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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Doc#: 0835318025 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/18/2008 12:11 PM Pg: 1 of 8

Property of Cook County Clerk's Office

BOX 15

The property identified as: PIN: 17-03-229-012-0000

Address:

Street: 20-24 EAST CHICAGO AVENUE

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60610

Lender: LOYOLA UNIVERSITY OF CHICAGO

Borrower: CHICAGO AVENUE ASSOCIATES, LLC

Loan / Mortgage Amount: \$9,000,000.00

This property is located within Cook County and is exempt from the requirements of 765 ILCS 777.0 et seq. because it is commercial property.

Certificate number: 584C083E-F305-4D72-908C-3239ADFB2A3E

Execution date: 12/11/2008

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THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING MAIL TO:

Loyola University of Chicago
Office of the General Counsel
820 N. Michigan Ave., Suite 715
Chicago, Illinois 60611

MORTGAGE

THIS MORTGAGE is dated as of December 11, 2008, and is between CHICAGO AVENUE ASSOCIATES, LLC, a Delaware limited liability company (the "**Mortgagor**") and LOYOLA UNIVERSITY OF CHICAGO, an Illinois not for profit corporation ("**Mortgagee**").

WITNESSETH:

Mortgagor and Mortgagee have executed an agreement for purchase and sale of even date herewith (the "**Agreement**"), and Mortgagor's obligations thereunder, including a conveyance of title to Mortgagee's Parcel (as hereinafter defined) to Mortgagee upon completion of a five (5) story, approximately 34,689 square feet building (the "**New Building**") to be constructed on the Premises (as hereinafter defined) no later than August 1, 2010, and Mortgagee has agreed to fund a certain portion of the costs of the construction of the New Building and improvements in an amount up to Nine Million and 00/100 (\$9,000,000.00) Dollars.

To secure the obligations evidenced by the Agreement and the hereinafter defined Liabilities, Mortgagor does by these presents CONVEY and MORTGAGE unto Mortgagee, all of Mortgagor's estate, right, title and interest in the real estate situated, lying and being in the County of Cook and State of Illinois and legally described on attached Exhibit A and made part hereof, which is referred to herein as the "**Premises**," together with all improvements, tenements, hereditaments, appurtenances, easements located in, on, over or under the Premises. The foregoing items are and shall be deemed a part of the Premises and a portion of the security for the Liabilities, as between the parties hereto and all persons claiming by, through or under them.

Further, Mortgagor covenants and agrees as follows:

1. At the time and upon the conditions required in the Agreement, Mortgagor shall convey fee simple title to the third, fourth and fifth floors, the roof and mechanical penthouse of the New Building, consisting of approximately 21,575 square feet ("**Mortgagee's Parcel**").

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2. This Mortgage secures future advances to be made by Mortgagee during the construction of the New Building and is governed by 765 ILCS 5/39 and 735 ILCS 5/15-1302. The total amount outstanding at any one time which is secured by this Mortgage, excluding any interest and any amounts advanced by Mortgagee in accordance with the terms of this Mortgage, shall not exceed the out of pocket amount funded by Mortgagee for the construction of the New Building. The lien of this Mortgage secures payment of existing obligations and future advances and future obligations made or incurred pursuant to the Agreement, to the same extent as if such future advances or future obligations were made or incurred on that date of execution of this Mortgage is executed.

3. (A) Mortgagor and Mortgagee agree that if Mortgagor shall fail to convey Mortgagee's Parcel to Mortgagee pursuant to the terms and conditions of the Agreement, and such failure is not a result of Mortgagee's default or a termination of the Agreement by Mortgagee or Mortgagor pursuant to the Agreement, Mortgagee shall give Mortgagor prompt written notice of the alleged default. Mortgagor shall have ten (10) business days to cure such default (unless such default cannot reasonably be cured within such ten (10) business day period, in which case the time shall be extended for so long as Mortgagor is diligently prosecuting a cure, but in no event shall such time extend beyond ninety (90) days).

(B) If Mortgagor is unable to cure such default within the applicable time period (herein a "Default"), Mortgagee may (but need not):

- (i) record a deed in lieu of foreclosure to the Mortgagee's Parcel, provided Mortgagee shall (1) pay the Purchase Price (as defined under the Agreement) to Mortgagor, less any outstanding amounts due to Mortgagee by Mortgagor under the Agreement and less the value of any and all liens recorded against the Premises, except for this Mortgage; (2) concurrently release the remainder of the Premises from this Mortgage; and (3) waive any right to a deficiency judgment; or
 - (ii) institute proceedings pursuant to the Illinois Mortgage Foreclosure Act, 735 ILCS 5, *et seq.* (the "Act"), for the foreclosure of this Mortgage, subject to Mortgagor's rights of reinstatement and redemption.
- (C) Notwithstanding anything contained herein, Mortgagor does not waive its right to reinstatement or redemption contained in the Act or any other applicable law, and no provision herein shall be deemed to effect such a waiver.
- (D) If Mortgagee has the right to institute foreclosure proceedings, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to be placed in possession of Mortgagee's Parcel as provided in the Act, and Mortgagee, in its discretion and pursuant to any court order, may complete the construction of the New Building pursuant to the Plans. All money so expended shall be so much additional indebtedness secured by this Mortgage and any monies expended in excess of Mortgagee's Proportionate Share pursuant to the Agreement, be payable on demand with interest at the Default Rate.

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(E) All obligations, advances and indebtedness arising and accruing under the Agreement from time to time, shall be secured hereby to the same extent as though said Agreement were fully incorporated in this Mortgage.

4. Mortgagor shall pay, when due and before any penalty attaches, all general taxes, special taxes, special assessments, water charges, drainage charges, sewer service charges, and other similar charges against the Premises; provided, that Mortgagor shall have first timely paid in full such tax, assessment or charge, under protest, in the manner provided by statute, any tax, assessment or charge which Mortgagor may desire to contest.

5. No remedy or right of Mortgagee hereunder shall be exclusive. No delay by Mortgagee in exercising, or omitting to exercise, any remedy or right accruing on Default shall impair any such remedy or right, or shall be construed to be a waiver of any such Default, or 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 Mortgagee.

6. Upon Default by Mortgagor hereunder, Mortgagee may, but need not, make any payment or perform any act required by Mortgagor hereunder in any form and manner deemed expedient by Mortgagee, and Mortgagee may, but need not, make full or partial payments of principal or interest on any encumbrances affecting the Premises and Mortgagee may purchase, discharge, compromise or settle any tax lien or other lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other moneys advanced by Mortgagee to protect the Premises or the lien hereof, plus reasonable compensation to Mortgagee for each matter concerning which action herein authorized may be taken, shall be so much additional indebtedness secured hereby and shall become immediately due and payable, on ten (10) business days prior written notice from Mortgagee, and with interest thereon at a per annum rate equivalent to the Interest Rate set forth in the Agreement. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to Mortgagee on account of any Default hereunder on the part of Mortgagor.

7. Upon Default, Mortgagor shall pay all expenses incurred in the enforcement of Mortgagee's right in the Premises and other costs incurred in connection with the disposition of the Premises.

8. Except for the Agreement entered into between Mortgagor and Mortgagee, but otherwise notwithstanding any other provisions of this Mortgage, no sale, lease, mortgage, trust deed, grant by Mortgagor of any encumbrance of any kind, conveyance, contract to sell, or transfer of the Premises, or any part thereof, or transfer of occupancy or possession of the Premises, or any part thereof, or sale or transfer of ownership of the beneficial interest or power of direction in Mortgage shall be made without the prior written consent of Mortgagee.

9. "Liabilities" means any and all liabilities and obligations of the Mortgagor pursuant

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to the Agreement or any other liabilities, obligations, and indebtedness of every kind and nature of either Mortgagor to the Mortgagee whether heretofore, now owing or hereafter arising and owing, due or payable, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, whether existing or arising through discount, overdraft, purchase, direct loan, by operation of law, or otherwise, together with all costs of collection, legal expenses and outside attorneys' fees and paralegals' fees or charges incurred or paid by Mortgagee in attempting the collection or enforcement of the Agreement, or in the repossession, custody, sale, lease, assembly or other disposition of any collateral for the Agreement, plus all other amounts described as Liabilities hereunder. Notwithstanding the foregoing, in no event shall the lien of this Mortgage secure outstanding Liabilities in excess of 150% of the original stated principal amount of the Agreement.

10. In any suit to foreclose the lien of this Mortgage, there shall be allowed and included as additional indebtedness in the judgment of foreclosure all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute the foreclosure suit or to evidence to bidders at any foreclosure sale. All of the foregoing items, which may be expended after entry of the foreclosure judgment, may be estimated by Mortgagee. All expenditures and expenses mentioned in this paragraph shall become additional indebtedness secured hereby and shall be immediately due and payable, with interest thereon at a rate equivalent to the Interest Rate set forth in the Agreement, when paid or incurred by Mortgagee. This paragraph shall also apply to any expenditures or expenses incurred or paid by Mortgagee or on behalf of Mortgagee in connection with (a) any proceeding including without limitation, probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness secured by; or (b) preparations for the commencement of any suit for the foreclosure of this Mortgage after accrual of the right to foreclose but only if such suit is actually commenced or preparation for the commencement of any suit to collect upon or enforce the provisions of the Agreement or any instrument which secures the Agreement after default under the Agreement but only if such suit is actually commenced.

11. The proceeds from any foreclosure sale shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all the items that are mentioned in the preceding paragraph; second, all other items which under the terms of this Mortgage constitute obligations and indebtedness secured by this Mortgage additional to that evidenced by the Agreement or the Liabilities, with interest thereon as herein provided; third, any surplus to Mortgagor or Mortgagor's successors or assigns, as their rights may appear.

12. This Mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons or parties claiming under or through Mortgagor. The word "Mortgagor" when used herein shall also include all persons or parties liable for the obligations secured hereby or any part thereof, whether or not such persons or parties shall have executed the Agreement or this

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Mortgage. The singular shall include the plural, the plural shall mean the singular and the use of any gender shall be applicable to all genders. The word "Mortgagee" includes the successors and assigns of Mortgagee.

13. This Mortgage has been made, executed and delivered to Mortgagee in Cook County, Illinois and shall be construed in accordance with the internal laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid upon applicable law. If any provisions of this Mortgage are prohibited by or determined to be invalid under applicable law, such provisions shall be ineffective to the extent of such prohibitions or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Mortgage.

[SIGNATURE APPEAR ON THE FOLLOWING PAGE]

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EXHIBIT A

LOT 2 (EXCEPT THE NORTH 102.1 FEET THEREOF MEASURED ON THE WEST LINE THEREOF) IN LAPPIN AND OTHERS' SUBDIVISION OF BLOCK 23 IN THE SUBDIVISION BY COMMISSIONER OF ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 17-03-229-012-0000

ADDRESS: 20-24 E. Chicago Avenue, Chicago, Illinois 60610

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