

# UNOFFICIAL COPY



\*1718113070\*

Doc# 1718113070 Fee \$78.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 06/30/2017 01:03 PM PG: 1 OF 21

THIS INSTRUMENT  
PREPARED BY AND WHEN  
RECORDED RETURN TO:

Lyrecia Parks  
Chicago Community Loan Fund  
29 East Madison Street, Ste 1700  
Chicago, Illinois 60602

Space above this line reserved for Recorder's use only

## Omnibus Amendment

This Omnibus Amendment (the "Amendment"), dated as of May 25, 2017 is made by and between KMW COMMUNITIES, LLC, an Illinois limited liability company (the "Mortgagor" or the "Borrower"), and THE CHICAGO COMMUNITY LOAN FUND, an Illinois not-for-profit corporation (the "Lender").

### Recitals:

A. Mortgagor delivered to Lender that certain Mortgage and Security Agreement with Assignment of Rents, dated as of September 9, 2013, recorded with the Cook County, Illinois Recorder of Deeds on October 11, 2013 as Document No. 132841024, (as further amended, restated, supplemented or otherwise modified from time to time, the "Mortgage"), which relates to the property legally described on *Schedule I* attached hereto;

B. Borrower delivered to Lender that certain Loan Agreement dated September 9, 2013 (as further amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement");

C. Borrower delivered to Lender that certain Secured Note dated September 9, 2013, in the amount of \$218,000.00 (as further amended, restated, supplemented or otherwise modified from time to time, the "Note");

D. The amount due on the loan, as of May 24, 2017 is \$209,678.31;

E. Mortgagor and Lender have agreed to amend the Mortgage, the Loan Agreement and the Note on the terms and conditions herein set forth.

440-00896800-1071

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NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor and Lender hereby agree as follows:

## SECTION 1. DEFINED TERMS

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Mortgage, the Loan Agreement or the Note, as applicable, each as amended hereby.

## SECTION 2. AMENDMENTS TO MORTGAGE, LOAN AGREEMENT AND NOTE

Section 2.1 The maturity date of the Note is extended one hundred and twenty (120) months, from May 25, 2017.

Section 2.2 The new maturity date of the Note and the Loan Agreement is June 1, 2027.

Section 2.3 *Section 1* of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

*"Section 1. Agreement to Make the Loan.* Subject to the terms and conditions of this Agreement, the Lender agrees to lend to the Borrower the principal amount of Two Hundred and Ten Thousand and No/100 Dollars (\$210,000.00) (the "Loan"). The Loan is evidenced by a duly executed Secured Note (Replacement) by the Borrower payable to the order of the Lender substantially in the form of *Exhibit A* attached hereto (as amended, amended and restated, or otherwise modified from time to time, the "Note"). The Loan shall be allocated as payment on the remaining balance of the existing loan with Lender, as payment for all fees and expenses associated with this Amendment and the other Loan Documents, and the remainder, if any, to reimburse the Borrower for the payment of approved aforementioned expenses associated with the Project. This allocation shall occur on May 25, 2017 (the "Amendment Effective Date")."

Section 2.4 *Section 2(a)* of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

*"Section 2. Interest.* (a) The outstanding principal amount of the Loan shall bear simple interest at the rate of six percent (6.00%) *per annum*. During the period, if any, in which an Event of Default (as defined herein) has occurred and is continuing, the outstanding principal amount of the Loan shall bear simple interest at the rate of twelve percent (12%) *per annum* (the "Default Rate"); *provided*, that in the absence of an acceleration of the Loan, the imposition of the Default Rate shall be made at the election of the Lender with written notice to the Borrower."

Section 2.5 *Section 3* of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

*"Section 3. Maturity and Repayment.* The term of the Loan shall be for a period of one hundred and twenty (120) months (the "Term"). Principal and interest not sooner paid shall mature and be payable in full on the earlier to occur of (i) the date which is one hundred and

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twenty (120) months from the Amendment Effective Date, i.e. June 1, 2027 (the “*Maturity Date*”), or (ii) the date of occurrence of an Event of Default (as defined herein) which may result in the acceleration of the Maturity Date by the Lender pursuant to the terms of this Agreement. The Loan shall be amortized over a twenty (20) year period.”

Section 2.6 Section 6(d) of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“(d) A guaranty of the Obligations from Bill Williams (solely as the “*Guarantor*”) in favor of the Lender. Upon the execution of a new Guaranty Agreement by Guarantor in favor of The Chicago Community Loan Fund, the Guaranty Agreement, dated September 9, 2013 by Bill Williams, Tom McHugh and David Krug in favor of The Chicago Community Loan Fund, will be null and void and Tom McHugh and David Krug will be released from all of their respective obligations thereunder; and”

Section 2.7 Section 12 of the Loan Agreement is hereby amended by adding the following paragraph after subclause (b):

“(c) Notwithstanding anything to the contrary herein, Borrower hereby acknowledges and agrees that, under certain circumstances, in the event of a default hereunder, or under any instruments or security documents relating hereto, for so long as the loan evidenced by this Agreement is assigned to the United States Department of the Treasury, Qualified Issuer and Master Servicer/Trustee, their respective successors and assigns (each an “*Assignee Party*”), each Assignee Party may, after the expiration of all applicable notice and cure rights, if any, exercise the rights and remedies of Lender, as lender hereunder. Borrower shall do and cooperate in performing any and all things necessary to effectuate the rights of any Assignee Party, including, but not limited to, the execution of consents, documents, certificates or assignments, relating to, evidencing or effectuating the transfer of Lender’s rights hereunder or in any collateral, and the filing or recording of any of the same.”

Section 2.8 Exhibit A to the Loan Agreement is hereby deleted in its entirety and replaced with *Exhibit A* (Secured Note (Replacement)) attached hereto.

Section 2.9 The first recital to the Mortgage is hereby amended and restated in its entirety to read as follows:

“WHEREAS, Mortgagor is justly and truly indebted to Mortgagee in the principal sum of Two Hundred and Ten Thousand and No/100 Dollars (\$210,000.00) as evidenced by that certain Secured Note (Replacement), dated as of May 25, 2017, by Mortgagor, payable to the order of Mortgagee, whereby Mortgagor promises to pay said principal sum together with interest thereon prior to the Maturity Date at the rate of six percent (6.00%) simple interest per annum (and after Event of Default (as defined in the Loan Agreement) or the Maturity Date until paid at the rate of twelve percent (12%) simple interest per annum) at the times therein provided, with a final maturity of all principal and interest not required to be sooner paid of June 1, 2027 (such secured promissory note and any and all notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the “*Note*”);”

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Section 2.10 *Section 28* of the Mortgage is hereby amended by adding the following paragraph after subclause (c):

“(d) The Lender reserves the right to conduct an environmental audit prior to foreclosing on the Mortgaged Premises. The Lender reserves the right to forbear from foreclosing in its own name if to do so may expose it to undue risk. In the event that, following a foreclosure in respect of the Mortgaged Premises, the Lender acquires title to any portion of such property or takes any managerial action of any kind in regard thereto in order to carry out any fiduciary or trust obligation for the benefit of another, which in the Lender’s sole discretion may cause the Lender to be considered an “owner or operator” under provisions of CERCLA or otherwise cause the Lender to incur liability under CERCLA or any other federal, state or local law, the Lender reserves the right, instead of taking such action, to assign its interests hereunder or to arrange for the transfer of the title or control of the asset to a court appointed receiver; and

Borrower hereby agrees to indemnify, defend (with counsel of the Indemnified Parties’ choosing) and hold harmless the Lender, and its assignees, shareholders, officers, directors, employees, agents, attorneys in fact, and affiliates (collectively, “*Indemnified Parties*”) harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial actions, requirements and enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, attorneys’ fees and expenses), arising directly or indirectly, in whole or in part, from (A) the presence of hazardous substances on, under, or from the Mortgaged Premises, whether prior to or during the Term, (B) any activity carried on or undertaken in or relating to any of the Mortgaged Premises, whether prior to or during the Term, and whether by the Borrower or any predecessor in title, employee, agent, contractor, or subcontractor of the Borrower or any other person at any time occupying or present on the Mortgaged Premises, in connection with the handling, treatment, removal, storage, decontamination, clean up, transportation, or disposal of any hazardous substances at any time located or present on or under such Mortgaged Premises, (C) any contamination of the Mortgaged Premises or natural resources arising in connection with the generation, use, handling, storage, transportation, or disposal of any hazardous substance by the Borrower or any employee, agent, contractor, or subcontractor of the Borrower while such persons are acting within the scope of their relationship with the Borrower, irrespective of whether any such activities were or will be undertaken in accordance with applicable requirements of law, or (D) the performance and enforcement of the Mortgage or any other act or omission in connection with or related to the Mortgage or the transactions contemplated hereby, including, without limitation, any of the foregoing in this section arising from negligence, whether sole, contributory, or concurrent, on the part of any Indemnified Party; with the foregoing indemnity surviving satisfaction of the secured indebtedness, the termination of the Indenture, and the release of the liens created hereby.”

Section 2.11 These modifications contained in this Amendment were approved by the Chicago Community Loan Fund Loan Committee on April 7, 2017.

## SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR AND BORROWER

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Section 3.1 Mortgagor represents and warrants that the execution, delivery and performance of this Amendment is a legal, valid and binding obligation of the Mortgagor, respectively, enforceable against the Mortgagor in accordance with its terms, except as the enforcement thereof may be subject to applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

Section 3.2 Mortgagor represents and warrants that the execution, delivery and performance of this Amendment will not: (a) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on it or its articles of organization or operating agreement; (b) violate the provisions of or require the approval or consent of any party to any indenture, instrument or agreement to which it is a party or is subject, or by which it, or its property, is bound, or conflict with or constitute a default thereunder, or result in the creation or imposition of any lien in, of or on its property pursuant to the terms thereof; or (c) require any consent of the stockholders of any person or entity, except in each case for approvals or consents which have been obtained on or before the date hereof.

Section 3.3 Mortgagor represents and warrants that, to the best of its knowledge, both before and after giving effect to this Amendment, there exists no Event of Default.

Section 3.4 Mortgagor represents and warrants that all representations and warranties contained in the Loan Agreement, as amended hereby, and all other Loan Documents are true and correct as though made on and as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date).

## SECTION 4. REFERENCE TO AND EFFECT ON THE MORTGAGE, LOAN AGREEMENT AND NOTE

Section 4.1 Upon the effectiveness of this Amendment, each reference in the Mortgage, the Loan Agreement and Note to "this Agreement," "hereunder," "hereof," "herein" or words of like import and each reference to the Mortgage, the Loan Agreement or the Note, as applicable, in each Loan Document shall mean and be a reference to the Mortgage, the Loan Agreement or the Note, as applicable, as amended hereby.

Section 4.2 Except as expressly provided herein, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of (a) any right, power or remedy of Lender under the Mortgage, the Loan Agreement, the Note or any of the Loan Documents; or (b) any Event of Default.

Section 4.3 Except as expressly amended, restated or modified in this Amendment, all of the terms, provisions, covenants and conditions of the Note, Loan Agreement and the Mortgage, as heretofore amended, shall remain unchanged and in full force and effect and shall be binding upon the Mortgagee and Borrower in all respects. Except as herein specifically agreed, the Note, Loan Agreement and the Mortgage are hereby ratified and confirmed and shall remain in full force and effect according to their terms.

## SECTION 5. CONDITIONS PRECEDENT TO EFFECTIVENESS

This Amendment shall not become effective until the Borrower shall have delivered to Lender the following, in form and substance acceptable to Lender and its counsel in their sole discretion:

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Section 5.1 Fully-executed copies of (a) this Amendment, (b) a Secured Note (Replacement) substantially in the form of *Exhibit A*, executed by the Borrower and payable to the Lender, in the amount of the Loan, (c) a guaranty executed by Bill Williams guaranteeing the payment of all amounts and obligations owed in connection with the Loan (including, without limitation, principal, interest, fees (including attorneys' fees), costs and other amounts payable and all performance demanded pursuant to the Loan Documents) and (d) an environmental indemnity agreement concerning hazardous materials presently upon, in or under the Mortgaged Property, or hereafter placed or otherwise located thereon or therein, duly executed by the Borrower with respect to the Mortgaged Property, with each of the foregoing items (a) through (d) in form and content acceptable to the Lender in its sole discretion (collectively, the "*Loan Documents*").

Section 5.2 A certificate from the Secretary (or equivalent officer) of the Borrower, certifying as to and attaching:

- (a) a certified copy of the articles of organization of the Borrower and any amendments thereto certified as recorded by the Secretary of State of the State of Illinois;
- (b) a copy of the operating agreement of the Borrower, certified by the Manager of the Borrower as complete, true and correct as of the date hereof;
- (c) a certificate of good standing issued by the Secretary of State of the State of Illinois as to the good standing of the Borrower, dated no earlier than thirty (30) calendar days prior to the date hereof;
- (d) resolutions authorizing the transactions contemplated hereby;
- (e) a certificate of incumbency of the officers of the Borrower, indicating those individuals who are authorized to execute and deliver this Amendment and the Loan Documents to the Lender; and
- (f) such other matters as Lender may request.

Section 5.3 Receipt and approval by the Lender of a "date down" to the ALTA Loan Policy Form 2006 title insurance policy of the Mortgaged Property acceptable to the Lender in its sole discretion, showing that there are no existing or threatened liens or claims on or against the Mortgaged Property which have not been permitted or waived by the Lender and its counsel in their reasonable discretion, insuring the lien of the Mortgage, naming the Lender as the insured party, and containing all endorsements required by the Lender.

Section 5.4 Results of UCC, tax and judgment lien searches confirming that there are no existing mortgages or liens on (including both statutory liens for taxes or otherwise and consensual liens) or security interests in the Project or the Mortgaged Property which have not been permitted or waived by the Lender and its counsel in their sole discretion. If such results reveal any findings in which it is evident that it is the identity of persons other than the Borrower, a Non-identity Affidavit may be required.

Section 5.5 A survey affidavit signed by an authorized officer of the Borrower, certifying that there has been no change to the Mortgaged Property since the date of the last survey prepared by a registered Illinois land surveyor in accordance with the standards of the American Congress on Surveying and Mapping, of which Lender received a copy.



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Section 5.6 Evidence that the following insurance coverages are in effect in amounts and in a form satisfactory to the Lender with respect to the Mortgaged Property:

- (a) Comprehensive casualty and general liability insurance for at least 133% of the amount of the Loan;
- (b) Fire and extended coverage insurance to full replacement value of any improvements; and
- (c) Such other insurance as the Lender may reasonably require;

All policies of insurance required to be maintained by the Borrower shall be issued by companies satisfactory to the Lender and shall have the coverages and endorsements as the Lender may require. All policies of insurance shall provide that the policies may not be canceled or modified without thirty (30) days' prior written notice to the Lender.

Section 5.7 An opinion of counsel to the Borrower, as to the following:

- (a) The Borrower is an Illinois limited liability company, duly organized, validly existing and in good standing under the laws of the State;
- (b) The Borrower has the power and authority to carry on its business as now conducted;
- (c) The execution and delivery by the Borrower of this Amendment and of all Loan Documents to which Borrower is a party have been duly authorized by appropriate action of the Borrower and do not violate the articles of organization or operating agreement of the Borrower or any undertaking, contract or restriction to which the Borrower is a party or is otherwise subject and, when executed and delivered by the Borrower, all Loan Documents will be valid and legally binding upon the Borrower;
- (d) The pledges of the Mortgaged Property pursuant to the Loan Documents constitute a valid, perfected, non-avoidable and enforceable first mortgage lien on and security interest in the Mortgaged Property; and
- (e) Such other and additional legal opinions as the Lender may reasonably request.

Section 5.8 A certificate from an authorized officer of the Borrower certifying that no material change shall have occurred with respect to the Borrower or the Property since April 7, 2017 (*Date of Commitment Letter*), including but not limited to the following:

- (a) The Borrower shall not be the subject of any bankruptcy, reorganization or insolvency proceedings;
- (b) No part of the Mortgaged Property shall have been damaged and not repaired to the satisfaction of the Lender, nor taken in condemnation or other similar proceeding (other than as disclosed prior to the closing and acceptable to the Lender);

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- (c) No event shall have occurred which would constitute a default under any of the Loan Documents (other than such disclosed prior to the closing and acceptable to the Lender);
- (d) No event shall have occurred which would constitute a default under any other loan agreement and related documents or any material contract of the Borrower (other than such disclosed prior to the closing and acceptable to the Lender);
- (e) No event shall have occurred which would change the Borrower's status as an Illinois limited liability company, qualified to do business under applicable laws of the State of Illinois; and
- (f) No event shall have occurred which would materially change the projected income and expenses of the Mortgaged Property, the financial condition of the Borrower or any financial information submitted by the Borrower.

Section 5.9 Payment in full, by the Borrower to the Lender, of the loan fee of \$4,200.00; \$2,100.00 of which was previously paid to Lender with the remaining amount of \$2,100.00 due on the Amendment Effective Date.

Section 5.10 A Borrower Certification Agreement as amended, restated, supplemented or otherwise modified from time to time, the "*Certification*", executed by an authorized officer of the Borrower and the Guarantor, in such form and content as is required by the CDFI Fund Bond Loan Guarantee Program. If any terms, provisions or conditions of the Certification contradicts with this Amendment as now or further amended, restated, supplemented or otherwise modified, the certification shall control.

Section 5.11 Such other certificates, reports, papers, documents and information as the Lender may require from the Borrower, each in form and content acceptable to the Lender in its sole discretion.

## SECTION 6. GENERAL PROVISIONS

Section 6.1 Section headings in this Amendment are for convenience of reference only, and shall not govern the interpretation of any of the provisions of this Amendment.

Section 6.2 Any provision in this Amendment that is held to be inoperative, unenforceable or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Amendment are declared to be severable.

Section 6.3 This Amendment shall be construed in accordance with and be governed by the laws of the State of Illinois (without giving effect to their principles thereof relating to conflicts of law).

Section 6.4 This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Amendment by signing any such counterpart.



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Section 6.5 The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted under the Loan Agreement.

**SIGNATURES FOLLOW**

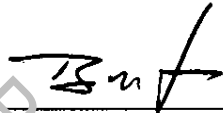
Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, this Omnibus Amendment has been duly executed and delivered as of the date first above written.

MORTGAGOR:

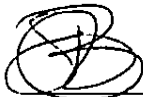
KMW COMMUNITIES, LLC,  
an Illinois limited liability company

By: 

Printed Name: Bill Williams  
Its: Sole Manager  
Address: 2950 W. Chicago Avenue, Suite 301-C  
Chicago, Illinois 60622

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

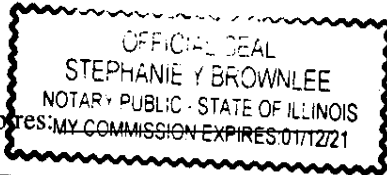
The foregoing Omnibus Amendment was acknowledged before me, the undersigned Notary Public, in the County and State aforesaid, this 25<sup>th</sup> day of May, 2017, by Bill Williams, the Sole Manager of KMW Communities, LLC, an Illinois limited liability company.

  
[Notary Seal]  
Stephanie Brownlee

Notary Public

Printed Name

My Commission expires: \_\_\_\_\_



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IN WITNESS WHEREOF, this Omnibus Amendment has been duly executed and delivered as of the date first above written.

LENDER:

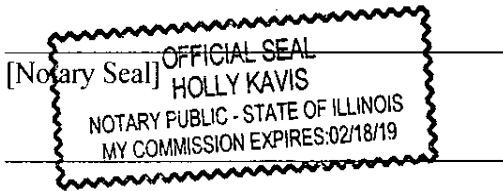
THE CHICAGO COMMUNITY LOAN FUND,  
an Illinois not-for-profit corporation


By: 

Printed Name: Robert G. Tucker  
Its: Chief Operating Officer  
Address: 29 E. Madison Street, Suite 1700  
Chicago, IL 60602

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

The foregoing Omnibus Amendment was acknowledged before me, the undersigned Notary Public, in the County and State aforesaid, this 25<sup>th</sup> day of May, 2017, by Robert G. Tucker the Chief Operating Officer of The Chicago Community Loan Fund, an Illinois not-for-profit corporation.



  
Notary Public

Holly Kavis  
Printed Name

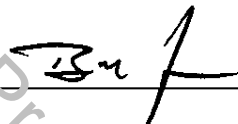
My Commission expires: 2/18/19

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IN WITNESS WHEREOF, this Omnibus Amendment has been duly executed and delivered as of the date first above written.

**MORTGAGOR:**


KMW COMMUNITIES, LLC,  
an Illinois limited liability company

By: 

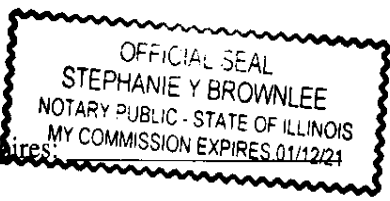
Printed Name: Bill Williams  
Its: Sole Manager  
Address: 2950 W. Chicago Avenue, Suite 301-C  
Chicago, Illinois 60622

STATE OF ILLINOIS )  
  ) SS  
COUNTY OF COOK        )

The foregoing Omnibus Amendment was acknowledged before me, the undersigned Notary Public, in the County and State aforesaid, this 25<sup>th</sup> day of May, 2017, by Bill Williams, the Sole Manager of KMW Communities, LLC, an Illinois limited liability company.

  
[Notary Seal]  
Stephanie Brownlee

Notary Public  
  
Printed Name

My Commission expires:             


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## SCHEDULE I

### LEGAL DESCRIPTION

**Parcel 1:**

Lot 40 in Diven's Subdivision of Block 3 in Harding's Subdivision of the west half of the northwest corner of Section 11, Township 3 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PIN No. 16-11-101-029-0000

Commonly Known As: 730 N. Springfield Ave., Chicago, IL

**Parcel 2:**

Lot 6 in Block 7 in F. Harding's Subdivision of the west 1/2 of the northwest 1/4 of Section 11, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

PIN No. 16-11-112-006-0000

Commonly Known As: 3847 W. Huron Street, Chicago, IL

**Parcel 3:**

Lot 28 (except the west 7-1/3 feet) and Lot 29 (except the east 8-1/3 feet), in Wightman's Subdivision of Block 8 in Harding's Subdivision of the west 1/2 of the northwest 1/4 of Section 11, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PIN No. 16-11-113-040-000

Commonly Known As: 3818 W. Ohio Street, Chicago, IL

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## EXHIBIT A

### SECURED PROMISSORY NOTE (REPLACEMENT)

Property of Cook County Clerk's Office



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## SECURED NOTE (Replacement)

\$210,000.00

May 25, 2017  
Chicago, Illinois

1. **Agreement to Pay.** On or before June 1, 2027 (the "Maturity Date"), KMW COMMUNITIES, LLC, an Illinois limited liability company ("Borrower"), promises to pay to the order of THE CHICAGO COMMUNITY LOAN FUND, an Illinois not-for-profit corporation, its successors and assigns ("Lender"), the principal sum of TWO HUNDRED AND TEN THOUSAND DOLLARS (\$210,000.00) under the Loan Agreement referred to below (the "Loan"), at the place and in the manner provided below, together with interest thereon at the rate or rates described below, and all other amounts that may be due and payable hereunder from time to time. All capitalized terms used but not defined in this Note shall have the meanings set forth in the Loan Agreement.

2. **Interest Rate.**

2.1 **Interest Prior to Default.** Subject to Section 2.2, interest shall accrue on the outstanding principal balance of this Note from the Closing Date through the Maturity Date at an annual rate of six percent (6.0%) (the "Loan Rate").

2.2 **Interest After Default.** From and after the Maturity Date or upon the occurrence and during the continuance of an Event of Default (as defined in Section 5), interest shall accrue on the unpaid principal hereof at an annual rate of 12.0% (the "Default Rate"); provided that in no event shall the Default Rate exceed the maximum rate permitted by applicable law. Interest accruing under this paragraph shall be immediately due and payable by Borrower to the holder of this Note upon demand and shall be additional indebtedness evidenced by this Note.

2.3 **Interest Calculation.** Interest on this Note shall be calculated for the actual number of days elapsed on the basis of a 360 day year.

3. **Payment Terms.**

3.1 **Interest Only.** On May 25, 2017, Borrower shall make a payment of interest on this Note in an amount equal to the sum of the interest accrued from the Closing Date through May 31, 2017.

3.2 **Principal and Interest.** On July 1, 2017 (the "Amortization Payment Commencement Date") and on the first business day of each calendar month thereafter, including the first business day of the calendar month following the Maturity Date. Borrower shall make a payment of principal and interest on this Note in an amount equal to one

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thousand five hundred four and 51/100 dollars (\$1,504.51). Each such monthly payment from and after the Amortization Payment Commencement Date shall be allocated between principal and interest on the basis of an amortization schedule to be provided by Lender to Borrower promptly after the Amortization Payment Commencement Date (which schedule shall reflect amortization on a twenty (20) year level payment basis). All accrued and unpaid interest, and the remaining principal balance of the Loan, shall be due and payable in full on the earlier of the Maturity Date and the acceleration of Borrower's obligations hereunder during the existence of an Event of Default.

**3.3 Method of Payment.** All payments of principal and interest hereunder shall be paid (a) by automatic debit, wire transfer, check or in coin or currency that, at the time, is legal tender for public and private debts in the United States of America; and (b) at such place as Lender or the legal holder of this Note may from time to time appoint in the payment invoice or otherwise in writing (or, in the absence of such appointment, at the office of Lender at 29 East Madison Street, Suite 1700, Chicago, Illinois 60602). Payment made by check shall be deemed paid on the date Lender receives such check; provided that if such check is subsequently returned to Lender unpaid due to insufficient funds or otherwise, such payment shall not be deemed to have been made and the amount unpaid shall bear interest until collected at the Default Rate. Notwithstanding the foregoing, the final payment due under this Note must be made in immediately available funds by wire transfer or other final funds.

**3.4 Late Charge.** If any payment of interest or principal due hereunder is not made within ten days after such payment is due in accordance with the terms hereof, then, in addition to the payment of the amount so due, Borrower shall pay to Lender a "late charge" of five cents for each whole dollar so overdue to defray part of the cost of collection of and handling such late payment. Borrower agrees that the damages to be sustained by the holder hereof for the detriment caused by any late payment are extremely difficult and impractical to ascertain, and that the amount of five cents for each one dollar due is a reasonable estimate of such damages, does not constitute interest, and is not a penalty.

**3.5 Prepayment.** Borrower may voluntarily prepay all or any portion of the principal balance of this Note, in whole or in part, without premium or penalty, at any time on or after the date hereof, subject to the following conditions:

(a) Borrower shall give Lender not less than three business days' prior notice of such prepayment specifying the prepayment date (the "Prepayment Date"); and

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(b) Borrower shall concurrently pay all accrued and unpaid interest hereon through the date of such prepayment and all other amounts then due and payable hereunder.

No prepayment of principal of this Note shall extend or postpone the due date or reduce the amount of any subsequent monthly payment of principal and interest due hereunder. Each prepayment of this Note shall be applied to the remaining installments hereof in the inverse order of maturity.

4. **Security.** This Note is issued pursuant to a Loan Agreement (as amended, modified or restated from time to time, the "Loan Agreement") dated as of September 9, 2013 between Lender and Borrower. This Note is pursuant to a Mortgage and Security Agreement with Assignment of Rents (as amended, modified or restated from time to time, the "Mortgage") dated as of September 9, 2013 made by Borrower to Lender creating a first lien mortgage on certain real properties (each a "Premises") legally described in Schedule I to the Mortgage. This Note, the Loan Agreement, the Mortgage and any other document now or hereafter given to evidence or secure payment of this Note, as such documents may be amended, restated or replaced from time to time, are collectively referred to as the "Loan Documents"). Reference is hereby made to the Loan Documents for a statement of the covenants and agreements contained therein, a statement of the rights, remedies, and security afforded thereby, and all matters therein contained.

5. **Events of Default.** The occurrence of any "Event of Default" under and as defined in the Loan Agreement or the Mortgage shall constitute an "Event of Default" under this Note.

6. **Remedies.** At the election of the holder hereof, and without notice, the principal balance remaining unpaid under this Note, and all unpaid interest accrued thereon and all other amounts due hereunder, shall be and become immediately due and payable in full upon the occurrence of any Event of Default. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent Event of Default. No holder hereof shall, by any act of omission or commission, be deemed to waive any of its rights, remedies or powers hereunder or otherwise unless such waiver is in writing and signed by the holder hereof, and then only to the extent specifically set forth therein. The rights, remedies and powers of the holder hereof, as provided in this Note, the Loan Agreement, the Mortgage and any other Loan Document, are cumulative and concurrent, and may be pursued singly, successively or together against Borrower, any Premises and any other security given at any time to secure the repayment hereof, all at the sole discretion of the holder hereof. If any suit or action is instituted or attorneys are employed to collect this Note or any part hereof, Borrower promises and agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.

7. **Covenants and Waivers.** Borrower and all others who now are or may at any time become liable for all or any part of the obligations evidenced hereby (a) expressly agree to be jointly and severally bound; and (b) jointly and severally: (i) waive

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and renounce all homestead, redemption and exemption rights and the benefit of all valuation and appraisal privileges against the indebtedness evidenced by this Note; (ii) waive presentment and demand for payment, notices of nonpayment and dishonor and notice of protest; (iii) except as expressly provided in the Loan Documents, waive all notices in connection with the delivery and acceptance hereof and all other notices in connection with the performance, default or enforcement of the payment hereof or hereunder; (iv) waive all lack of diligence and all delays in the enforcement of the payment hereof; (v) agree that the liability of Borrower, each endorser, guarantor and each other obligor hereon shall be unconditional and without regard to the liability of any other Person for the payment hereof, and shall not in any manner be affected by any indulgence or forbearance granted or consented to by Lender to any of them with respect hereto; (vi) consent to any extension of time, renewal, waiver or modification that may be granted by Lender with respect to the payment or other provisions hereof, and to the release of any security at any time given for the payment hereof, or any part thereof, with or without substitution, and to the release of any Person liable for the payment hereof; and (vii) consent to the addition of any other maker, endorser, guarantor or other obligor for the payment hereof, and to the acceptance of any other security for the payment hereof, and agree that the addition of any such maker, endorser, guarantor, other obligor or security shall not affect the liability of Borrower, any endorser, guarantor or obligor and any other Person now or hereafter liable for all or any part of the obligations evidenced hereby.

## 8. Other General Agreements.

8.1 The Loan is a business loan which comes within the purview of Section 205/4, paragraph (1)(c) of Chapter 815 of the Illinois Compiled Statutes, as amended. Borrower agrees that the Loan evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C., Section 1601, et seq.

8.2 Time is of the essence hereof.

8.3 This Note is governed and controlled as to validity, enforcement, interpretation, construction and effect and in all other respects by the statutes, laws and judicial decisions of the State of Illinois. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

8.4 Lender shall not be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any lessee, operator, concessionaire or licensee of Borrower in the conduct of its business, and by the execution of this Note, Borrower agrees to indemnify, defend, and hold Lender harmless from and against all damages, costs, expenses and liability (including, without limitation, attorneys' fees and expenses) that may be incurred by Lender as a result of a claim that Lender is such a partner, joint venturer, agent or associate.

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8.5 This Note has been made and delivered at Chicago, Illinois and all funds disbursed to or for the benefit of Borrower will be disbursed in Chicago, Illinois.

8.6 This Note shall inure to the benefit of and may be enforced by Lender and its successors and assigns.

8.7 If any provision of this Note is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Borrower and Lender shall negotiate an equitable adjustment in the provisions hereof in order to effect, to the maximum extent permitted by law, the purpose of such provision, and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

8.8 If the interest provisions herein or in any other Loan Document shall result, at any time during the term of this Note, in an effective rate of interest that, for any month, exceeds the limit of usury or other laws applicable to the Loan, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party hereto, be applied upon principal immediately upon receipt of such monies by Lender, with the same force and effect as though the payer has specifically designated such extra sums to be so applied to principal and Lender had agreed to accept such extra payment as a premium-free prepayment. Notwithstanding the foregoing, Lender may at any time and from time to time elect by notice in writing to Borrower to reduce or limit the collection to such sums that, when added to the said first-stated interest, shall not result in any payment toward principal in accordance with the requirements of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this Loan transcend the limits imposed or provided by the law applicable to this transaction or the makers hereof in the jurisdiction in which each Premises is located for the use or detention of money or for forbearance in seeking its collection.

8.9 Lender may at any time assign its rights in this Note and the other Loan Documents, or any part thereof, and transfer its rights in any or all of the collateral, and Lender thereafter shall be relieved from all liability with respect to such collateral. In addition, Lender may at any time sell one or more participations in this Note. Borrower may not assign its interest in this Note, or any other agreement with Lender or any portion thereof, either voluntarily or by operation of law, without the prior written consent of Lender.

9. **Notices.** All notices required under this Note will be in writing and will be transmitted in the manner and to the addresses or facsimile numbers required by



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Section 14(a) of the Loan Agreement, or to such other addresses or facsimile numbers as Lender and Borrower may specify from time to time in writing.

10. **Consent to Jurisdiction.** TO INDUCE LENDER TO ENTER INTO THIS AGREEMENT, BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE DISCRETION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS NOTE WILL BE LITIGATED IN COURTS SITTING IN CHICAGO, ILLINOIS. BORROWER CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED IN THE LOAN AGREEMENT AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

11. **Waiver of Jury Trial.** BORROWER AND LENDER (BY ACCEPTANCE OF THIS NOTE), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (I) UNDER THIS NOTE OR ANY OTHER LOAN DOCUMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS NOTE OR (II) ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

12. **Replacement Note.** This Secured Note (Replacement) is issued in replacement of, and in substitution for, that certain Secured Note dated September 9, 2013 in the original principal amount of \$218,000 (the "Prior Note") made by Borrower and payable to Lender, and upon issuance of this Secured Note (Replacement), all outstanding principal of, and interest on the Prior Note shall evidenced by this Note but the issuance of this Secured Note (Replacement) shall not be construed as the repayment or forgiveness of any such principal, interest or other obligations under such Prior Note or as a novation thereof.

[Signature on following page]

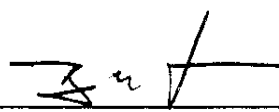


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IN WITNESS WHEREOF, Borrower has executed and delivered this Secured Note (Replacement) as of the date first written above.

**BORROWER:**

KMW COMMUNITIES, LLC

By:   
Name: Bill Williams  
Title: Sole Manager

Property of Cook County Clerk's Office