) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Foreclosure Act;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under any liens claimed against the Project;

(d) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Section 1504(d)(2) and 15-1510 of the Foreclosure Act, (ii) in connection with any action, suit or proceeding brought by or against the Mortgagor for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Mortgage or the Project;

(e) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the Foreclosure Act;

(f) expenses deductible from proceeds of sale as referred to in Sections 15-1512(a) and (b) of the Foreclosure Act;

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(g) expenses incurred and expenditures made by Mortgagee in connection with any one or more of the following: (i) if the Project or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Mortgagor's interest in the Project is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee, whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation of maintaining existing insurance in effect at the time any receiver or mortgagee takes possession of the Project as provided in Section 15-1704(c)(1) of the Foreclosure Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments deemed by Mortgagee to be required for the benefit of the Project or required to be made by the owner of the Project under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Project; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Project is a member in any way affecting the Project; (vii) if the Grant is a construction Grant, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable documents or other agreement; (viii) payments required to be paid by Mortgagor or Mortgagee pursuant to any lease or other agreement for occupancy of the Project; and (ix) if the Mortgage is insured, payments of FHA or private mortgage insurance required to keep such insurance in force.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Foreclosure Act, apply to and be included in:

- (i) any determination of the amount of the Mortgage Debt at any time;
 - (ii) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
 - (iii) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Foreclosure Act;
 - (iv) application of income in the hands of any receiver or mortgagee in possession;
- and
- (v) subject to **Paragraph 34** below, computation of any deficiency judgment pursuant to Sections 15-1508(b)(2), 15-1508(e) and 15-1511 of the Foreclosure Act.

16. Rights Cumulative.

Each right, power and remedy herein conferred upon Mortgagee is cumulative and in

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addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee; the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of or acquiescence in any Default.

17. Effect of Extensions of Time.

If the payment of the Mortgage Debt or any part thereof is extended or varied, or if any part of any security for the payment of the Mortgage Debt is released or additional security is taken, any persons now or at any time hereafter liable therefor, or interested in the Project, shall be held to assent to such extension, variation, or taking of additional security or release, and their liability and the lien and all provisions hereof shall continue in full force.

18. Mortgagee's Right of Inspection.

Mortgagee shall have the right to inspect the Project at all reasonable times, upon reasonable advance notice to Mortgagor and access thereto shall be permitted for that purpose.

19. Condemnation.

If part of the Project is taken by or sold to any municipal, Federal or State entity, or any other entity having the power of eminent domain (under eminent domain proceedings or under bona fide threat of eminent domain proceedings), and if the remaining portion of the Project can be restored, in whole or in part, and the Project so restored will produce sufficient income to meet the then existing obligations (after the reduction hereinafter described) of Mortgagor under this Mortgage and the Note, all as determined by Mortgagee, in its sole discretion, the proceeds of such taking or sale, if sufficient for the purpose of restoring the Project and to the extent necessary for such purpose, shall be made available to Mortgagor for such restoration. Such restoration shall be made in a manner approved by Mortgagee and such governmental entity or entities as may then have jurisdiction. If the entire Project is taken by or sold to any municipal, Federal or State entity or any other entity having the power of eminent domain (under eminent domain proceedings), the proceeds of such taking or sale shall be applied as hereinafter set forth in this Paragraph 19. Mortgagor shall not approve or accept the amount of any condemnation award or sale price without approval by Mortgagee of such amount. If Mortgagor does not diligently pursue any such actual or threatened eminent domain proceedings and competently attempt to obtain a proper settlement or award, Mortgagee, at Mortgagee's option and after ten (10) days' prior written notice to Mortgagor, may take such steps, in the name of and on behalf of Mortgagor, as Mortgagee deems necessary to obtain such settlement or award, and Mortgagor shall execute such instruments as may be necessary to enable Mortgagee to represent Mortgagor in said proceedings. The proceeds of any such taking or sale shall be applied first toward payment of appraisers' fees, reasonable attorneys' fees, court costs and other reasonable expenses incurred by Mortgagor or Mortgagee, as the case may be, in collecting such proceeds; next

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effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subparagraph (c) shall be served and effective three (3) business days after proper deposit with the United States Postal Service. A failure by the Authority to deliver courtesy copies of notices to any party shall not in any way impair or diminish the Authority's rights and remedies under this Mortgage.

22. **Waiver of Defense.**

No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing such defense in an action at law upon the Note hereby secured.

23. **Illinois Mortgage Foreclosure Act.**

All covenants and conditions of this Mortgage, other than those required by Illinois law, shall be construed as affording to Mortgagee rights in addition to, and not exclusive of, the rights conferred under the provisions of the Foreclosure Act. Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Foreclosure Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event that any provision of the Foreclosure Act that is specifically referred to herein may be repealed, Mortgagee, to the extent permitted by law, shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

24. **Waiver of Statutory Rights; Waiver of Redemption.**

(a) Mortgagor shall not apply for or avail itself of any appraisal, 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 this 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 Project marshalled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Project sold as an entirety. Mortgagor does hereby expressly waive any and all rights of redemption under Section 15-1601(b) of the Foreclosure Act or any order or decree of foreclosure of this Mortgage on behalf of Mortgagor or any entity or person acquiring any interest in or title to the Project subsequent to the date of this Mortgage. Mortgagor acknowledges that the Project does not constitute Agricultural Real Estate, as defined in Section 15-1201 of the Foreclosure Act, or Residential Real Estate as defined in Section 15-1219 of the Foreclosure Act.

(b) Pursuant to Section 15-1601(b) of the Foreclosure Law, Mortgagor waives any and all right of redemption under any order or decree of this Mortgage on behalf of Mortgagor, and each and every person, except decree or judgment creditors of Mortgagor, in its representative capacity, acquiring any interest in or title to the Development subsequent to the date of this Mortgage to the extent permitted by law.

25. **Furnishing of Financial Statements to Mortgagee.**

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Mortgagor shall keep and maintain books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Project, which books and records of account shall, at reasonable times, and on reasonable notice, be open to the inspection of Mortgagee and its accountants and other duly authorized representatives at the office of Mortgagor. Such books of record and account shall be kept and maintained in accordance with (a) generally accepted accounting practice consistently applied and (b) such additional requirements as Mortgagee may require.

26. **Filing and Recording Fees.**

Mortgagor will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and the other Grant Documents and all Federal, State, county, and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage and the other Grant Documents.

27. **Effect of Changes in Laws Regarding Taxation.**

In the event of the enactment after the date of this Mortgage of any law of the State of Illinois deducting from the value of the Project for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Project, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holders thereof, then, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments within sixty (60) days of receipt of Mortgagee's demand, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law then Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

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28. Business Purpose.

Mortgagor recognizes and agrees that the proceeds of the Loan will be used for the purposes specified in 815 ILCS 205/4 of the Illinois Revised Statutes, and that the principal obligation secured hereby constitutes a "business loan" within the purview of that statutory section.

29. Miscellaneous.

(a) This Mortgage, and all provisions hereof, shall extend to and be binding upon Mortgagor and its successors, grantees and assigns, any subsequent owner or owners of the Project and all persons claiming under or through Mortgagor, and the word "Mortgagor", when used herein, shall include all such persons and all persons liable for the payment of the Mortgage Debt or any part thereof, whether or not such persons shall have executed the Note or this Mortgage. The word "Mortgagee," when used herein, shall include the successors and assigns of Mortgagee named herein, and the holder or holders, from time to time, of the Note.

(b) If one or more of the provisions contained in this Mortgage or the Note or in any of the other Grant Documents, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. This Mortgage, the Note, and the other Grant Documents are to be construed and governed by the laws of the State of Illinois.

(c) Mortgagor shall not, by act or omission, permit any building or other improvement comprising the Project, not subject to the lien of this Mortgage, to rely on the Project or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give such consent for all or any portion of the Project or any interest therein to be so used. Similarly, Mortgagor shall not permit the Project to rely on any premises not subject to the lien of this Mortgage to fulfill any governmental or municipal requirement. Mortgagor shall not, by act or omission, impair the integrity of the Project as a single zoning lot separate and apart from all other premises.

(d) Mortgagee shall have the right, at its option, to foreclose this Mortgage, subject to the rights of any tenant or tenants of the Project, and the failure to make any such tenant or tenants a party defendant to any such civil action or to foreclose their rights will not be asserted by Mortgagor as a defense in any civil action instituted to collect the Mortgage Debt, or any part thereof, any statute or rule of law at any time existing to the contrary notwithstanding.

(e) At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases in connection with the Project upon the execution

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by Mortgagee and recording thereof, at any time hereafter, in the office wherein this Mortgage was recorded, of a unilateral declaration to that effect.

30. Security Agreement.

Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of Mortgagor or held by the Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Grant Documents, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Project or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) (which property is hereinafter referred to as "Personal Property"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Project; and the following provisions of this Paragraph shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

- a. Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral and has rights in and the power to transfer the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Grant Documents.
- b. The Collateral is to be used by Mortgagor solely for business purposes.
- c. The Collateral will be kept at the Real Estate and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.
- d. The only persons having any interest in the Project are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby.
- e. No Financing Statement (other than Financing Statements showing Mortgagee as the secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor, at its own cost and expense, upon demand, will furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form

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satisfactory to Mortgagee and will do all such acts as Mortgagee may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted hereby; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable

f. Upon a Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Project. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Project and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

g. The terms and provisions contained in this **Paragraph 30**, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

h. This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Project. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinbelow set forth. This

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Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Project is located.

i. To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Mortgagor or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder.

j. Mortgagor represents and warrants that:

i. Mortgagor is the record owner of the Real Estate;

ii. Mortgagor's chief executive office is located in the State of Illinois;

iii. Mortgagor's state of Organization is the State of Illinois;

iv. Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage; and

v. Mortgagor's organizational identification number with the State of Illinois is 02947323.

k. Mortgagor agrees that:

i. Where Collateral is in possession of a third party, Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee;

ii. Mortgagor will cooperate with the Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

iii. Until the Mortgage Debt is paid in full, Mortgagor will not change the state where it is located or change partnership name without giving the Mortgagee at least 30 days' prior written notice in each instance.

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31. **Non-waiver.**

The failure or delay of Mortgagee, or any subsequent holder of the Note and this Mortgage, to assert in any one or more instances any of its rights hereunder shall not be deemed or construed to be a waiver of such rights.

32. **Maximum Indebtedness and Forgiveness Date.**

At all times, regardless of whether any Grant proceeds have been disbursed, this Mortgage secures as part of the Mortgage Debt the payment of all Grant commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Mortgagee in connection with the Mortgage Debt, all in accordance with the Note and this Mortgage. In no event shall the total amount of the Mortgage Debt, including Grant proceeds disbursed plus any additional charges, exceed Eight Million and No/100 Dollars (\$8,000,000.00). All such advances are intended by the Mortgagor to be a lien on the Development pursuant to this Mortgage from the time this Mortgage is recorded, as provided in the Foreclosure Law. Any sums due under any of the Grant Documents shall be due and payable in full no later than December 31, 2031 or upon such earlier date as the Grant may become due and payable because of acceleration or otherwise as provided pursuant to the terms of any of the Grant Documents (the "Forgiveness Date").

33. **Additional Governing Law.**

This Mortgage, to the extent inconsistent with HERA, the NSP Laws, and the Neighborhood Stabilization Program Requirements, shall be governed by HERA, the NSP Laws, and the Neighborhood Stabilization Program Requirements and the rights and obligations of the parties shall at all times be in conformance with HERA and the Neighborhood Stabilization Program Requirements.

34. **Non-Recourse Loan.**

Except as otherwise set forth in the Environmental Indemnity and the Guaranty, Mortgagor's liability created under this Mortgage and the Grant Documents shall be non-recourse and neither Mortgagor nor the Subgrantee shall have any personal liability for repayment of the Grant. The Mortgagee shall look only to the Project and its reserves and any other funds or letters of credit relating to the Project for repayment of the Grant. The foregoing shall not limit Mortgagor's and Subgrantee's liability for damages (or in the case of (xi) hereinbelow, the amount due) as a result of (i) fraudulent acts, or willful and wanton acts or omissions in violation of the provisions of this Mortgage and the other Grant Documents; (ii) the fair market value of the personalty or fixtures removed or disposed of from the Development in violation of the terms of the Grant Documents; (iii) the misapplication, in violation of the terms of the Grant Documents, of any funds to the full extent of such misapplied funds and proceeds, including, without limitation, any funds or proceeds received under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain; (iv) any misapplication of any security deposits attributable to any leases of units, or failure to pay

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interest on such security deposits as required by law; (v) waste committed on the Development to the extent that funds in the Replacement Reserve Account or otherwise available in any property account held by Mortgagor, are available to remedy such waste and Mortgagor has failed to remedy the waste despite the written instructions of the Mortgagee; (vi) the occurrence of a Prohibited Transfer, without the prior written consent of the Mortgagee; (vii) an oral or written material misrepresentation was made by Mortgagor, any party in the ownership structure of Mortgagor, or any employee or agent of Mortgagor or any other such entity or individual; and (xi) the full amount of any Recapture Amount that is due, plus other costs, default interest (on the Recapture Amount), and damages due as a result of the Recapture Event (as provided in the Regulatory Agreement). Any liability incurred pursuant to this Paragraph shall be the personal liability of the Mortgagor and the Subgrantee. The provisions of this Paragraph shall have no effect on the liabilities and obligations contained in the Guaranty.

35. Indemnification of the Mortgagee.

Mortgagor agrees to defend and indemnify and hold harmless Mortgagee from and against any and all damages, including, but not limited to, any past, present or future claims, actions, causes of action, suits, demands, liens, debts, judgments, losses, costs, liabilities and other expenses, including, but not limited to, reasonable attorneys' fees, costs, disbursements, and other expenses, that Mortgagee may incur or suffer by reason of or in connection with the Real Estate or the Development, except if arising solely due to Mortgagee's gross negligence, willful misconduct or after Mortgagee takes possession of the Development. Mortgagor further agrees that Mortgagee, if it so chooses, shall have the right to select its own counsel with respect to any such claims.

36. Counterparts.

This Mortgage may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Mortgage must be produced or exhibited, be the Mortgage, but all such counterparts shall constitute one and the same instrument. As used herein, the term "counterparts" shall include full copies of this Mortgage signed and delivered by facsimile transmission, as well as photocopies of such facsimile transmissions. Mortgagee reserves, in its sole and absolute discretion, the right to require original signatures or to rely on facsimile transmissions or photocopies of facsimile transmissions and the Mortgagor and any other party signing this Mortgage, hereby waives any rights to object to the validity of their signature based upon the Mortgagee's determination as aforesaid.

37. WAIVER OF JURY TRIAL. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT, THIS AGREEMENT OR ANY OF THE LOAN DOCUMENTS AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

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Property of Cook County Clerk's Office

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

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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:

NEW MOMS HOUSING DEVELOPMENT LLC,
an Illinois limited liability company

By: **NEW MOMS, INC.**, formerly known as
NEW MOMS, an Illinois not-for-profit
corporation,
Its Sole Managing Member and Sole Member

By: *Synell Oyler* NS
Name: *Synell Oyler*
Its: *Chairman*

Property of Cook County Clerk's Office

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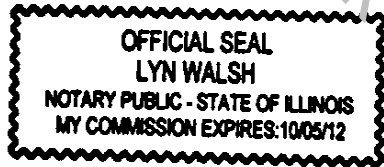
STATE OF ILLINOIS)

COUNTY OF Cook) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that She, personally known to me to be the Chairman of **NEW MOMS, INC.**, formerly known as **NEW MOMS**, an Illinois not-for-profit corporation, the Sole Managing Member and Sole Member of **NEW MOMS HOUSING DEVELOPMENT LLC**, an Illinois limited liability company, personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that She signed and delivered the said instrument in her capacity as Chairman of **NEW MOMS, INC.**, formerly known as **NEW MOMS**, an Illinois not-for-profit corporation, the Sole Managing Member and Sole Member of **NEW MOMS HOUSING DEVELOPMENT LLC**, an Illinois limited liability company, as her free and voluntary act and deed and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and official seal this 23rd day of November, 2011.

Lyn Walsh
Notary Public



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EXHIBIT A

LOTS 43, 44, 45, 46, 47, 48, 49 AND 50 IN BLOCK 1 IN WM. S. WALKER'S SUBDIVISION OF THE WEST ½ OF THE NORTHEAST ¼, OF THE NORTHWEST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Tax Parcel Numbers: 16-09-104-048-0000 and 16-09-104-001-0000

Property Address: 5327 West Chicago Avenue, Chicago, Illinois