

UNOFFICIAL COPY

Doc#. 2306025054 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 03/01/2023 03:45 PM Pg: 1 of 22

23GSC945007LT

MEMORANDUM OF GROUND LEASE

10F4

This Document Prepared by, and
after Recording should be Returned to:

Robert Anthony

Community Partners for Affordable Housing

800 Milwaukee Ave., Suite 201

Libertyville, IL 60048

MEMORANDUM OF GROUND LEASE

[Recording information]

This Memorandum of Ground Lease ("the "Memorandum") is made and entered into this 22nd th day of February, 2023 by and between Elena del Rocio Rodriguez, whose address is 635 Leclaire Avenue, Wilmette, IL 60091 ("Lessee") and CPAH CLT, LLC, an Illinois limited liability company, formerly doing business as Community Partners for Affordable Housing ("Lessor"), whose address is 800 S. Milwaukee Ave., Suite 201, Libertyville, IL 60048.

WITNESSETH:

Lessor is the owner of certain real property located in the Village of Wilmette, County of Cook, State of Illinois, known as **635 Leclaire Avenue, Wilmette, IL 60091** (the "Leased Premises"), more particularly described as follows:

Legal Description:

LOT 4 IN BLOCK 6 IN FIRST ADDITION TO WILMETTE LARAMIE SUBDIVISION, A SUBDIVISION OF LOT 44 AND THE SOUTH 1/2 OF LOT 45 OF COUNTY CLERK'S DIVISION IN SECTION 31, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 05-31-215-018-0000

Commonly known as: 635 Leclaire Avenue, Wilmette, IL 60091

Lessee is the owner of the Improvements located on the Leased Premises and purchased the Improvements subject to the terms of an unrecorded Ground Lease between Lessor and Lessee ("Ground Lease"), which Ground Lease is dated February 22, 2023.

The provisions of the Ground Lease include, but are not limited to, the following:

UNOFFICIAL COPY

1. The Ground Lease commences on February 22, 2023 and terminates on February 21, 2122. The Ground Lease is subject to a renewal for a period of ninety-nine (99) years.
2. The Ground Lease prohibits Lessee from mortgaging the Improvements and Lessee's interest in the Leased Premises without prior consent of the Lessor.
3. The Ground Lease requires that in the event Lessee intends to sell the Improvements, Lessee shall notify Lessor of such intent; and that, thereupon, Lessor shall have the option to purchase the Improvements on the terms and conditions contained in the Ground Lease. The Improvements may not be conveyed to a third party without compliance with the terms of the Ground Lease.
4. The Ground Lease stipulates that the Lessee's interest in the Leased Premises shall not be assigned, subleased, sold, or otherwise conveyed without the prior written consent of the Lessor.
5. The Ground Lease requires that the Leased Premises be used only for residential purposes. Any additions or alterations to the Improvements must comply with the terms of the Ground Lease.
6. The Ground Lease requires that no liens for services, labor, or materials shall attach to the Lessor's title to the Leased Premises.
7. The Ground Lease requires the Lessee to make certain monthly payments.
8. The Ground Lease requires that this Memorandum of Ground Lease be recorded in the records of Cook County, Illinois.


This Memorandum of Ground Lease is executed pursuant to the provisions contained in the Ground Lease and is not intended to vary the terms and conditions of the Ground Lease, but is intended only to give notice of such Ground Lease and certain provisions thereof.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Ground Lease.

LESSOR:

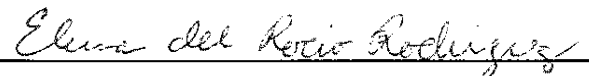
By: CPAH CLT, LLC, an Illinois limited liability company

By: Community Partners for Affordable Housing, an Illinois not for profit corporation, its sole member.

By: 

Its: President

LESSEES:



Elena del Rocio Rodriguez

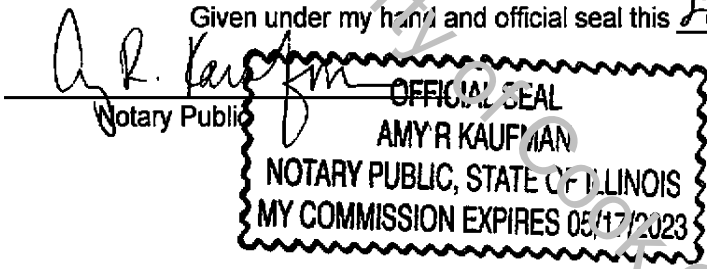
UNOFFICIAL COPY

ACKNOWLEDGMENT OF LESSOR

STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, Amy R. Kaufman, a Notary Public in and for said County, in the State aforesaid, do hereby certify that [Signature], the duly authorized President of CPAH CLT, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing Memorandum of Ground Lease as such [Signature], appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and official seal this 22 day of February, 2023.



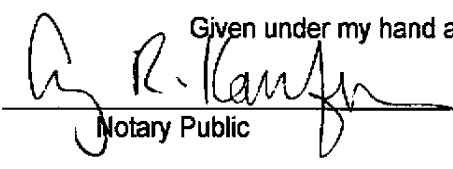
My Commission Expires:
5/17/2023

ACKNOWLEDGMENT OF LESSEE

STATE OF IL)
) SS
COUNTY OF Cook)

I, Amy R. Kaufman, a Notary Public in and for said County, in the State aforesaid, do hereby certify that [Signature] personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing Memorandum of Ground Lease appeared before me this day in person and acknowledged that he/she (they) signed and delivered said instrument as his/her/their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal this 22 day of February, 2023.



My Commission Expires:
5/17/23



UNOFFICIAL COPY

ACKNOWLEDGMENT OF LESSEE

STATE OF _____)
) SS
 COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing Memorandum of Ground Lease appeared before me this day in person and acknowledged that he/she (they) signed and delivered said instrument as his/her/their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of _____, 2023.

 Notary Public

My Commission Expires:

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT: LETTERS OF STIPULATION AND ACKNOWLEDGMENT

Letter of Stipulation

To: CPAH CLF, LLC, ("CPAH")

Date: _____

This letter is given to CPAH to become an exhibit to a Lease between CPAH and me. I will be leasing a parcel of land from CPAH and will be buying the home that sits on that parcel of land. I will therefore become what is described here as a "CPAH homeowner."

My legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a CPAH homeowner, now and in the future.

In particular I understand and agree with the following points.

- One of the goals of CPAH is to keep CPAH homes affordable for lower-income households from one CPAH homeowner to the next. I support this goal as a CPAH homeowner.
- The terms and conditions of my Lease will keep my home affordable for future "income-qualified persons" (as defined in the lease). If and when I want to sell my home, the lease requires that I sell it either to CPAH or to another income-qualified person. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such income-qualified persons.
- It is also a goal of CPAH to promote resident ownership of CPAH homes. For this reason, my Lease requires that if I and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.
- I understand that I can leave my home to my spouse, domestic partner, child, or children or to other members of my household who have lived in the home for at least one year preceding my death, and that, after my death, they can own the home for as long as they want to live in it and abide by the terms of the Lease, or they can sell it on the terms permitted by the Lease.
- As a CPAH homeowner, it is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

CPAH CLT, LLC GROUND LEASE

THIS LEASE ("this Lease" or "the Lease") made and entered into this 22nd day of February, 2023, by and between CPAH CLT, LLC, an Illinois limited liability company, formerly doing business as Community Partners for Affordable Housing, ("CPAH CLT, LLC or "Lessor" or "the Lessor") and Elena del Rocio Rodriguez ("Lessee" or "the Lessee").

WHEREAS, Community Partners for Affordable Housing ("CPAH") is the sole and managing members of CPAH CLT, LLC; and

WHEREAS, CPAH is organized exclusively for charitable purposes, including: to provide opportunities for low- and moderate-income persons and families to secure housing that is decent, safe, and affordable, and to preserve the quality and affordability of housing; and

WHEREAS, a goal of CPAH is the creation of homeownership opportunities for low- and moderate-income people who otherwise would be denied such opportunities because of limited financial resources; and

WHEREAS, a goal of CPAH is to stimulate the conveyance of decent, safe, and affordable housing among low- and moderate-income people by providing access to housing for such persons at affordable prices through the long-term leasing of land under said housing; and

WHEREAS, the Illinois Housing Development Authority (the "Authority") is administrator of the Illinois Affordable Housing Tax Credit Program (the "Program") for the State of Illinois, as authorized under Section 7.28 of the Illinois Housing Development Act (the "Act"), and the rules promulgated thereunder (the "Rules"); and

WHEREAS CPAH received a donation in association with **635 LeClaire Avenue, Wilmette, IL 60091** and described in the attached exhibit PREMISES and the Authority allocated Illinois Affordable Housing Tax Credits in connection with that donation; and

WHEREAS it is a requirement of the allocation of Illinois Affordable Housing Tax Credits that CPAH CLT, LLC and CPAH consent to be regulated and restricted by the Authority as provided herein, and as provided for in the Act and the Rules;

WHEREAS, the Leased Premises described in this Lease have been acquired and are being leased by CPAH CLT, LLC in furtherance of its charitable purposes; and

WHEREAS, the Lessee shares the purposes and goals of CPAH and has agreed to enter into this Lease not only to obtain those benefits to which the Lessee is entitled under this Lease, but also to further the charitable purposes of the CPAH and the Lessor; and

WHEREAS, Lessor and Lessee recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements on the Leased Premises; and

WHEREAS, it is mutually understood and accepted by Lessor and Lessee that the terms and conditions of this Lease further their shared goals over an extended period of time and through a succession of owners;

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of Lessor and Lessee, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

UNOFFICIAL COPY

ARTICLE 1: Letters of Stipulation and Acknowledgment

Attached as the exhibit LETTERS OF STIPULATION AND ACKNOWLEDGMENT and made part of this Lease by reference are (a) a Letter of Stipulation of Lessee, and (b) a Letter of Acknowledgment of legal counsel of Lessee, setting forth their respective review and understanding of this Lease (in particular, Article 10, regarding the transfer, sale, or disposition of the Improvements) and related documents for this transaction. Said property located at 635 LeClaire, Wilmette, IL 60091 was purchased and improved as affordable housing utilizing in part funding in the form of Illinois Affordable Housing Tax Credits from the Authority as authorized under Section 7.28 of the Illinois Housing Development Act.

ARTICLE 2: Demise of Leased Premises

The Lessor, in consideration of the rents reserved and the terms and conditions of this Lease, does hereby demise and leave unto Lessee, and Lessee does hereby take and hire from Lessor, the property (referred to in this Lease as the "Leased Premises") underlying the Improvements at **635 LeClaire Avenue, Wilmette, IL 60091** and described in the attached exhibit PREMISES. Lessor has furnished to Lessee a copy of the most current, if any, title report previously obtained by Lessor for the Premises, and Lessee accepts title to the Leased Premises in their condition "as is" as of the execution of this Lease. Any subsequent Lessee under this Lease must furnish a copy of the most current title report to Lessor.

2.2 RESERVATION OF MINERAL RIGHTS: Lessor reserves to itself all the minerals and other extractive resources of the Leased Premises. This reservation shall not diminish the right of the Lessee under this Lease to occupy and freely use the Leased Premises. Any eventual extraction by the Lessor of minerals or other extractive resources shall be carried out with as little disruption to the Lessee as is reasonably possible. In instances requiring a material disruption of the Lessee's right of use and occupancy of the Leased Premises, the Lessor shall not make such extraction without the consent of the Lessee.

ARTICLE 3: Duration of Lease

3.1 PRINCIPAL TERM and Period of Affordability: The term of this Lease shall be 99 years, commencing on the 22nd day of February, **2023**, and terminating on the 21st day of February, **2122**, unless terminated sooner or extended as provided below.

3.2 LESSEE'S OPTION TO EXTEND: Lessee may extend the principal term of this Lease for one (1) additional period of 99 years, subject to all the provisions of this Lease; provided that Lessor may make changes to the terms of the Lease for the renewal period prior to the beginning of such renewal period but only if these changes do not materially and adversely impair Lessee's rights under the Lease. Not more than 365 nor less than 180 days before the last day of the current term, Lessor shall give Lessee written notice, stating the date of expiration of the Lease, describing any changes that Lessor intends to make to the terms of the Lease as permitted above, and reiterating the conditions for renewal as set forth immediately below ("the Expiration Notice"). Lessee's right to exercise the option to extend is subject to the following conditions: (a) within sixty (60) days of receipt of the Expiration Notice, Lessee shall give Lessor written notice, irrevocably exercising the option to extend ("the Extension Notice"); (b) this Lease shall be in effect at the time the Extension Notice is given and on the last day of the term, and (c) there shall not be an Event of Default by Lessee under this Lease or under any loan documents between Lessee and any Permitted Mortgagee at the time the Extension Notice is given and on the last day of the term.

When Lessee has rightfully exercised the option to extend, each party shall execute a memorandum, in mutually agreeable recordable form, acknowledging the fact that the option has been exercised and otherwise complying with the requirements of law for an effective memorandum or notice of lease, and such memorandum or notice of lease shall be recorded in accordance with the requirements of law on or promptly after the commencement of such renewal period of the Lease.

3.3 CHANGE OF LESSOR; LESSEE'S RIGHT TO PURCHASE: In the event that ownership of the land comprising the Leased Premises ("the Land") is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected, subject to the provisions of Article 9.6. However, in the event Lessor desires or attempts to convey the Land to any person or entity other than a nonprofit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Lessee shall have a right of first refusal to purchase the Land. This right shall be as specified in the attached exhibit FIRST REFUSAL. Any sale or other transfer contrary to this section 3.3 shall be null and void.

UNOFFICIAL COPY

ARTICLE 4: Use of Leased Premises

4.1 RESIDENTIAL USE ONLY: Lessee shall use, and shall cause all occupants to use, the Leased Premises and Improvements only for residential purposes and any incidental activities related to residential use that are currently permitted by the then-applicable zoning law. The Lessee has the right, at Lessee's cost, to make the unit accessible to meet local ADA codes and the Uniform Federal Accessibility Standards to be constructed as per Article 7 herein.

4.2 RESPONSIBLE USE AND COMPLIANCE WITH LAW: Lessee shall use the Leased Premises in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain the Leased Premises and Improvements in good, safe, and habitable condition in all respects, except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by section 9.4 of this Lease

4.3 RESPONSIBLE FOR OTHERS: Lessee shall be responsible for the use of the Leased Premises by all residents and their families, friends and visitors and anyone else using the Leased Premises with their consent and shall make all such people aware of the spirit, intent and appropriate terms of this Lease.

4.4 OCCUPANCY: Lessee shall occupy the Leased Premises as a principal residence for at least 8 months of each year of this Lease, unless otherwise agreed by Lessor. Occupancy by children or other immediate family members or dependents of Lessee shall be considered occupancy by Lessee. "Family" shall be defined as such term is defined from time to time in the Zoning Ordinance of the Village of Wilmette. Lessee will be responsible to verifying to Lessor or a third party as designated the continued use of Leased Premises as a principal residence on an annual basis per a means as prescribed by the Lessor.

4.5 INSPECTION: Lessor may inspect any portion of the Leased Premises including the interior(s) of Lessee's Improvements, at any reasonable time, but not more than one time in a single calendar year, and in any reasonable manner, upon at least 7 days written notice to Lessee. For good cause shown, Lessor may inspect any portion of the Leased Premises including the interior(s) of Lessee's Improvements without notice provided the Lessor shall have made reasonable efforts to give advance notice to Lessee.

4.6 LESSEE'S RIGHT TO PEACEFUL ENJOYMENT: Lessee has the right to undisturbed enjoyment of the Leased Premises, and Lessor has no desire or intention to interfere with the personal lives, associations, expressions, or actions of Lessee, subject to the provisions of this Lease.

ARTICLE 5: Ground Lease Fee

5.1 GROUND LEASE FEE: In consideration of the possession, continued use, and occupancy of the Leased Premises, Lessee shall pay to Lessor a monthly ground lease fee ("the Ground Lease Fee") of twenty-five dollars (\$25.00).

5.2 PAYMENT OF GROUND LEASE FEE: The Ground Lease Fee shall be payable to Lessor, at the address specified in this Lease as Lessor's address, on the first day of each month for as long as this Lease remains in effect, unless, with Lessor's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as agreed to by Mortgagee and Lessor. If the Lease commences on a day other than the first of the month, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time the Lease is executed.

In the event that any amount of payable Ground Lease Fee remains unpaid when the Improvements are sold and the Lease is terminated or assigned to another party, the amount of payable Ground Lease Fee shall be paid to Lessor out of any proceeds from the sale of the Improvements otherwise due to Lessee at the time of such sale. The remedies provided herein are not intended to restrict any other remedies available to Lessor in law or equity.

5.3 CALCULATION OF GROUND LEASE FEE: The Ground Lease Fee specified in section 5.1 above has been calculated as follows. First, an amount approximating the monthly fair rental value of the Leased Premises has been established, current as of the commencement of the lease term, recognizing that use of the Leased Premises is restricted by some of the provisions of the Lease. Then the affordability of this monthly amount for the Lessee has been analyzed and, if necessary, the amount has been reduced to yield the amount stated in section 5.1 above, which has been determined to be affordable for Lessee.

UNOFFICIAL COPY

5.4 REDUCTION, DELAY OR WAIVER OF GROUND LEASE FEE: Lessor may reduce, delay or waive entirely the Ground Lease Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for the Lessee. Any such reduction, delay, or waiver must be in writing and signed by Lessor before being effective.

5.5 ADJUSTMENT OF GROUND LEASE FEE: The Ground Lease Fee stated in section 5.1 above, as adjusted in the way provided below, shall be applicable during the term of this Lease. However, in the event that, for any reason, the provisions of Article 10 or Article 11 regarding transfers of the Improvements or section 4.4 regarding occupancy are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by Lessor to equal the fair rental value of the Leased Premises for use not restricted by the provisions of the suspended portions of the Lease, but initially an amount not to exceed ninety percent (90%) of the monthly amortized payments to purchase the Leased Premises at the then-applicable mortgage rate. In such event, Lessor shall notify Lessee of the amount calculated in this way, and the Ground Lease Fee shall then be this amount.

In order to keep the Ground Lease Fee reasonably current, the amount specified in section 5.1 (and the maximum amount specified in the preceding paragraph) shall be recalculated every 5th year during the term of the Lease. At such intervals, the amount shall be recalculated through such reasonable process as the Lessor shall choose, based upon the standards set forth in section 5.3 above. Lessor shall notify Lessee promptly upon recalculation of the new Ground Lease Fee amount, and if Lessee does not state objections to the recalculated amount within thirty (30) days after receipt of this notice, the Ground Lease Fee shall then be as stated by Lessor in the notice. If Lessee does state objections to the recalculated Ground Lease Fee, and Lessor and Lessee are then unable to agree on a recalculated Ground Lease Fee within fifteen (15) days of Lessor's receipt of Lessee's objection, the dispute shall be resolved according to the arbitration process set forth in Article 13 below, except that the arbitrators chosen by each party shall be ones with experience in the valuation of real estate. Upon the final determination of the recalculated Ground Lease Fee in accordance with the terms of this section, Lessor shall maintain in its file a notarized certification of the amount of such recalculated Ground Lease Fee and the process by which it was determined.

ARTICLE 6: Taxes and Assessments

6.1 TAXES AND ASSESSMENTS: Lessee shall be responsible for payment of all taxes and governmental assessments that relate to the Improvements and the Leased Premises. For purposes of this Lease, "Taxes" shall mean any taxes, assessments, and other governmental levies and charges, whether general, special, ordinary, extraordinary, foreseen, or unforeseen, of any kind and nature (including any interest on assessments whenever the same are permitted to be paid in installments) relating to the Leased Premises or the Improvements, including without limitation, real estate taxes, personal property taxes, lease taxes, environmental taxes, sewer charges, water charges, assessments (special or otherwise), transit taxes, ad valorem taxes, or any other tax, assessment, or charge (however described) in lieu of, substituted for, or in addition to any or all of the foregoing taxes, assessments, and charges, that may be levied, assessed, confirmed, or imposed by any lawful taxing authorities. Taxes shall also include all reasonable costs and expenses, including without limitation legal fees and court costs incurred for the protest, reduction, or refund of any of the Taxes, whether such protest, reduction, or refund is ultimately successful or not.

6.2 UTILITIES: Lessee shall pay directly, when due, all service bills, utility charges, or other governmental assessments charged against the Improvements and the Leased Premises.

6.3 TAXES ON LEASED PREMISES: In the event that the local taxing authority bills Lessor for the taxes on the Leased Premises, Lessor shall pass the responsibility for this expense to Lessee and Lessee shall promptly pay this bill.

6.4 LESSEE'S RIGHT TO CONTEST: Lessee shall have the right to contest the amount or validity of any taxes relating to the Improvements and Leased Premises. Lessor may, in its discretion and upon written request by Lessee, join in any such proceedings if Lessee reasonably determines that it is necessary or convenient for Lessor to do so. All other costs and expenses of such proceedings shall be paid by Lessee.

6.5 PAYMENTS IN EVENT OF DELINQUENCY: In the event that Lessee fails to pay the taxes or other charges specified in section 6.1 above, Lessor may increase, but shall not be obligated to increase, Lessee's Ground Lease Fee in an amount that will offset the cost of any delinquent and current taxes or other charges relating to the Improvements and Leased Premises. Upon collecting any such amount, Lessor shall pay the amount collected to the taxing authority in a timely manner.

6.6 PROOF OF COMPLIANCE: Concurrently with the payment of any taxes, assessments, and charges required or permitted by the provisions of this Lease, each party shall furnish evidence satisfactory to the other documenting the

UNOFFICIAL COPY

payment. A photocopy of a receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

ARTICLE 7: Improvements

7.1 OWNERSHIP: It is agreed that all buildings, structures, fixtures, and other Improvements purchased by the Lessee or constructed or placed by the Lessee on any part of the Leased Premises at any time during the term of this Lease in accordance with the requirements of this Lease ("the Improvements") shall be property of the Lessee. Title to such Improvements shall be and remain vested in the Lessee. However, Lessee's exercise of the rights of ownership is subject to the provisions of this Lease, including but not limited to provisions regarding the disposition of Improvements by the Lessee and the Lessor's option to purchase the Improvements. In addition, Lessee shall not sever or move the Improvements from the Land.

7.2 PURCHASE OF IMPROVEMENTS BY LESSEE: Lessee is simultaneously purchasing the Improvements now located on the Leased Premises and described in the Warranty Deed, the form of which is annexed to this Lease as the exhibit **WARRANTY DEED**.

7.3 CONSTRUCTION AND ALTERATION: Any construction in connection with an existing or new Improvement is subject to the following conditions: (a) all costs shall be borne and paid for by the Lessee; (b) all construction shall be performed in a worker like manner and shall comply with all applicable laws and regulations; (c) all construction involving structural changes, or structural or mechanical improvements for which Lessee desires to receive a Structural and Mechanical Improvements Credit pursuant to Article 7.4, or in excess of ten thousand dollars (\$10,000) in cost shall be performed by certified and bonded professionals and shall not be constructed without the prior written consent of Lessor; (d) all construction shall be consistent with the permitted uses set forth in Article 4; (e) the exterior (including height) of such Improvements shall not be increased or expanded and new Improvements shall not be constructed without the prior written consent of Lessor; and (f) Lessee shall furnish to Lessor a copy of any plans and all building permits for such construction prior to commencing construction.

7.4 CREDIT FOR STRUCTURAL AND MECHANICAL IMPROVEMENTS: Lessee may elect to receive a Structural and Mechanical Improvements Credit, which credit shall be applied in the calculation of the Formula Price as set forth in Article 10.11, for any one or more of the following structural or mechanical improvements, subject to the approval of Lessor: (a) repair and/or replacement of the heating system; (b) repair and/or replacement of the electrical components; (d) repair and/or replacement of plumbing components; (e) repair and/or replacement of the roof of the home; and (f) repair of a damaged structural element that threatens the structural integrity of the Improvements.

The terms under which Lessor will approve a Structural and Mechanical Improvements Credit are limited to the conditions set forth in Exhibit **STRUCTURAL AND MECHANICAL IMPROVEMENTS CREDIT**. Lessee may not receive a Structural and Mechanical Improvements Credit for any work that is not included in the above list of improvements. Any Structural and Mechanical Improvements Credit approved by Lessor shall be evidenced by the exhibit **APPROVAL OF STRUCTURAL AND MECHANICAL IMPROVEMENTS CREDIT** and made a part of this Lease.

7.5 PROHIBITION OF LIENS: No lien of any type shall attach to the Lessor's title to the Land or to Lessor's interest in the Leased Premises or to any other property owned by the Lessor. Lessee shall not permit any statutory or similar lien to be filed against the Premises, the Improvements, or any interest of Lessor or Lessee that remains more than sixty (60) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the lien by paying the amount in question. Lessee may, at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release the Leased Premises from such lien. Any amounts paid by Lessor to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.

7.6 MAINTENANCE AND SERVICES: Lessee shall, at Lessee's sole expense, maintain the Leased Premises and all Improvements as required by section 4.2 above. Lessor shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning, water, or sewer, or to make any repairs to the Leased Premises or Improvements, and Lessee hereby assumes the sole responsibility for furnishing all services or facilities.

UNOFFICIAL COPY

7.7 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM: Upon the expiration of the term of this Lease as such term may be extended or sooner terminated in accordance with this Lease, Lessee shall surrender the Improvements together with the Leased Premises to the Lessor. Ownership of the Improvements shall thereupon revert to Lessor, provided, however, that Lessor shall promptly pay to Lessee as consideration for the Improvements an amount equal to Lessor's Purchase Option Price calculated in accordance with Article 10 below, as of the time of reversion of ownership, less the total amount of any unpaid Ground Lease Fee including any charges that may have been added to the Ground Lease Fee in accordance with this Lease.

ARTICLE 8: Financing

8.1 PERMITTED MORTGAGE: Lessee may mortgage the Leased Premises only with the written consent of Lessor. Not less than thirty (30) days prior to the date on which Lessee (or a prospective Lessee who has contracted to purchase the Improvements) requests Lessor's consent to a mortgage to be effective, Lessee (or prospective Lessee) shall furnish to Lessor copies of every document to be executed in connection with the transaction represented by such mortgage, including first mortgages, subsequent mortgages, and home equity loans. Lessor may choose to consent to any mortgage, and in so doing shall designate such mortgage as a "Permitted Mortgage." However, Lessor shall be required to consent to a mortgage only if (a) at the time such copies of documents are submitted and at the time proposed by Lessee (or prospective Lessee) for the execution of such documents, no default is then outstanding; and (b) the mortgage so submitted is a Standard Permitted Mortgage as defined in the attached exhibit PERMITTED MORTGAGES. Lessee shall pay to Lessor at Lessor's option, as additional Ground Lease Fee, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees, incurred by Lessor in connection with any Permitted Mortgage.

8.2 RIGHTS OF PERMITTED MORTGAGEE: Any holder of a Permitted Mortgage ("Permitted Mortgagee") shall without requirement of consent by the Lessor have the rights identified and defined in the attached exhibit PERMITTED MORTGAGES.

8.3 REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE: In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of the Lease, at the election of the Permitted Mortgagee the provisions of Article 10, sections 10.1 through 10.11 shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security so foreclosed upon or transferred.

8.4 LESSOR'S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE: The parties recognize that it would be contrary to the fundamental concept of this agreement and an incentive to abuse Lessee's authorization to encumber its leasehold interest with a Permitted Mortgage if Lessee could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Lessee hereby irrevocably assigns to Lessor any and all net proceeds of sale of the Improvements remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgagee which would otherwise have been payable to Lessee, to the extent such net proceeds exceed the net proceeds that Lessee would have received had the property been sold for the Purchase Option Price established in Article 10 of this Lease, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to Lessor. In the event that, for any reason, such excess proceeds are paid to Lessee, Lessee hereby agrees to promptly pay the amount of such excess proceeds to Lessor.

8.5 AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE: Any amendments to this Lease shall be subject to the written approval of Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

ARTICLE 9: Liability, Insurance, Damage and Destruction, Eminent Domain

9.1 LESSEE'S LIABILITY: Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Leased Premises.

9.2 INDEMNIFICATION OF LESSOR: Lessee shall defend, indemnify, and hold Lessor harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Leased Premises. Lessee waives all claims against Lessor for such injury or damage. However, Lessor shall remain liable (and Lessee shall not indemnify and defend Lessor against such liability or waive such claims of liability) for injury or damage due to the grossly negligent or intentional acts or omissions of Lessor or Lessor's agents or employees.

UNOFFICIAL COPY

9.3 PAYMENT BY LESSOR: In the event the Lessor shall be required to pay any sum that is the Lessee's responsibility or liability, the Lessee shall reimburse the Lessor for such payment and for reasonable expenses caused thereby.

9.4 INSURANCE: Lessee shall, at Lessee's sole expense, keep all Improvements continuously insured against loss or damage by fire and the extended coverage hazards for the full replacement value of such Improvements.

Lessee shall, at Lessee's sole expense, maintain continuously in effect liability insurance covering the Leased Premises and Improvements in the amounts of not less than three hundred thousand dollars (\$300,000) for injury to or death of any one person; and six hundred thousand dollars (\$600,000) for injury to or death of any number of persons in one occurrence; and two hundred thousand dollars (\$200,000) for property damage. The dollar amounts of this coverage shall be adjusted at two-year intervals, beginning on the date this Lease is signed, or upon Lessor's demand given not more often than annually, upon 30 days' notice to Lessee. This adjustment shall be equal to the percentage of change (positive or negative), over the period in question, of the Consumer Price Index for urban wage earners and clerical workers for the urban area in which the Leased Premises are located, or such other index as reasonably measures adjustments in coverage amounts for the applicable type of insurance. Such index is maintained by the Office of Prices and Living Conditions of the Bureau of Labor Statistics, of the U.S. Department of Labor. Such insurance shall specifically insure Lessee against all liability assumed under this Lease, as well as all liability imposed by law, and shall also insure Lessor as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for Lessor and Lessee.

Lessee shall provide Lessor with copies of all policies and renewals of policies. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days' prior written notice to Lessor. Lessor shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance.

9.5 DAMAGE OR DESTRUCTION: In the event of damage or destruction to the Improvements, Lessee shall file a claim with its insurance carrier in a timely manner; if Lessee fails to do so, then Lessor shall have the right to file and settle the claim. Except as provided below, in the event of fire or other damage to the Improvements, Lessee shall take all steps necessary to ensure the repair of such damage and the restoration of the Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Lessee shall also promptly take all steps necessary to ensure that the Leased Premises are safe and that the damaged Improvements do not constitute a danger to persons or property.

If Lessee, using reasonable judgment and relying on professional estimates, determines either (a) that full repair and restoration is physically impossible, or (b) that the available insurance proceeds will pay for less than eighty percent (80%) of the cost of repair and restoration (provided Lessee has fulfilled all the hazard insurance requirements set forth in section 9.4 above), then Lessee may terminate this Lease by written notice to Lessor given not later than sixty (60) days after the event that caused the damage. However, such termination shall not be effective until forty-five (45) days after the date upon which the notice is received by Lessor. During this 45-day period Lessor may seek an adjustment from the insurer so as to increase the available insurance proceeds to an amount covering at least 80 percent of the cost of repair and restoration. If successful in securing such adjustment, Lessor may render Lessee's termination notice null and void by written notice to Lessee within such 45-day period. If Lessor fails to nullify the termination notice in this way, then this Lease shall terminate at the expiration of the 45-day period, and any insurance proceeds payable to Lessee on account of such damage shall be paid as provided below.

The insurance proceeds shall be paid first to cover any expenses of collecting the proceeds. Remaining proceeds shall be paid to the Lessee (or its Permitted Mortgagee to the extent required by the Permitted Mortgage) up to the then applicable Lessor's Purchase Option Price (as of immediately prior to the damage) calculated according to the provisions of Article 10 below. The balance of such proceeds, if any, shall be paid to Lessor.

9.6 EMINENT DOMAIN AND PUBLIC DEDICATION: In the event of a taking of the Leased Premises, either in its entirety or to such extent that the Improvements are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, the Lease shall terminate as of the date Lessee is required to give up possession of the Leased Premises or Improvements, and the entire amount of any award(s) paid shall be allocated in the way described in section 9.5 above for insurance proceeds.

In the event of a taking of a portion of the Leased Premises that does not result in damage to the Improvements or substantial reduction in the usefulness or desirability of the Improvements for residential purposes, then any monetary compensation for such taking shall be allocated entirely to Lessor.

UNOFFICIAL COPY

In the event of a taking of a portion of the Leased Premises that results in damage to the Improvements only to such an extent that the Improvements can reasonably be restored to a residential use consistent with this Lease, the Lessor may in its discretion allocate some or all the monetary compensation to enable Lessee to accomplish such a restoration. Any balance remaining after or in the absence of such allocation shall be allocated as provided above for a taking of the entire Leased Premises.

Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against any award.

9.7 REASSESSMENT OF RENTAL VALUE: In the event of any taking that reduces the size of the Leased Premises but does not result in the termination of the Lease, Lessor shall reassess the fair rental value of the remaining Premises and shall adjust the Ground Lease Fee if necessary to ensure that the monthly fee does not exceed the monthly fair rental value of the premises for use as restricted by the Lease.

9.8 RELOCATION OF LESSEE: In the event of a termination of this Lease as a result of damage, destruction or taking, Lessor shall take reasonable steps to grant Lessee a leasehold interest, similar to the interest created by this Lease, in another tract that it owns, if such other tract can reasonably be made available. In accepting such a leasehold interest, Lessee agrees to contribute any proceeds or award received by Lessee to purchase or develop Improvements on such tract. Lessor's failure to supply such a leasehold interest shall not give rise to any cause of action by Lessee against Lessor.

ARTICLE 10: Transfer, Sale, or Disposition of Improvements (RESALE)

10.1 INTENT: It is the understanding of the parties that the terms of this Lease, and in particular of this Article 10, are intended to preserve the affordability of the Improvements for low- and moderate-income households and expand access to homeownership opportunities for such households.

10.2 TRANSFERS TO INCOME-QUALIFIED PERSONS (Resale Provisions): Lessee may transfer its interest in the Leased Premises and the Improvements only to Lessor or an Income-qualified Person at an affordable price as defined below or otherwise to be used as a principal residence and receive a fair return on investment only as explicitly permitted by the provisions of this Article 10. All such transfers shall be subject to Lessor's review and purchase option rights set forth in this Article 10. Any purported transfer done without following the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void. "Income-qualified Person" shall mean a person or group of persons whose household income does not exceed **eighty percent (80%)** of the median household income for the Chicago area as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor. "Affordable price" shall be determined at the time of transfer based on market conditions, income restrictions, and the fair return on investment formula provided herein by the Lessor.

10.3 TRANSFER TO LESSEE'S HEIRS: Upon receipt of a written request from Lessee at any time or upon notice from the executor of the decedent's estate given within ninety (90) days of the death of Lessee (or the last surviving co-owner of the Improvements) Lessor shall, unless for good cause shown, consent to a transfer of the Improvements and an assumption of this Lease to and by one or more of the possible heirs of Lessee listed below as "a," "b," or "c," provided that a Letter of Stipulation and a Letter of Acknowledgment of legal counsel (similar to those described in Article 1 of this Lease), setting forth the heirs' review, understanding and acceptance of the terms of the Lease, are submitted to Lessor to be attached to the Lease when it is transferred to the heirs.

- a. the spouse or domestic partner of the Lessee; or
- b. the child or children of the Lessee; or
- c. member(s) of the Lessee's household who have resided upon the Premises for at least one year immediately prior to Lessee's death.

Any other heirs, legatees or devisees of Lessee must, in addition to submitting Letters of Stipulation and Acknowledgment as provided above, demonstrate that they are Income-qualified Persons as defined above, or, if unable to do so, shall not

UNOFFICIAL COPY

be entitled to possession of the Leased Premises but must transfer the Leased Premises in accordance with the provisions of this Article 10.

For purposes hereof, a person shall qualify as the Lessee's domestic partner if: (i) neither the Lessee nor such person is married; (ii) each of the Lessee and such person is at least eighteen (18) years old and competent to consent and enter into legally binding contracts; (iii) the Lessee and such person are not related to each other by blood closer than would bar marriage in the State of Illinois; (iv) the Lessee and such person is each other's sole domestic partner; (v) the Lessee and such person are mutually responsible for each other's common welfare; and (vi) such person satisfies at least one of the following criteria: (a) such person is the primary beneficiary under the Lessee's will; (b) the Lessee and such person have joint ownership of a motor vehicle; (c) the Lessee and such person have a bona-fide joint credit account; (d) the Lessee and such person have a bona-fide joint checking or savings account; (e) such person is designated as the primary beneficiary of the Lessee's life insurance or retirement benefits; or (f) such person holds a power for healthcare decisions for the Lessee.

10.4 LESSEE'S NOTICE OF INTENT TO SELL: In the event that Lessee wishes to assign its interest in the Leased Premises and sell the Improvements, Lessee shall notify Lessor, in writing, of such wish ("Notice of Intent to Sell"). Such Notice shall include a statement as to whether Lessee wishes to recommend a prospective buyer as of the date of the Notice.

10.5 APPRAISAL: No later than ten (10) business days after Lessor's receipt of Lessee's Intent-To-Sell Notice, a market valuation of the Leased Premises and the Improvements ("the Appraisal") shall be commissioned to be performed by a mutually acceptable and duly licensed appraiser, provided, however, Lessor may at its option rely on any existing appraisal that is not more than six months old. Lessor shall commission and pay the cost of such Appraisal. The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Land and Improvements were held in fee simple absolute, disregarding the restrictions of this Lease on the use of the Land and the transfer of the Improvements. Copies of the Appraisal are to be provided to both Lessor and Lessee.

10.6 LESSOR'S PURCHASE OPTION. Upon receipt of Notice of Intent to Sell from Lessee, Lessor shall have the option to purchase the Improvements ("Purchase Option") at the Purchase Option Price calculated as set forth in Section 10.11 below. Lessor's purchase option shall include the right to assign this purchase option to a third party ("Purchase Option Assignee") provided, however, that such assignee shall be an Income-Qualified person, as defined herein, who understands and accepts the term of the Lease.

Lessor's Purchase Option is designed to further the purpose of preserving the affordability of the Improvements for succeeding Income-qualified Persons while taking fair account of the investment by the Lessee. Lessee and Lessor agree to cooperate in furthering such purposes by facilitating the sale of the improvements to an Income-Qualified person. Such purposes are understood to be accomplished, without Lessor having otherwise exercised the Purchase Option, if the Improvements are sold, in accordance with Section 10.8 below, to a Purchase Option Assignee.

If Lessor elects to purchase the Improvements, Lessor shall exercise the Purchase Option by notifying Lessee, in writing, of such election ("the Notice of Exercise of Option") within one hundred and twenty days (120) days of the receipt of the Appraisal, or the Option shall expire. The time permitted for Notice of Exercise of Option may be extended by mutual agreement of Lessor and Lessee. Having given such notice, Lessor may either proceed to exercise the Purchase Option directly by purchasing the Improvements, or may assign the Purchase Option to a Purchase Option Assignee.

The purchase (by Lessor or Purchase Option Assignee) must be completed within one hundred and twenty days (120) days of Lessor's Notice of Exercise of Option, or Lessee may sell the Improvements as provided in section 10.8 below. The time permitted for the completion of the purchase may be extended by mutual agreement of Lessor and Lessee.

Lessee may recommend to Lessor a prospective buyer who is an Income-qualified Person and is prepared to submit Letters of Stipulation and Acknowledgment indicating informed acceptance of the terms of this Lease.

10.7 BROKERAGE: The Lessee may not use a broker unless and until Lessor elects not to exercise its Purchase Option, the Purchase Option has expired, or if Lessor has failed to complete the purchase within the 120-day period allowed by section 10.6 above.

10.8 IF PURCHASE OPTION EXPIRES: If the Purchase Option has expired or if Lessor has failed to complete the purchase within the 120-day period allowed by section 10.6 above, Lessee may sell the Improvements and assign the Lease to any Income-qualified and program qualified Person, for not more than the then applicable Purchase Option Price.

UNOFFICIAL COPY

10.9 LESSOR'S POWER OF ATTORNEY TO CONDUCT SALE: In the event Lessor does not exercise its option and complete the purchase of the Improvements as set forth above, and Lessee continues to hold the Improvements out for sale but after a good-faith effort is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Lessee does hereby appoint Lessor its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Lease, sell the property, and distribute proceeds of sale, in the following manner: Proceeds shall be paid first to cover the costs of sale and reletting of the Leased Premises and any other sums owed Lessor by lessee. Remaining proceeds shall be paid to Lessee (or its Permitted Mortgagee to the extent required by the Permitted Mortgagee) up to the then-applicable Purchase Option Price calculated according to the provisions of this Article 10. The balance of such proceeds, if any, shall be paid to Lessor.

10.10 PURCHASE OPTION PRICE: The Purchase Option Price shall be the lesser of (a) the value of the property, including the Leased Premises and the Improvements, as determined by the Appraisal commissioned and conducted as provided in Section 10.5 above or (b) the price calculated in accordance with the formula described below ("the Formula Price").

10.11 CALCULATION OF THE FORMULA PRICE: The Formula Price shall be equal to Lessee's Purchase Price, as stated below, plus Lessee's Share of Market Value Appreciation in the market value of the Leased Premises and Improvements existing thereon, plus any applicable Structural and Mechanical Improvements Credit calculated as follows:

(a) *Lessee's Purchase Price:* The parties agree that the Lessee's Purchase Price for the Improvements existing on the Leased Premises as of the commencement of the term of this Lease is **\$210,000**.

(b) *Initial Appraised Value:* The parties agree that the appraised value of the Leased Premises and Improvements at the time of Lessee's purchase (the Initial Appraised Value) is **\$377,500** as documented by the appraiser's report attached to this Lease as Exhibit INITIAL APPRAISAL,

(c) *Lessee's Investment Ratio:* The parties agree that Lessee's Purchase Prices represents 56% of the Initial Appraised Value of the Leased Premises and Improvements ("Lessee's Investment Ratio").

(d) *Current Appraised Value:* The parties agree that the market value of the Leased Premises and the Improvements existing thereon conducted on or about the date of the Lessee's Notice of Intent to Sell, in accordance with Section 10.5 above, shall be the Current Appraised Value.

(e) *Market Value Appreciation:* For the purpose of determining the Purchase Option Price, the Market Value Appreciation of the Leased Premises and Improvements shall be determined by subtracting the Initial Appraised Value above from the Current Appraised Value.

(f) *Shared Appreciation Factor:* For the purpose of calculating Lessee's Share of Market Value Appreciation in subparagraph (g) below, the Shared Appreciation Factor will be fifteen percent (15%).

(g) *Lessee's Share of Market Value Appreciation:* For the purpose of determining the Formula Price, Lessee's Share of Market Value Appreciation shall be determined by first multiplying the Market Value Appreciation by Lessee's Investment Ratio and then multiplying the product by the Shared Appreciation Factor.

(h) *Applicable Structural and Mechanical Improvements Credit.* The Structural and Mechanical Improvements Credit as defined in Article 7.4, if any, shall be added, provided Exhibit Approval of Structural and Mechanical Improvements Credit is in evidence.

(i) *Formula Price:* The Formula Price shall be determined by adding Lessee's Share of Market Value Appreciation plus a Structural and Mechanical Improvements Credit, if applicable, to Lessee's Purchase Price.

10.12 CHOICE OF NEW LEASE OR ASSIGNMENT OF EXISTING LEASE: An Income-qualified Person who purchases the Improvements in accordance with the provisions of this Article 10 shall receive, at the Lessor's choice, either an assignment of this Lease from the seller or a new Lease from Lessor, which new Lease shall be substantially the same as this Lease in the rights, benefits and obligations assigned to Lessee and Lessor.

UNOFFICIAL COPY

ARTICLE 11: Assignment and Sublease

Except as otherwise provided in Article 8 (including the exhibit PERMITTED MORTGAGES) and Article 10, Lessee shall not assign, sublease, sell, or otherwise convey any of Lessee's rights under this Lease without the prior written consent of the Lessor. Lessee agrees that Lessor shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease shall be subject to the following conditions. Any such assignment or sublease shall be subject to all the terms of this Lease.

In the case of a sublease, the rental or occupancy fee charged the sublessee shall not be more than that amount charged the Lessee by the Lessor, plus an amount approved by Lessor to cover costs to Lessee for the Improvements.

In the case of an assignment, the total consideration for such assignment and the related sale or transfer of the Improvements shall not exceed the Purchase Option Price as calculated in accordance with Article 10 above.

ARTICLE 12: Default

12.1 MONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fails to pay the Ground Lease Fee or other charges required by the terms of this Lease and such failure is not cured by Lessee or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, if Lessee shall make a good faith partial payment of at least two thirds (2/3) of the amount owed during such initial 30-day period, then such period shall be extended one additional 30-day period.

12.2 NONMONETARY DEFAULT BY LESSEE: It shall be an event of default if Lessee fails to abide by any other material term or condition in this Lease, and such failure is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, in the case where the Lessee or Permitted Mortgagee has commenced to cure such default within such 60-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.3 DEFAULT BY LESSEE RESULTING FROM JUDICIAL PROCESS: It shall be an event of default if the estate hereby created is taken on execution or by other process of law, or if Lessee is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Lessee's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Lessee under any provisions of the Bankruptcy Act now or hereafter enacted, or if Lessee files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.4 TERMINATION: In the case of any of the events of default described above, Lessor may terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings and thirty days notice, Lessor may enter any part of the Leased Premises and repossess the entire Leased Premises, and expel Lessee and those claiming rights through Lessee and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by Lessor, or if Lessor reenters the Leased Premises pursuant to an Event of Default, the Lessee agrees to pay and be liable for any unpaid Ground Lease Fee, damages which may be due or sustained prior to or in connection with such termination or reentry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lessor in pursuit of its remedies under this Lease.

If Lessor elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Article 8 above) to postpone and extend the specified date for the termination of the Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Lessee's interest in the Leased Premises by foreclosure of its mortgage or otherwise.

12.5 DEFAULT BY LESSOR: Lessor shall in no event be in default in the performance of any of its obligations under the Lease unless and until Lessor has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Lessee to Lessor properly specifying Lessor's failure to perform any such obligation.

UNOFFICIAL COPY

ARTICLE 13: Arbitration

13.1 ARBITRATION PROCESS: Should any grievance or dispute arise between Lessor and Lessee concerning the terms of this Lease that cannot be resolved by normal interaction, the following arbitration procedure shall be used.

Lessor or Lessee shall give written notice to the other of its selection of a disinterested arbitrator. Within fifteen (15) days of the receipt of this written notice, the other party may give written notice to the first party appointing a disinterested arbitrator of its own choice. These two arbitrators shall select a third arbitrator. If the other party fails to name an arbitrator within 15 days of receiving the notice from the first party, the arbitrator selected by the first party shall be the sole arbitrator.

The arbitrator or arbitrators shall hold a hearing within thirty (30) days after the initial written notice by the initiator of the arbitration process. At the hearing Lessor and Lessee shall have an opportunity to present evidence and question witnesses in the presence of each other. As soon as reasonably possible, and in no event later than fifteen (15) days after the hearing, the arbitration panel shall make a written report to the Lessor and Lessee of its findings and decisions, including a personal statement by each arbitrator of his/her decision and the reasons for it. The arbitrators shall decide the dispute or claim in accordance with the substantive law of the jurisdiction and what is just and equitable under the circumstances. The Lessee or Lessor may challenge the decisions and awards of the majority of the arbitration panel in court.

ARTICLE 14: General Provisions

14.1 NOTICES: Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

If to Lessor: CPAH CLT, LLC Housing (name of Lessor), 800 S. Milwaukee, Suite 201, Libertyville, IL 60048
with a copy to: **Eric Feldman, 141 W. Jackson Blvd, Suite 4100, Chicago, IL 60604**

If to Lessee: **Elena del Rocío Rodríguez** (name of Lessee), 135 Leclair Avenue, Wilmette, IL 60091 with a copy to Marc Blumenthal, 725 E. Dundee Road, Arlington Heights, IL 60004.

All notices, demands and requests shall be effective upon being deposited in the United States Mail or delivered to a recognized national overnight courier, or in the case of personal delivery, upon actual receipt.

14.2 NO BROKERAGE: Lessee warrants that it has not dealt with any broker other than _____ in connection with the consummation of this Lease, and in the event any claim is made against Lessor relative to dealings with brokers other than _____, Lessee shall defend the claim against Lessor with counsel of Lessor's selection and save harmless and indemnify Lessor on account of loss, cost or damage which may arise by reason of any such claim.

14.3 SEVERABILITY AND DURATION OF: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law. It is the intention of the parties that their respective options to purchase and all other rights under this Lease shall continue in effect for the full term of this Lease and any renewal thereof, and such options and other rights shall be considered to be coupled with an interest. In the event any such option or right shall be construed to be subject to any rule of law limiting the duration of such option or right, the time period for the exercising of such option or right shall be construed to expire twenty (20) years after the death of the last survivor of the following persons: the children of any of the directors of Community Partners for Affordable Housing living as of the date of the Lease.

14.4 RIGHT OF FIRST REFUSAL IN LIEU OF OPTION: If the provisions of the purchase option set forth in Article 10 of this Lease shall, for any reason, become unenforceable, Lessor shall nevertheless have a right of first refusal to purchase the Improvements at the highest documented bona fide purchase price offer made to Lessee. Such right shall be as specified in the exhibit FIRST REFUSAL. Any sale or transfer contrary to this section, when applicable, shall be null and void.

14.5 WAIVER: The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of the Lease.

UNOFFICIAL COPY

Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by Lessor before being effective.

The subsequent acceptance of Ground Lease Fee payments by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term or condition of this Lease, other than the failure of the Lessee to pay the particular Ground Lease Fee so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

14.6 LESSOR'S RIGHT TO PROSECUTE OR DEFEND: Lessor shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Leased Premises. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.

14.7 CONSTRUCTION: Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

14.8 CAPTIONS AND TABLE OF CONTENTS: The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

14.9 PARTIES BOUND: This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Land; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease, their successors in interest.

14.10 GOVERNING LAW AND ATTORNEY'S FEES: The validity, construction and interpretation of this Agreement shall be governed by the laws of the State of Illinois. The parties hereto irrevocably agree that all actions or proceedings in any way, manner or respect, arising out of or from or related to this Agreement shall be litigated only in courts having sites in Cook County, Illinois. Each party hereby consents and submits to personal jurisdiction in the State of Illinois and waives any right such party may have to transfer the venue of any such action or proceeding. The Lessee or Lessor may be subject to payment of attorney's fees and legal costs of both parties in the event of a loss in such dispute.

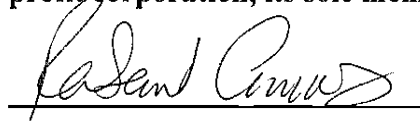
14.11 RECORDING: The parties agree, as an alternative to the recording of this Lease, to execute a so-called Short Form Lease, attached as the exhibit Memorandum of Ground Lease, in form record-able and complying with applicable law and reasonably satisfactory to Lessor's attorneys. In no event shall such document set forth the rent or other charges payable by Lessee under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease. The parties agree to execute additional documents including a special warranty deed document and _____ (Cook County named as party on documents)

IN WITNESS WHEREOF, the parties have executed this lease at Highland Park, IL on the day and year first above written.

By:

By: CPAH CLT, LLC, an Illinois limited liability company

By: Community Partners for Affordable Housing, an Illinois not for profit corporation, its sole member.



President

Lessees: Elena del Rocio Rodriguez

Elena del Rocio Rodriguez

UNOFFICIAL COPY

EXHIBIT: LETTERS OF STIPULATION AND ACKNOWLEDGMENT

Letter of Stipulation

To: CPAH CLF, LLC ("CPAH")

Date: 2-22-2023

This letter is given to CPAH to become an exhibit to a Lease between CPAH and me. I will be leasing a parcel of land from CPAH and will be buying the home that sits on that parcel of land. I will therefore become what is described here as a "CPAH homeowner."

My legal counsel, Marc J Blumenthal, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a CPAH homeowner now and in the future.

In particular I understand and agree with the following points:

- One of the goals of CPAH is to keep CPAH homes affordable for lower-income households from one CPAH homeowner to the next. I support this goal as a CPAH homeowner.
- The terms and conditions of my Lease will keep my home affordable for future "income-qualified persons" (as defined in the lease). If and when I want to sell my home, the lease requires that I sell it either to CPAH or to another income-qualified person. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such income-qualified persons.
- It is also a goal of CPAH to promote resident ownership of CPAH homes. For this reason, my Lease requires that if I and my family move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.
- I understand that I can leave my home to my spouse, domestic partner, child, or children or to other members of my household who have lived in the home for at least one year preceding my death, and that, after my death, they can own the home for as long as they want to live in it and abide by the terms of the Lease, or they can sell it on the terms permitted by the Lease.
- As a CPAH homeowner, it is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely,

Elena del Rocio Rodriguez

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Letter of Acknowledgment

I, Marc J Blumenthal, have been independently employed by Elena del Rocio Restrepo (hereinafter "the Client") who intends to purchase a house and other improvements on land to be leased from CPAH CLT, LLC ("CPAH").

The house and land are located at _____.

In connection with the contemplated purchase of the house and other improvements and leasing of the land, I reviewed with the Client the following documents relating to the transaction:

- a. this Letter of Acknowledgment and a Letter of Stipulation from the Client
- b. a proposed Deed conveying the house and other improvements to the Client
- c. a proposed Ground Lease conveying the "Leased Premises" to the Client
- d. other written materials provided by CPAH.

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. My advice and review has been given to reasonably inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction.

The Client is entering the aforesaid transaction in reliance on her own judgment and upon her investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Name _____ Date _____

Title _____

Firm/Address _____

UNOFFICIAL COPY Cook County Clerk's Office