

THIS DOCUMENT WAS PREPARED BY:

Legal Department
Illinois Housing Development Authority
111 East Wacker Drive, Suite 1000
Chicago, Illinois 60601

AFTER RECORDING THIS DOCUMENT SHOULD

BE RETURNED TO:

Illinois Housing Development Authority
111 East Wacker Drive, Suite 1000
Chicago, Illinois 60601
Attention: Community Affairs Department

Property Identification No.:

Property Address:

_____, Illinois

(The Above Space for Recorder's Use Only)

JUNIOR MORTGAGE

STF-51371

This **JUNIOR MORTGAGE** (this "Mortgage") is made this ____ day of _____, 20____, by _____ ("Mortgagor"), to the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, a body politic and corporate of the State of Illinois ("Mortgagee").

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of _____ and No/100 Dollars (\$_____) (the "Loan"), which indebtedness is evidenced by Mortgagor's promissory note of even date herewith (the "Note");

WHEREAS, Mortgagor is the owner of the fee estate of that certain real property which is commonly known as _____, Illinois and is legally described on **Exhibit A** attached to and made a part of this Mortgage (the "Real Estate"); the

Real Estate, together with (a) all the improvements now or hereafter erected on the Real Estate; (b) all easements, rights and appurtenances thereto; (c) all fixtures now or hereafter in or on the Real Estate; (d) all tenements, fixtures, and appurtenances thereto belonging; and (g) all replacements, additions and proceeds of the foregoing are referred to collectively in this Mortgage as the “Property”;

WHEREAS, Mortgagor covenants that Mortgagor is the lawful owner of the Property and has the full right and power to mortgage the Property and that the Property is unencumbered, except for the encumbrances of record accepted by Mortgagee (collectively, “Permitted Encumbrances”). Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any Permitted Encumbrances; and

NOW THEREFORE, Mortgagor, to secure (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 Mortgagor contained in this Mortgage; (b) the Recapture Amount (as defined in the Note); and (c) the repayment of any future advances made to Mortgagor by Mortgagee pursuant to **Paragraph 6** (“Future Advances”), does by these presents **MORTGAGE AND WARRANT** and grant a security interest in the Property and all of its estate, title and interest in the Property to Mortgagee, its successors and assigns.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Recitals.** All of the foregoing recitals are made a part of this Mortgage.
2. **Payment under the Note.** Mortgagor agrees to promptly pay when due any amounts required to be paid under the Note.
3. **Charges; Liens.** Mortgagor 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 Mortgagor making payment, when due, directly to the payee thereof. Mortgagor shall promptly furnish to Mortgagee all notices of amounts due under this **Paragraph 3**, and if Mortgagor makes payment directly, Mortgagor shall promptly furnish to Mortgagee receipts evidencing such payments. Mortgagor shall promptly discharge any lien that has priority over this Mortgage, provided that Mortgagor shall not be required to discharge any such lien so long as Mortgagor agrees in writing to the payment of the obligation secured by such lien in a manner acceptable to Mortgagee, 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.** Mortgagor 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 Mortgagee. Mortgagor shall promptly furnish to Mortgagee all

renewal notices of such insurance policies and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee. Mortgagee may make proof of loss, if not made promptly by Mortgagor.

Subject to the rights of the Senior Lender(s), unless Mortgagee and Mortgagor 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 Mortgagor. If the Property is abandoned by the Mortgagor, or if Mortgagor fails to respond to Mortgagee within thirty (30) days from the date notice is mailed by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply the insurance proceeds, at Mortgagee's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

If, under **Paragraph 17**, the Property is acquired by Mortgagee, all right, title and interest of Mortgagor 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 Mortgagee to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

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

6. Protection of Mortgagee's Security. If Mortgagor fails to perform the agreements contained in this Mortgage, or if any action or proceeding is commenced that materially affects Mortgagee'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 Mortgagee, at Mortgagee's option, and subject to the rights of the Senior Lender(s), upon notice to Mortgagor, may make such appearances, disburse such sums and take such action as is necessary to protect Mortgagee's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.

Any amounts disbursed by Mortgagee pursuant to this **Paragraph 6**, with interest on them, shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor 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 Mortgagee to incur any expense or take any action under this Mortgage.

7. Inspection. Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property, provided that Mortgagee shall give Mortgagor 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 Mortgagee.

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 Mortgagor. In the event of a partial taking of the Property, unless Mortgagor and Mortgagee 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 Mortgagor.

If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date such notice is mailed, Mortgagee is authorized to collect and apply the proceeds, at Mortgagee's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

9. Mortgagor Not Released. Extension of the time for payment of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successors in interest. Mortgagee 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 Mortgagor or Mortgagor's successors in interest.

10. Forbearance by Mortgagee Not a Waiver. Any forbearance by Mortgagee 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 Mortgagee shall not be a waiver of Mortgagee'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 Mortgagee and Mortgagor, 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.

Mortgagor: _____

_____, Illinois

Mortgagee: Illinois Housing Development Authority
111 E. Wacker Drive, Suite 1000
Chicago, Illinois 60601
Attention: Community Affairs

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. Mortgagor's Copy. Mortgagor 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 Mortgagor without Mortgagee'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 (c) 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 Mortgagor 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 Mortgagor to receive money as a result of the refinancing. Any Permitted Refinancing must be approved by the Mortgagee, 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 Mortgagor 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 Mortgagor 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 Mortgagor 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 Lender(s)".]

17. Acceleration; Remedies. Upon Mortgagor'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 Mortgage], Mortgagee, prior to acceleration of the sums secured under this Mortgage, shall mail notice to Mortgagor 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 Mortgagor, 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 Mortgagor 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 Mortgagor to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Mortgagee, 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. Mortgagee 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. Mortgagor's Right to Reinstate. Notwithstanding Mortgagee's acceleration of the sums secured by this Mortgage, Mortgagor shall have the right to have any proceedings implemented by Mortgagee to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums that would then be due under this Mortgage, the Note and notes securing Future Advances, if any, had no acceleration occurred; (b) Mortgagor cures all breaches of any other agreements of Mortgagor contained in this Mortgage; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the agreements of Mortgagor contained in this Mortgage and in enforcing Mortgagee's remedies as provided in **Paragraph 17**, including, but not limited to, reasonable attorneys' fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to assure that the lien of this Mortgage, Mortgagee's interest in the Property and Mortgagor's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Mortgagor, 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; Mortgagee in Possession. As additional security under this Mortgage, Mortgagor assigns to Mortgagee the rents of the Property, provided that Mortgagor 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), Mortgagee, 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 Mortgagee 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. Mortgagee 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, Mortgagee shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation, if any.

23. Waiver of Homestead. Mortgagor 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, Mortgagor (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 Mortgagor, except decrees of judgment creditors of Mortgagor 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, MORTGAGOR 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 MORTGAGOR SELLS, RENTS OR FAILS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY RESIDENCE. MORTGAGOR 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 Mortgagee any rights or remedies upon default of the Mortgagor that are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Act in the absence of that provision, Mortgagee 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 Mortgagor is the fee owner of the Property, all of its liability under this Mortgage shall be limited to Mortgagor's interest in the Property. Mortgagee waives any and all right to sue or recover against any other assets of Mortgagor. Notwithstanding the foregoing, if Mortgagee incurs any damage arising solely from fraud by Mortgagor, or the misapplication of loan proceeds or condemnation proceeds (in a manner inconsistent with the requirements of this Mortgage), then Mortgagee may look to other assets of Mortgagor.

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, Mortgagor has executed this Mortgage as of the date and year first above written.

Mortgagor Signature: _____

Printed Name: _____

Mortgagor Signature: _____

Printed Name: _____

Exhibit A

Legal Description of Real Estate