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Doc#: 2119720152 Fee: \$98.00  
Karen A. Yarbrough  
Cook County Clerk  
Date: 07/16/2021 07:46 AM Pg: 1 of 14

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

Kalpana Plomin  
City of Chicago  
Department of Law  
Real Estate and Land Use Division  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602

(Above Space for Recorder's Use Only)

## FIRST AMENDMENT TO AFFORDABLE HOUSING COVENANT AND LIEN

THIS FIRST AMENDMENT TO AFFORDABLE HOUSING COVENANT AND LIEN (this "First Amendment") is made on or as of July 6<sup>th</sup>, 2021, by and between the **CITY OF CHICAGO**, an Illinois municipal corporation ("City"), acting by and through its Department of Housing ("Department"), and **ABERDEEN ACQUISITIONS II, LLC**, an Illinois limited liability company (together with its successors and assigns, the "Project Developer") and **KEMT, LLC**, a Delaware limited liability company (together with its successors and assigns, the "Off-Site Developer") and **MICHAEL GOLDEN**, an individual (as both "Project Guarantor" and "Off-Site Guarantor").

### RECITALS

A. The Project Developer is the owner of the property located at 166 North Aberdeen Street, Chicago, Illinois 60607, as legally described on Exhibit A attached hereto (the "Rezoned Property").

B. The City Council, by ordinance adopted on May 25, 2018, approved the rezoning of the Rezoned Property DX-5 Downtown Mixed-Use District and then to Residential-Business Planned Development Number 1283, for the construction of a mixed-use building with a total of 223 dwelling units (the "Triggering Project").

C. The Triggering Project triggered the requirements of Section 2-44-080 of the Municipal Code (the "Affordable Requirements Ordinance" or the "ARO").

D. Pursuant to the ARO, the Project Developer executed that certain Affordable Housing Covenant and Lien, for the benefit of the City, recorded with the Cook County Clerk, on January 25, 2021, as Document No. 2102519051 (the "ARO Agreement") and capitalized terms not otherwise defined herein are as defined therein.

E. The ARO Agreement required the Project Developer to provide twenty-two (22) First Units for rent on-site (the "On-Site Affordable Units"), and twenty-three (23) Additional Units for rent off-site (the "Off-Site Affordable Units" and together with the On-Site Affordable Units, the "Affordable Units") as follows: eight (8) Off-Site Affordable Units for rent at 3803 West Ohio Street, Chicago, Illinois 60624, seven (7) Off-Site Affordable Units for rent at 20 South Hamlin Boulevard,

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Chicago, Illinois 60624, and eight (8) Off-Site Affordable Units for rent at 4114 West West End Avenue, Chicago, Illinois 60624 ((the "Off-Site Projects" and together with the Triggering Project, the "Project"). These three (3) off-site properties ("Off-Site Properties" and together with the Rezoned Property, the "Property") are legally described on Exhibit A-1 attached hereto.

F. The Off-Site Developer is an affiliate of the Project Developer and the owner of the Off-Site Properties.

G. The Agreement provides that for a certain mix of units. The Developer has submitted, and the Department has approved, a revised mix of units. Further, the Developer has agreed to market its Off-Site Affordable Units in accordance with minimum household size standards set by the Department in accordance with the terms below.

H. The City and the Developer now wish to confirm these revised provisions of the Agreement.

NOW THEREFORE, the Project Developer and Off-Site Developer covenant and agree as follows:

## ACKNOWLEDGMENTS:

NOW THEREFORE, in consideration of the mutual covenants of the parties herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

1. Recitals. The Recitals are incorporated herein by reference and made a part of this First Amendment.

2. Method of Compliance. Section 4.1(b) of the Agreement, is hereby deleted and the following language is substituted in lieu thereof:

(b) *Construction of Affordable Units Off-Site*. The Developer shall establish and maintain twenty-three (23) Off-Site Affordable Units in the Project, as follows:

(i) two (2) 1-bedroom units at 4114 West West End Avenue, with an average square footage of approximately 775 square feet;

(ii) eight (8) 2-bedroom units at 3805 West Ohio Street, five (5) 2-bedroom units at 20 South Hamlin Boulevard, and one (1) 2-bedroom units at 4114 West West End Avenue, for a total of fourteen (14) 2-bedroom units with an average square footage of approximately 1,091 square feet; and

(iii) two (2) 3-bedroom units at 20 South Hamlin Boulevard and five (5) 3-bedroom units at 4114 West West End Avenue, for a total of seven (7) 3-bedroom units with an average square footage of approximately 1,524 square feet.

3. The last sentence of Section 4.6 of the Agreement is hereby deleted and the following language is substituted in lieu thereof:

Subject to the eligibility and minimum household size requirements set forth in Section 4.14, the marketing and leasing procedures and requirements for the Affordable Units will be consistent with the marketing and leasing procedures and requirements for the market-rate Units.

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4. Section 4 of the Agreement is hereby amended to insert the following language as Section 4.14.

Minimum Household Size. The Developer shall rent Off-Site Affordable Units with two (2) or more bedrooms to Eligible Households meeting the Department's minimum household sizes in accordance with the Department's rules and regulations as defined in Section 4.2(h).

5. Exhibit C of the Agreement is hereby deleted and the Exhibit C attached hereto, is hereby substituted in lieu thereof.

**[SIGNATURE PAGE FOLLOWS]**

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**IN WITNESS WHEREOF**, the undersigned have executed this First Amendment as of the date first above written.

**PROJECT DEVELOPER:**

**ABERDEEN ACQUISITIONS II, LLC**, an Illinois limited liability company

By: \_\_\_\_\_  
Michael Golden  
Its Manager

**PROJECT GUARANTOR:**

\_\_\_\_\_  
Michael Golden, an individual

**OFF-SITE GUARANTOR:**

\_\_\_\_\_  
Michael Golden, an individual

**OFF-SITE DEVELOPER:**

**KEMT, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Michael Golden  
Its Manager

**CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government

By: \_\_\_\_\_  
Marisa C. Novara  
Commissioner of Housing

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STATE OF IL )  
COUNTY OF COOK ) ss.

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY, that Michael Golden, as Manager of Aberdeen Acquisitions II, LLC, an Illinois limited liability company (the "LLC"), personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the foregoing instrument pursuant to authority given by said LLC, as his free and voluntary act and deed and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 29 day of June, 2021

*Lisa Vlach*

Notary Public



STATE OF IL )  
COUNTY OF COOK ) ss.

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY, that Michael Golden, an individual and Guarantor of Aberdeen Acquisitions II, LLC, an Illinois limited liability company and KEMT, LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the foregoing instrument, as his free and voluntary act and deed, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 29 day of June, 2021

*Lisa Vlach*

Notary Public



STATE OF IL )  
COUNTY OF COOK ) ss.

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY, that Michael Golden, as Manager of KEMT, LLC, a Delaware limited liability company, (the "LLC"), personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the foregoing instrument pursuant to authority given by said LLC, as his free and voluntary act and deed and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 29 day of June, 2021

*Lisa Vlach*

Notary Public



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STATE OF ILLINOIS )  
                                  ) ss.  
COUNTY OF COOK )

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Marisa C. Novara, personally known to me to be the Commissioner of the Department of Housing of the City of Chicago, Illinois (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Commissioner she signed and delivered the said instrument pursuant to authority given her on behalf of the City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal on April 27, 2021  
Angela C. Ellis  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE REZONED PROPERTY

LOTS 10, 11, 12, 13, 14, 15, 16 AND 17 OF THE WEST ½ OF THE VACATED ALLEY LYING EASTERLY AND ADJOINING SAID LOTS 10 AND 11 AND THE EAST ½ OF THE VACATED ALLEY LYING WESTERLY AND ADJOINING SAID LOTS 16 AND 17, ALL IN HAYES AND SHELBY'S SUBDIVISION IN BLOCK 30 IN CARPENTER'S ADDITION TO CHICAGO IN THE SOUTH EAST ¼ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 166 NORTH ABERDEEN STREET, CHICAGO, ILLINOIS 60607

PIN: 17-08-428-005-0000  
17-08-428-006-0000  
17-08-428-022-0000  
17-08-428-023-0000

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## EXHIBIT A-1

### LEGAL DESCRIPTIONS OF AFFORDABLE OFF-SITE AFFORDABLE UNITS PROPERTIES

**Property commonly known as: 3803-09 West Ohio Street, Chicago, Illinois 60624**

LOTS 1 AND 2 AND THE NORTH 15 FEET OF LOT 3 IN CENTRAL PARK STATION SUBDIVISION OF BLOCK 9 IN HARDINGS 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: 16-11-121-042-0000

**Property commonly known as: 29 South Hamlin Boulevard, Chicago, Illinois 60620**

THE SOUTH 21 FEET OF LOT 43 AND ALL OF LOT 44 AND THE NORTH 4 FEET OF LOT 45 IN BLOCK 1 IN LAMBERT TREE'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: 16-14-101-025-0000

**Property commonly known as: 4114-16 West West End Avenue, Chicago, Illinois 60624**

LOTS 42 AND 43 IN THE RESUBDIVISION OF THE SOUTH HALF BLOCK OF BLOCK 18 IN WEST CHICAGO LAND COMPANY SUBDIVISION OF THE SOUTH HALF OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART THEREOF TAKEN FOR THE WIDENING OF RANDOLPH STREET), IN COOK COUNTY, ILLINOIS.

PIN: 16-10-415-024-0000



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## EXHIBIT C

### COMPLIANCE CERTIFICATE

#### CITY OF CHICAGO DEPARTMENT OF HOUSING

#### ANNUAL OWNER'S CERTIFICATION FOR PROJECT SUBJECT TO AFFORDABLE REQUIREMENTS ORDINANCE UNDER THE MUNICIPAL CODE OF CHICAGO

Owner: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Date: \_\_\_\_\_

Owner Federal Employer Identification Number: \_\_\_\_\_

The Owner has executed an Affordable Housing Covenant and Agreement ("**Agreement**") for the benefit of the City of Chicago (the "**City**"). The Agreement was filed with the Office of the Recorder of Deeds of Cook County, Illinois, on \_\_\_\_\_ (month/date/year). Pursuant to the Agreement, the Owner is required to maintain certain records concerning the Project and the City is authorized to monitor the Project's compliance with the requirements of the Agreement. This Annual Owner's Certification for Project Subject to the Affordable Requirements Ordinance ("**Compliance Certificate**") must be completed in its entirety and must be executed by the Owner, notarized and returned to the Department of Housing ("**Department**") by June 30 of each year until the expiration of the Term (as defined in Section 2 of the Agreement). No changes may be made to the language contained herein without the prior approval of the City. Except as otherwise specifically indicated, capitalized terms contained herein shall have the same meanings given to such terms in the Agreement.

All forms, including updates to this Compliance Certificate, department contacts, income limits, maximum allowable rents, and guidance for calculating household income are available on the Department's website, or by contacting the Department directly at 312-744-4190 and requesting to speak with someone regarding ARO compliance.

#### A. INFORMATION

1. Please list the address for each building included in the Project. (If necessary, use a separate sheet of paper and attach it to this document.)

Building Address(es):

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

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2. Has any change occurred, either directly or indirectly, (a) in the identity of the Owner, (b) in the identity of any shareholder, partner, member, trustee or other entity holding an ownership interest in the Owner, or (c) which would otherwise cause a change in the identity of the individuals who possess the power to direct the management and policies of the Owner since the date of the Agreement or the most recent Annual Owner's Certification?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, provide all the appropriate documents.

3. Have the Owner's organizational documents been amended or otherwise modified since they were submitted to the City?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, provide all amendments and modifications of the Owner's organizational documents.

## B. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Owner hereby represents and warrants to the City that each of the following statements is true and accurate and covenants as follows:

1. The Owner is [check as applicable]:

- (a) \_\_\_ an individual
- (b) \_\_\_ a group of individuals
- (c) \_\_\_ a corporation incorporated and in good standing in the State of \_\_\_\_\_
- (d) \_\_\_ a general partnership organized under the laws of the State of \_\_\_\_\_
- (e) \_\_\_ a limited partnership organized under the laws of the State of \_\_\_\_\_
- (f) \_\_\_ a limited liability company organized under the laws of the State of \_\_\_\_\_
- (g) \_\_\_ other [please describe]: \_\_\_\_\_

2. The Owner is [check as applicable] (a) \_\_\_ the owner of fee simple title to, or (b) \_\_\_ the owner of 100 percent of the beneficial interest in, the Project.

3. The Project consists of \_\_\_\_\_ building(s) containing a total of \_\_\_\_\_ residential unit(s), with total rentable square feet of \_\_\_\_\_.

4. (a) The Agreement requires the Owner to rent \_\_\_\_\_ ( ) of the residential units in the Project (the "**Affordable Unit(s)**") to individuals whose income is 60 percent or less of the Chicago Primary Metropolitan Statistical Area median income ("**Eligible Households**").

(b) For the 12-month period preceding the date hereof (the "**Year**"):

- (i) the Affordable Units in the Project (as identified in paragraph 8 below) were occupied or available for occupancy by Eligible Households;
- (ii) the Owner received an annual income certification from each Eligible Household at the time of the first rental by that household and documentation to support such certification;

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- (iii) all of the units in the Project were for use by the general public and used on a non-transient basis;
- (iv) each building in the Project was suitable for occupancy, taking into account the health, safety and building codes of the City; and
- (v) if an Affordable Unit became vacant during the Year, reasonable attempts were or are being made to rent such Affordable Unit or the next available residential unit in the Project of a comparable size to one or more Eligible Households.

5. I have attached the Affordable Housing Profile Form signed by the Department for this Project and acknowledge that I must provide the number and types of affordable units specified in that document.

6. I have attached copies of the first and last pages of the lease for each of the Affordable Units listed in paragraph 8 below. For any new tenants, I have attached copies of all documents required to certify that they are income-eligible.

7. For this Project, tenants pay for the following utilities [check as applicable]:

- (a)  electric heat
- (b)  cooking gas
- (c)  other electric
- (d)  gas heat
- (e)  electric cooking

8. The following information accurately describes the Affordable Unit required in this Project, as of today's date:

	Unit #	Number of bedrooms	Sq. Ft.	Rent charged	Household size	Household income	Date household income most recently calculated
1.	411	0	461	60% AMI		60% AMI	
2.	511	0	451	60% AMI		60% AMI	
3.	611	0	451	60% AMI		60% AMI	
4.	711	0	451	60% AMI		60% AMI	
5.	811	0	451	60% AMI		60% AMI	
6.	911	0	451	60% AMI		60% AMI	
7.	1011	0	451	60% AMI		60% AMI	
8.	1111	0	451	60% AMI		60% AMI	
9.	407	1	650	60% AMI		60% AMI	
10.	507	1	662	60% AMI		60% AMI	
11.	607	1	662	60% AMI		60% AMI	
12.	707	1	662	60% AMI		60% AMI	
13.	807	1	662	60% AMI		60% AMI	
14.	907	1	662	60% AMI		60% AMI	
15.	1007	1	662	60% AMI		60% AMI	
16.	1107	1	662	60% AMI		60% AMI	

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17.	1207	1	662	60% AMI		60% AMI	
18.	1307	1	662	60% AMI		60% AMI	
19.	612	2	964	60% AMI		60% AMI	
20.	712	2	964	60% AMI		60% AMI	
21.	812	2	964	60% AMI		60% AMI	
22.	912	2	964	60% AMI		60% AMI	
23.	4114 W West End	1	759	80% AMI		80% AMI	
24.	4114 W West End	1	790	80% AMI		80% AMI	
25.	20 S Hamlin	2	1292	80% AMI		80% AMI	
26.	20 S Hamlin	2	1341	80% AMI		80% AMI	
27.	20 S Hamlin	2	1502	80% AMI		80% AMI	
28.	20 S Hamlin	2	1502	80% AMI		80% AMI	
29.	20 S Hamlin	2	1502	80% AMI		80% AMI	
30.	3803 W Ohio	2	780	80% AMI		80% AMI	
31.	3803 W Ohio	2	780	80% AMI		80% AMI	
32.	3803 W Ohio	2	791	80% AMI		80% AMI	
33.	3803 W Ohio	2	791	80% AMI		80% AMI	
34.	3803 W Ohio	2	815	80% AMI		80% AMI	
35.	3803 W Ohio	2	815	80% AMI		80% AMI	
36.	3803 W Ohio	2	968	80% AMI		80% AMI	
37.	3803 W Ohio	2	968	80% AMI		80% AMI	
38.	4114 W West End	2	1432	80% AMI		80% AMI	
39.	20 S Hamlin	3	1644	80% AMI		80% AMI	
40.	20 S Hamlin	3	1644	80% AMI		80% AMI	
41.	4114 W West End	3	1534	80% AMI		80% AMI	
42.	4114 W West End	3	1534	80% AMI		80% AMI	
43.	4114 W West End	3	1464	80% AMI		80% AMI	
44.	4114 W West End	3	1424	80% AMI		80% AMI	
45.	4114 W West End	3	1424	80% AMI		80% AMI	

9. The Project is in compliance with all of the currently applicable requirements of the Agreement. The Owner will take whatever commercially reasonable action is required to ensure that the Project complies with all requirements imposed by the Agreement during the periods required thereby.

The Owner shall retain, for the period required under the Agreement, as from time to time amended and supplemented, all tenant selection documents, which include but are not limited to: income verification, employment verification, credit reports, leases and low-income computation forms, to be available for periodic inspections by the City or its representative. The City, at its option, can periodically inspect the Project, and all tenancy-related documents to determine continued compliance of the Project with all applicable requirements.

10. No litigation or proceedings have been threatened or are pending which may affect the interest of the Owner in the Project or the ability of the Owner to perform its obligations with respect thereto.

11. All Units in each building included in the Project are affirmatively marketed and available for occupancy by all persons regardless of race, national origin, religion, creed, sex, age or handicap.

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12. The Owner has not demolished any part of the Project or substantially subtracted from any real or personal property of the Project or permitted the use of any residential rental unit for any purpose other than rental housing. The Owner has used its commercially reasonable best efforts to repair and restore the Project to substantially the same condition as existed prior to the occurrence of any event causing damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of the Affordable Housing Profile Form attached to the Agreement.

13. The Owner has not executed any agreement with provisions contradictory to, or in opposition to, the provisions of the Agreement. The Owner shall continue to cooperate with the City and furnish such documents, reports, exhibits or showings as are required by the Agreement and the City or the City's counsel.

If the Owner is unable to make any representation or warranty set forth above, the Owner must immediately contact the City and inform the City of the reason that the Owner is unable to make such representation or warranty.

Under penalties of perjury, the Owner declares that, to the best of its knowledge and belief, each response, representation, warranty and document delivered by the Owner in connection herewith is true, correct and complete and will continue to be true, correct and complete.

## **C. INDEMNIFICATION**

The Owner hereby agrees to fully and unconditionally indemnify, defend and hold harmless the City from and against any judgments, losses, liabilities, damages (including consequential damages), costs and expenses of whatsoever kind or nature, including, without limitation, attorneys' fees, expert witness fees, and any other professional fees and litigation expenses or other obligations, incurred by the City that may arise in any manner out of or in connection with actions or omissions which result from the Owner's responses or documents provided pursuant to the terms of this Compliance Certificate and the Agreement, including breaches of the representations and warranties herein and therein contained.

**[SIGNATURE PAGE FOLLOWS]**

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**IN WITNESS WHEREOF**, the Owner has executed this ~~Annual Owner's Certification~~ this 29 day of June, 2021.

Subscribed and sworn to before me this 29 day of June, 2021

Lisa Vlach  
Notary Public  
(SEAL)

Owner: \_\_\_\_\_

By: Michael Golden

Its: Manager



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