

This Mortgage was prepared by
and after recording return to:
Illinois Housing Development Authority
225 N. Michigan Ave., Suite 800
Chicago, Illinois 60601
Attn: Community Affairs

Property Identification No.:

Property Address:

_____, IL _____

SECOND MORTGAGE

STF-52620

This **SECOND MORTGAGE** (this "Mortgage") is made this ____ day of _____, 20____, by _____ ("Borrower"), to the Illinois Housing Development Authority, a body politic and corporate of the State of Illinois ("Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of _____ and ___/100 Dollars (\$_____) (the "Loan"), which indebtedness is evidenced by Borrower's promissory note of even date herewith (the "Note");

TO SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, the payment of all other sums advanced in accordance with this Mortgage to protect the security of this Mortgage, and the performance of the agreements of Borrower contained in this Mortgage; and (b) the repayment of any future advances made to Borrower by Lender pursuant to **Paragraph 6** ("Future Advances"), Borrower **MORTGAGES** to Lender the real estate legally described on **Exhibit A** attached to and made a part of this Mortgage, and located in the County of _____, State of Illinois (the "Real Estate");

TOGETHER with all the improvements now or hereafter erected on the Real Estate, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights and water stock, and all fixtures now or hereafter attached to the Real Estate, all of which, including replacements and additions to them, shall be deemed to be and remain a part of the Real Estate. The Real Estate and the foregoing property located on it are referred to in this Mortgage as the "Property".

Borrower and Lender agree as follows:

1. **Payment of Principal.** Borrower shall promptly pay when due the principal amount of (i) the indebtedness evidenced by the Note, including any late charges, as provided in the Note, and (ii) any Future Advances and accrued interest on them that are secured by this Mortgage.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and **Paragraph 1** shall be applied by Lender first to any late charges due under the Note, second, to interest and principal on any Future Advances and third, to the principal due under the Note.

3. **Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property that may attain a priority lien over this Mortgage by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this **Paragraph 3**, and if Borrower makes payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien that has priority over this Mortgage, provided that Borrower shall not be required to discharge any such lien so long as Borrower agrees in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or in good faith contests such lien by, or defends enforcement of such lien in, legal proceedings that operate to prevent the enforcement of such lien, forfeiture of the Property or any part of it or the forfeiture of this Mortgage.

4. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured in a manner prescribed by the Senior Lender(s) (as defined in **Paragraph 16**).

All insurance policies and renewals of them shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Borrower shall promptly furnish to Lender all renewal notices of such insurance policies and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss, if not made promptly by Borrower.

Subject to the rights of the Senior Lender(s), unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of that part of the Property damaged, if such restoration or repair is economically feasible and the security of this Mortgage is not impaired by such restoration or repair. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired by such restoration or repair, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to the Borrower. If the Property is abandoned by the Borrower, or if Borrower fails to respond to Lender within thirty (30) days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of payments referred to in **Paragraph 1** or change the amount of such payments. If, under **Paragraph 17**, the Property is acquired by Lender,

all right, title and interest of Borrower in and to any insurance policies, and in and to the proceeds of them resulting from damage to the Property prior to the sale or acquisition, shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

6. Protection of Lender's Security. If Borrower fails to perform the agreements contained in this Mortgage, or if any action or proceeding is commenced that materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, building code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option, and subject to the rights of the Senior Lender(s), upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this **Paragraph 6**, with interest on them, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment of them, and shall bear interest from the date of disbursement at the rate of five percent (5%) per year, unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this **Paragraph 6** shall require Lender to incur any expense or take any action under this Mortgage.

7. Inspection. Lender may make, or cause to be made, reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection.

8. Condemnation. Subject to the rights of the Senior Lender(s), the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part of it, or for conveyance in place of condemnation, are assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemner offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date such notice is mailed, Lender is authorized to collect

and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

9. Borrower Not Released. Extension of the time for payment of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest.

10. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy under this Mortgage, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

11. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

12. Successors and Assigns Bound; Joint and Several Liability; Captions. The agreements contained in this Mortgage shall bind, and the rights under it shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of **Paragraph 17**. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions of this Mortgage.

13. Notice. Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this Mortgage shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified United States mail, postage prepaid, return receipt requested.

Borrower: _____

_____ IL _____

Lender: Illinois Housing Development Authority
225 N. Michigan Ave., Suite 800
Chicago, Illinois 60601
Attention: Legal Department

Such addresses may be changed by notice to the other party given in the same manner as provided in this Mortgage. Any notice, demand, request or other communication sent pursuant to subsection (a) shall be served and effective upon such personal service. Any notice, demand, request or other communication sent pursuant to subsection (b) shall be served and effective one

(1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective three (3) days after proper deposit with the United States Postal Service.

14. Borrower's Copy. Borrower shall be furnished with a conformed copy of the Note and of this Mortgage at the time of execution or after its recordation.

15. Transfer of the Property. If all or any part of the Property, or an interest in it, is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances or a transfer by operation of law upon inheritance or the death of a joint tenant or to a spouse as a result of a divorce of co-owners, all sums secured by this Mortgage shall be immediately due and payable. All sums secured by this Mortgage shall be immediately due and payable if the Property is no longer the principal residence of the Borrower or in the event of a refinancing of the Property that is not a Permitted Refinancing as defined herein.

A "Permitted Refinancing" shall mean a refinancing that lowers the interest rate of the first mortgage loan on the Property, decreases its term or lowers the monthly payment of the loan; it does **not** include a refinancing that increases the outstanding balance of the first mortgage loan, increases the interest rate on the loan or allows the Borrower to receive money as a result of the refinancing. Any Permitted Refinancing must be approved by the Lender, in writing, in advance.

16. Subordination. This Mortgage shall be subject and subordinate in all respects to (i) that certain mortgage dated as of _____, 20____ between Borrower and _____ (the "[First] Senior Lender"), recorded in Office of the Recorder of Deeds of _____ County (the "[First] Senior Mortgage"), securing a loan in the original principal amount of \$ _____; [and (ii) that certain mortgage dated as of _____, 20____ between Borrower and _____ (the "Second Senior Lender"), recorded in Office of the Recorder of Deeds of _____ County (the "Second Senior Mortgage"), securing a loan in the original principal amount of \$ _____; and (iii) that certain mortgage dated as of _____, 20____ between Borrower and _____ (the "Third Senior Lender"), recorded in Office of the Recorder of Deeds of _____ County (the "Third Senior Mortgage"), securing a loan in the original principal amount of \$ _____. The First Senior Lender [and the] Second Senior Lender [and the Third Senior Lender] are collectively referred to in this Mortgage as the "Senior Lenders"].

17. Acceleration; Remedies. Upon Borrower's breach of any of its agreements in this Mortgage, and/or a default, declared by the Senior Lender(s), continuing beyond all cure periods and permitting foreclosure under the [First] Senior Mortgage [and/or the Second Senior Mortgage] [and/or Third Senior Lender], Lender, prior to acceleration of the sums secured under this Mortgage, shall mail notice to Borrower as provided in **Paragraph 13** specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums

secured by this Mortgage, or foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of its right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default, or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender, at its option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect, in such proceeding, all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts and title reports.

18. Borrower's Right to Reinstate. Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings implemented by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums that would then be due under this Mortgage, the Note and notes securing Future Advances, if any, had no acceleration occurred; (b) Borrower cures all breaches of any other agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the agreements of Borrower contained in this Mortgage and in enforcing Lender's remedies as provided in **Paragraph 17**, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured by it shall remain in full force and effect as if no acceleration had occurred.

19. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security under this Mortgage, Borrower assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under **Paragraph 17** or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under **Paragraph 17** or abandonment of the Property, and at any time prior to the expiration of any period of redemption following a judicial sale, subject to the rights of the Senior Lender(s), Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

20. Assumption. This Mortgage may not be assumed.

21. Total Indebtedness. At no time shall the principal amount of the indebtedness secured by this Mortgage, excluding sums advanced to protect the security of this Mortgage, exceed the original amount of the Note.

22. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

23. **Waiver of Homestead.** Borrower waives all right of homestead exemption in the Property to the extent permitted by law.

24. **Waiver of Statutory Rights.** Notwithstanding anything to the contrary contained in this Mortgage, to the extent permitted by law, Borrower (i) shall not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but waives the benefit of such laws; and (ii) expressly waives any and all rights of redemption under any order or decree of foreclosure of this Mortgage on behalf of Borrower, except decrees of judgment creditors of Borrower acquiring any interest in or title to the Property subsequent to the date of this Mortgage.

25. **Occupancy by Mortgagor.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MORTGAGE, BORROWER AGREES THAT MORTGAGEE MAY, AT ANY TIME OR WITHOUT NOTICE, ACCELERATE ALL PAYMENTS DUE UNDER THIS MORTGAGE, AND EXERCISE ANY OTHER REMEDY ALLOWED BY LAW FOR BREACH OF THE TERMS OF THIS MORTGAGE, IF BORROWER SELLS, RENTS OR FAILS TO OCCUPY THE PREMISES AS HIS OR HER PRIMARY HOME. BORROWER UNDERSTANDS THAT THE PROVISIONS OF THIS PARAGRAPH 25 ARE A CONDITION OF THE MAKING OF THE LOAN.

26. **Illinois Mortgage Foreclosure Law.** If any provision in this Mortgage is inconsistent with any provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15 *et seq.* (the "Foreclosure Law"), the provisions of the Foreclosure Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Law. If any provision of this Mortgage grants to Lender any rights or remedies upon default of the Borrower that are more limited than the rights that would otherwise be vested in Lender under the Foreclosure Act in the absence of that provision, Lender shall be vested with the rights granted in the Foreclosure Law to the fullest extent permitted by law.

27. **Non-Recourse.** Notwithstanding anything to the contrary contained in this Mortgage, for so long as Borrower is the fee owner of the Property, all of its liability under this Mortgage shall be limited to Borrower's interest in the Property. Lender waives any and all right to sue or recover against any other assets of Borrower. Notwithstanding the foregoing, if Lender incurs any damage arising solely from fraud by Borrower, or the misapplication of loan proceeds or condemnation proceeds (in a manner inconsistent with the requirements of this Mortgage), then Lender may look to other assets of Borrower.

28. **Required HUD Provision.** The restrictions contained in this Mortgage shall automatically terminate if title to the mortgaged property is transferred by foreclosure or deed-in-lieu of

foreclosure, or if the mortgage is assigned to the Secretary of the United States Department of Housing and Urban Development.

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, Borrower has executed this Mortgage as of the date and year first above written.

Borrower Signature: _____

Printed Name: _____

Borrower Signature: _____

Printed Name: _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that _____, personally known to me to be the same person(s) whose name(s) _____ subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that _____ signed and delivered the said instrument as _____ | free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 20____.

Notary Public

Exhibit A

Legal Description of Real Estate