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Illinois Anti-Predatory  
Lending Database  
Program

Certificate of Exemption



Doc#: 0831229066 Fee: \$66.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 11/07/2008 03:25 PM Pg: 1 of 16

Property of Cook County Clerk's Office

The property identified as: **PIN:** 14-29-425-003-0000

**Address:**

**Street:** 2423 North Racine Ave.

**Street line 2:**

**City:** Chicago

**State:** IL

**ZIP Code:** 60614

**Lender:** Dry Powder Equity, INC

**Borrower:** Michael J. Sreenan

**Loan / Mortgage Amount:** \$200,000.00

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

**Certificate number:** AAB07B97-BAF5-4EEF-905F-431311B73E2D

**Execution date:** 11/07/2008

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Please return to:

Vedder, Price P.C.  
222 N. LaSalle Street  
Chicago, Illinois 60601  
Attn: Thomas E. Schnur, Esq.

## MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS

THIS MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS ("**Mortgage**") is made as of October 31, 2008, by and between: Michael J. Sreenan ("**Mortgagor**") and Dry Powder Equity, Inc., an Illinois corporation (collectively referred to as the "**Mortgagee**").

### RECITALS

#### A. Note.

The Mortgagor and the Mortgagee have entered into certain Promissory Note, dated as of October 31, 2008 (herein, as the same may be amended, modified or supplemented from time to time, called the "**Note**"), pursuant to which the Mortgagor is indebted to the Mortgagee in the aggregate principal sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000).

#### B. Related Documents.

Any and all agreements, the Note, and any other documents and instruments executed and delivered by or for the benefit of the Mortgagor, whether pursuant to the terms of the Loan Agreement or otherwise, in connection with the Note or security therefor, or for the purpose of supplementing or amending all or any of the foregoing, all of which, as the same may be amended, modified or supplemented from time to time, are hereinafter referred to as the "**Related Documents**."

#### C. The Liabilities.

As used in this Mortgage, the term "**Liabilities**" means and includes the following: all obligations to the Mortgagee and their successors and assigns of the Mortgagor under or in connection with the Note, this Mortgage; and any and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined) and other collateral under the Related Documents, to perform any obligation of the Mortgagor hereunder and any obligation of the Mortgagor under the Related Documents or collect any amount owing to the Mortgagee which is secured hereby or under the Related Documents; and interest on all of the foregoing; and all costs of enforcement and collection of this Mortgage, the Related Documents and the Liabilities.

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## D. The Collateral.

For purposes of this Mortgage, the term "**Collateral**" means and includes all right, title and interest of the Mortgagor in and to all of the following:

(i) **Real Estate.** All of the land described on Exhibit A attached hereto (the "**Land**"), together with all and singular the tenements, rights, easements, hereditaments, rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in anywise appertaining to the land (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services); all development rights, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Land; all estate, claim, demand, right, title or interest of the Mortgagor in and to any street, road, highway, or alley (vacated or otherwise) adjoining the Land or any part thereof, all strips and gores belonging, adjacent or pertaining to the land; and any after acquired title to any of the foregoing (all of the foregoing is herein referred to collectively as the "**Real Estate**");

(ii) **Improvements and Fixtures.** All buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate and owned or purported to be owned by the Mortgagor, together with all building or construction materials, equipment, appliances, machinery, plant equipment, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate and owned or purported to be owned by the Mortgagor, including, without limitation, all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment (all of the foregoing is herein referred to collectively as the "**Improvements**");

(iii) **Rents.** All rents, issues, profits, royalties, avails, income and other benefits derived or owned by the Mortgagor directly or indirectly from the Real Estate or the Improvements (all of the foregoing is herein collectively called the "**Rent**");

(iv) **Leases.** All rights of the Mortgagor under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any Person agrees to pay money to the Mortgagor or any consideration for the use, possession or occupancy of, or any estate in, the Real Estate or the Improvements or any part thereof, and all rents, income, profits, benefits, avails, advantages and claims against guarantors under any thereof (all of the foregoing is herein referred to collectively as the "**Leases**");

(v) **Other Property.** All other property or rights of the Mortgagor of any kind or character related to the Real Estate or the Improvements, and all proceeds (including insurance and condemnation proceeds) and products of any of the foregoing. (All of the Real Estate and the Improvements, Rent, Leases and any other property that is real estate under applicable law, is sometimes referred to collectively herein as the "**Premises**").

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## GRANT

NOW THEREFORE, for and in consideration of the Mortgagee making any loan, advance or other financial accommodation to or for the benefit of the Mortgagor, including sums advanced under the Note, and in consideration of the various agreements contained herein, in the Note, and any other related documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Mortgagor, and in order to secure the full, timely and proper payment and performance of each and every one of the Liabilities,

THE MORTGAGOR HEREBY MORTGAGES, WARRANTS, CONVEYS, TRANSFERS AND ASSIGNS TO THE MORTGAGEE, AND GRANTS TO THE MORTGAGEE AND THEIR SUCCESSORS AND ASSIGNS FOREVER A CONTINUING SECURITY INTEREST IN AND TO, ALL OF THE COLLATERAL,

TO HAVE AND TO HOLD the Premises unto the Mortgagee, their successors and assigns, forever, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the state or other jurisdiction in which the Real Estate is located providing for the exemption of homesteads from sale on execution or otherwise.

The Mortgagor hereby covenants with and warrants to the Mortgagee and with the purchaser at any foreclosure sale that at the execution and delivery hereof it is well seized of the Premises, and of a good, indefeasible estate therein, in fee simple or, if so indicated on Exhibit A, leasehold, that it has good and lawful right to sell, mortgage and convey the Collateral and that it and its successors and assigns will forever warrant and defend the Collateral against all claims and demands whatsoever with the exception of the permitted exceptions.

### ARTICLE I Covenants and Agreements of the Mortgagor

Further to secure the payment and performance of the Liabilities, the Mortgagor hereby covenants, warrants, and agrees with the Mortgagee as follows:

**SECTION 1.1 Payment of Liabilities.** The Mortgagor agrees that it will pay, timely and in the manner required in the appropriate documents or instruments, all amounts due under the Note and all other liabilities (including fees and charges). All sums payable by the Mortgagor hereunder shall be paid without demand, counterclaim, offset, deduction or defense. The Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

**SECTION 1.2 Payment of Taxes.** The Mortgagor will pay or cause to be paid before delinquent all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or nongovernmental, statutory or otherwise, due or to become due, that may be levied, assessed, made, imposed or charged on or against the Collateral or any property used in connection therewith, and will pay before due any tax or other charge on the interest or estate in lands created or represented by this Mortgage or by

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any of the related documents, whether levied against the Mortgagor or the Mortgagee or otherwise, and will submit to the Mortgagee all receipts showing payment of all of such taxes, assessments and charges; provided, however, that the Mortgagor shall not (unless otherwise required by law) be required to pay any such taxes, assessments, levies, claims, charges, expenses or liens which are being contested in good faith and by appropriate proceedings so long as forfeiture of any part of the Collateral will not result from the failure of the Mortgagor to pay any such taxes, assessments, levies, claims, charges, expenses or liens during the period of any such contest.

SECTION 1.3 Maintenance and Repair. The Mortgagor will not abandon the Premises; not do or suffer anything to be done which would depreciate or impair the value of the Collateral or the security of this Mortgage; not remove or demolish any of the Improvements; pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any changes, additions or alterations to the Premises or the Improvements except as required by any applicable governmental requirement or as otherwise approved in writing by the Mortgagee; maintain, preserve and keep the Goods and the Improvements in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction, all as promptly as possible under the circumstances but in all cases in compliance with any time period provided under applicable requirements of governmental authorities and insurance underwriters.

SECTION 1.7 Insurance. The Mortgagor will at all times maintain or cause to be maintained on the Improvements and on all other Collateral, all insurance required at any time or from time to time by the Mortgagee, and in any event, all risk property insurance covering, without limitation, fire, extended coverage, vandalism and malicious mischief, in an amount which is not less than 100% of the replacement cost of the Improvements and Goods without consideration for depreciation, with an inflation guard endorsement.

SECTION 1.8 No Mechanics' Liens. The Mortgagor will not suffer any mechanic's, laborer's or materialmen's lien to be created or remain outstanding upon the Premises or any part thereof. Anything herein contained to the contrary notwithstanding, the Mortgagor shall not be deemed in Default with respect to the provisions of this Section if the Mortgagor provides the Mortgagee with written notice of the Mortgagor's good faith intention to diligently contest such claim or lien (and the Mortgagor does so contest such claim or lien) at the Mortgagor's sole expense and, if requested by the Mortgagee, the Mortgagor furnishes to the Mortgagee either a bond, in form and with sureties reasonably satisfactory to the Mortgagee, or an updated title insurance policy or endorsement to the Mortgagee's existing policy acceptable to the Mortgagee indemnifying or insuring the Mortgagee against any loss, cost, damage or expense on account of any such lien claim. The Mortgagor agrees to promptly deliver to the Mortgagee a copy of any notice that the Mortgagor receives with respect to any pending or threatened lien or the foreclosure thereof. It is further expressly made a covenant and condition hereof that the lien of this Mortgage shall extend to all right, title and interest of the Mortgagor in any and all improvements and fixtures now or hereafter on the Premises, prior to any other lien thereon that may be claimed by any Person, so that subsequently accruing claims for lien on the Premises shall be junior and subordinate to this Mortgage. All contractors, subcontractors, and other

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parties dealing with the Premises, or with any parties interested therein, are hereby required to take notice of the foregoing provisions.

SECTION 1.9 The Mortgagee Performance. If the Mortgagor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs), the Mortgagee may (but need not), as agent or attorney-in-fact of the Mortgagor, make any payment or perform (or cause to be performed) any obligation of the Mortgagor hereunder, in any form and manner deemed expedient by the Mortgagee, and any amount so paid or expended (plus reasonable compensation to the Mortgagee for their out-of-pocket and other expenses for each matter for which they act under this Mortgage), with interest thereon at the Default Rate set forth in the Note (the "Default Rate"), shall be added to the principal debt hereby secured and shall be repaid to the Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, the Mortgagee may (but need not) do all or any of the following: make payments of principal or interest or other amounts on any lien, encumbrance or charge on any of the Collateral; complete construction; make repairs; collect rents; prosecute collection of the Collateral or proceeds thereof, purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof, contest any tax or assessment; redeem from any tax sale or forfeiture affecting the Premises; and, if this is a leasehold Mortgage, pay any amount due, or perform any covenant, agreement or other undertaking of the Mortgagor under the Ground Lease.

SECTION 1.10 Subrogation. To the extent that the Mortgagee, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of his Mortgage, or the Mortgagor or any other Person pays any such sum with the proceeds of the loan secured hereby, the Mortgagee shall have and be entitled to a lien or other interest on the Collateral equal in priority to the lien or other interest discharged and the Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit the Mortgagee in securing the Liabilities.

## ARTICLE II Default

Each of the following shall constitute a default ("Default") hereunder:

SECTION 2.1 The Note. The occurrence of a default or Event of Default under the terms and provisions of the Note; or

SECTION 2.2 Provisions of this Mortgage. Noncompliance by the Mortgagor with, or failure by the Mortgagor to perform, any agreement contained herein (other than any noncompliance or failure which constitutes a Default under Section 2.1) and continuance of such noncompliance or failure for five days with respect to the payment of any amounts required to be paid under this Mortgage or for 5 days after notice thereof to the Mortgagor from the Mortgagee with respect to all other Defaults under this Mortgage; or

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## ARTICLE III Remedies

SECTION 3.1 Acceleration. Upon the occurrence of any Default, the entire indebtedness evidenced by the Note and all other liabilities, together with interest thereon at the default rate, shall, notwithstanding any provisions of the Note or the related documents and without demand or notice of any kind to the Mortgagor or to any other Person, (a) automatically become immediately due and payable in the event of the occurrence of any Default.

SECTION 3.2 Remedies Cumulative. No remedy or right of the Mortgagee hereunder or under the Note or any of the Related Documents, or otherwise, or available under applicable law or in equity, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law or in equity. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often, as may be deemed expedient by the Mortgagee. All obligations of the Mortgagor, and all rights, powers and remedies of the Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in equity or in the Note or any other Related Documents or any other written agreement or instrument relating to any of the liabilities or any security therefor.

SECTION 3.3 Possession of Premises; Remedies under Note and Related Documents. The Mortgagor hereby waives all right to the possession, income and rents of the Premises from and after the occurrence of any Default, and the Mortgagee are hereby expressly authorized and empowered, at and following any such occurrence, to enter into and upon and take possession of the Premises or any part thereof, to complete any construction in progress thereon at the expense of the Mortgagor, to lease the same, to collect and receive all Rents and to apply the same, less the necessary or appropriate expenses of collection thereof, either for the care, operation and preservation of the Premises or, at the election of the Mortgagee in their sole discretion, to a reduction of such of the Liabilities in such order as the Mortgagee may from time to time elect. The Mortgagee, in addition to the rights provided under the Note and any other Related Documents, is also hereby granted full and complete authority to enter upon the Premises, employ watchmen to protect the Goods and Improvements from depreciation or injury and to preserve and protect the Collateral, and to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises, to make and enter into any contracts and obligations wherever necessary in its own name, and to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of the Mortgagor. All such expenditures by the Mortgagee shall be Liabilities hereunder. Upon the occurrence of any Default, the Mortgagee may also exercise any or all rights or remedies under the Note and any other Related Documents.

SECTION 3.4 Foreclosure; Receiver. Upon the occurrence of any Default, the Mortgagee shall also have the right immediately to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of the Mortgagee or at any time thereafter, either before or after foreclosure sale, and without

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notice to the Mortgagor or to any party claiming under the Mortgagor and without regard to the solvency or insolvency at the time of such application of any Person then liable for the payment of any of the Liabilities, without regard to the then value of the Premises or whether the same shall then be occupied, in whole or in part, as a homestead by the owner of the equity of redemption, and without regarding any bond from the complainant in such proceedings, appoint a receiver for the benefit of the Mortgagee, with power to take possession, charge and control of the Premises, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all Rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency, during any period of redemption.

The court may from time to time authorize said receiver to apply the net amounts remaining in its hands, after deducting reasonable compensation for the receiver and its counsel as allowed by the court, in payment (in whole or in part) of any or all of the liabilities, including, without limitation, the following, in such order of application as the Mortgagee may elect: (i) amounts due under the Note, (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage, (iii) costs and expenses of foreclosure and litigation upon the Premises, (iv) insurance premiums, repairs, taxes, special assessments, water charges and interest, penalties and costs in connection with the Premises, (v) any other lien or charge upon the Premises that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same, and (vi) all moneys advanced by the Mortgagee to cure or attempt to cure any Default or unmatured Event of Default by the Mortgagor in the performance of any obligation or condition contained in any related documents or this Mortgage or otherwise, to protect the security hereof provided herein, or in any related documents, with interest on such advances at the Default Rate. The surplus of the proceeds of sale, if any, shall then be paid to the Mortgagor, upon reasonable request. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Premises, as the Mortgagee may elect, until all of the Premises have been foreclosed against and sold. As part of the foreclosure, the Mortgagee in their discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Premises, and all right, title, interest, claim and demand therein and the right of redemption thereof, as an entirety, or in separate lots, as Mortgagee may elect, and in one sale or in any number of separate sales held at one time or at any number of times, all in any manner and upon such notice as provided by applicable law. Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers the property so sold, in the manner and form as provided by applicable law, and Mortgagee are hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor, in its name and stead, to make all necessary transfers of property thus sold, and for that purpose Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof. In the case of any sale of the Premises pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Note and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court, all expenses of every kind paid or incurred by the Mortgagee for the enforcement, protection or collection of this security, including court costs, attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by the Mortgagor.



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SECTION 3.5 No Liability on Mortgagee. Notwithstanding anything contained herein, the Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of the Mortgagor, whether hereunder, under any of the Third Party Agreements or otherwise, and the Mortgagor shall and does hereby agree to indemnify against and hold the Mortgagee harmless of and from any and all liabilities, losses or damages which the Mortgagee may incur or pay under or with respect to any of the Collateral or under or by reason of its exercise of rights hereunder, with the exception of any exercise of such rights by the Mortgagee in a manner so as to constitute gross negligence or willful misconduct, and any and all claims and demands whatsoever which may be asserted against the Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Collateral or in any of the contracts, documents or instruments evidencing or creating any of the Collateral. The Mortgagee shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other Person. No liability shall be enforced or asserted against the Mortgagee in its exercise of the powers granted to it under this Mortgage, and the Mortgagor expressly waives and releases any such liability. Should the Mortgagee incur any such liability, loss or damage under any of the Third Party Agreements or under or by reason hereof, or in the defense of any claims or demands, the Mortgagor agrees to reimburse the Mortgagee immediately upon demand for the full amount thereof, including costs, expenses and attorneys' fees.

## ARTICLE IV General

SECTION 4.1 Notices. Each notice, demand or other communication concerning this Mortgage shall be in writing.

SECTION 4.2 No Waiver; Writing. No delay on the part of the Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Mortgagee of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. The granting or withholding of consent by Mortgagee to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transactions.

SECTION 4.3 Governing Law, Submission to jurisdiction. This Mortgage, together with the Note and the Related Documents, shall be a contract made under and governed by the internal laws of the state of Illinois applicable to contracts made and to be performed within the state of Illinois; provided, however, that the foreclosure or power of sale procedures set forth herein shall be governed by the laws of the state where the Premises are located. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage. Except as provided herein with respect to foreclosure or power of sale procedures, the Mortgagee may enforce any claim arising out of this Mortgage, the Note or the

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other Related Documents in any state or federal court having subject matter jurisdiction and located in Chicago, Illinois. Nothing herein contained shall affect the right of the Mortgagee to serve process in any other manner permitted by law or preclude the Mortgagee from bringing an action or proceeding in respect hereof in any other country, state or place having jurisdiction over such action. The Mortgagor irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum.

**SECTION 4.4 JURY TRIAL.** THE MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OR TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR ANY RELATED DOCUMENTS TO WHICH IT IS A PARTY, OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE OR ANY RELATED DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

**SECTION 4.5 No Merger.** It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should the Mortgagee acquire any additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title. If this is a leasehold Mortgage, the Mortgagor further agrees that so long as any of the indebtedness secured by this Mortgage shall remain unpaid, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, the fee title and the leasehold estate in the Premises shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party, by purchase or otherwise; and the Mortgagor further covenants and agrees that, in case it shall acquire the fee title, or any other estate, title or interest in the Premises, this Mortgage shall attach to and cover and be a first lien upon such fee title or other estate so acquired, and such fee title or other estate so acquired by the Mortgagor shall be considered as mortgaged, assigned or conveyed to the Mortgagee and the lien hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed and spread. The provisions of this paragraph shall not apply in the event the holder of the Note secured hereby acquires the fee of the Premises except if the Mortgagee shall so elect.

**SECTION 4.6 Mortgagee Not a Joint Venturer or Partner.** The Mortgagor and the Mortgagee acknowledge and agree that in no event shall the Mortgagee be deemed a partner or joint venturer with the Mortgagor. Without limitation of the foregoing, the Mortgagee shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the liabilities secured hereby, or otherwise.

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SECTION 4.7 Time of Essence. Time is declared to be of the essence in this Mortgage, the Note, and the Related Documents and of every part hereof and thereof.

## ARTICLE V Illinois Provisions

SECTION 5.1 Principles of Construction. In the event of any inconsistencies between any terms and provisions of this Mortgage and Article V of this Mortgage, the terms and provisions of this Article V shall govern and control.

SECTION 5.2 Business Loan. Mortgagor represents and warrants that the amounts secured by this Mortgage will be used for the purposes specified in Paragraph 815 ILCS 205/4(1)(c), and that the obligations secured hereby constitutes a “business loan” within the purview of said paragraph and that Loan is “a loan secured by a mortgage on real estate” within the purview and operation of Section 815 ILCS 205/4(1)(l).

SECTION 5.3 Maximum Principal Indebtedness. This Mortgage is given to secure not only existing indebtedness, but also future advances resulting from any act or omission of Mortgagor, whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise, and whether such advances are made before, during or after the pendency of any proceedings to foreclose the lien of this Mortgage or otherwise enforce the rights of Mortgagee hereunder, as are made within twenty (20) years from the date of this Mortgage, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid principal balance so secured at one time shall not exceed five (5) times the face amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the property encumbered by this Mortgage, with interest on such disbursements at the rate provided in the Note, this Mortgage or the Loan Documents. The provisions of this paragraph shall not be construed to imply any obligation on Mortgagee to make any future advances, it being the intention of the parties that any future advances shall be solely at the discretion and option of the Mortgagee. Any reference in the Note, this Mortgage or the Loan Documents shall be construed to include any future advances pursuant to the Note, this Mortgage or the Loan Documents.

SECTION 5.4 Waiver of Statutory Rights. Mortgagor hereby waives, to the extent now or hereafter permitted by law, all rights of redemption and reinstatement of this Mortgage pursuant to the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15 1101 *et seq.* (“IMFL”), on behalf of itself and all those taking by, through or under Mortgagor.

SECTION 5.5 Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision of this Mortgage shall be inconsistent with any provision of IMFL, the provisions of IMFL 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 IMFL. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon any Event of Default by Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under IMFL in the absence of said provision Mortgagee shall be vested with the rights granted in IMFL to the full extent permitted by law. Without

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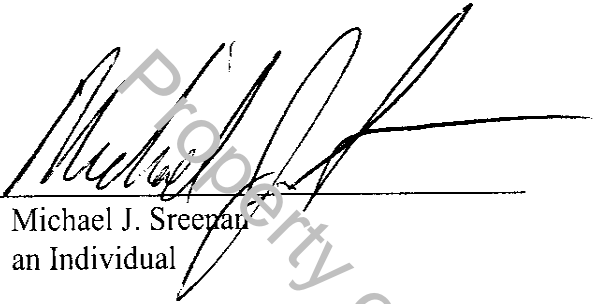
limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under IMFL, whether incurred before or after any decree or judgment of foreclosure, and whether or not encumbered in this Mortgage, shall be added to the obligations secured by this Mortgage or by judgment of foreclosure.

SECTION 5.6 The following notice is given pursuant to the Illinois Collateral Protection Act. As used herein, the terms "you" and "your" shall refer to **MORTGAGOR** and the terms "we" and "us" shall refer to **MORTGAGEE**. **UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING US WITH EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.**

# UNOFFICIAL COPY

(Signature Page to Mortgage and Assignment of Leases and Rents)

IN WITNESS WHEREOF, the undersigned have executed and delivered this Mortgage in Chicago, Illinois, on the day and year first above written.



Michael J. Sreenan  
an Individual

Address:

2423 North Racine  
Chicago, Illinois 60614

Telephone: (773) 549-8700  
Telecopier: (773) 304-1999

STATE OF ILLINOIS )  
                                  )  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT Michael J. Sreenan personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the instrument as his free and voluntary act, for the purposes therein set forth.

Given under my hand and notarial seal, this 31<sup>st</sup> day of October, 2008



Kathleen Hoffman  
Notary Public

My Commission expires on 2/21/11



# UNOFFICIAL COPY

## EXHIBIT A

### Description of the Land

#### Three Separate Parcels Commonly Known as:

1. 2423 North Racine, Chicago, Illinois 60614.
2. 2540 North Seminary, Chicago, Illinois 60614.
3. 400 East Randolph, Unit 2721, Chicago, Illinois 60610

*See attached Legal Descriptions*

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

### Description of the Land

Parcel 1:

LOT 10 IN BLOCK 3 IN LINN AND SWANN'S SUBDIVISION OF THE WEST 1/2 OF  
OUT LOT 18 IN THE CANAL TRUSTEE'S SUBDIVISION OF THE EAST 1/2 OF  
SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL  
MERIDIAN, IN COOK COUNTY, ILLINOIS

Permanent Index Number(s): 14-29-425-003-0000

Property Address: 2423 North Racine Ave., Chicago, Illinois 60614

Parcel 2:

THE NORTH 30 FEET OF THE SOUTH 94.5 FEET OF LOT 10 IN THE  
SUBDIVISION OF THE WEST 1/2 OF BLOCK 17 IN CANAL TRUSTEES'  
SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH,  
RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,  
ILLINOIS

Permanent Index Number: 14-29-414-036-0000

Property Address: 2540 N. Seminary Ave., Chicago, Illinois 60614

# UNOFFICIAL COPY

## EXHIBIT A

### Description of the Land (continued)

#### Parcel 3:

UNIT NUMBER 2721 AS DELINEATED ON SURVEY OF CERTAIN LOTS IN THE PLAT OF LAKE FRONT PLAZA, A SUBDIVISION OF A PARCEL OF LAND LYING IN ACCRETIONS TO FRACTIONAL SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED APRIL 30, 1962 AS DOCUMENT NUMBER 18461961, CONVEYED BY DEED FROM ILLINOIS CENTRAL RAILROAD COMPANY TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST NUMBER 17460, RECORDED MAY 7, 1962 AS DOCUMENT NUMBER 18467558, AND ALSO SUPPLEMENTAL DEED THERETO RECORDED DECEMBER 23, 1964 AS DOCUMENT NUMBER 19341545, WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO DECLARATION OF CONDOMINIUM MADE BY AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED APRIL 9, 1962 AND KNOWN AS TRUST NUMBER 17460, RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER 22453315, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN PROPERTY DESCRIBED IN SAID DECLARATION OF CONDOMINIUM AFORESAID (EXCEPTING THE UNITS AS DEFINED AND SET FORTH IN THE DECLARATION OF CONDOMINIUM AND SURVEY) IN COOK COUNTY, ILLINOIS

Permanent Index Number(s): 17-10-400-012-1607

Property Address: Unit 2721, 400 East Randolph St., Chicago, Illinois 60601