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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Doc#: 0907245106 Fee: \$58.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/13/2009 04:14 PM Pg: 1 of 12

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 14-18-330-031-0000

Address:

Street: 4000 N. Lincoln Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60618

Lender: Brandon Koress

Borrower: Lincoln Irving LLC

Loan / Mortgage Amount: \$125,000.00

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: 3369447E-FFA4-4052-A3AE-2205CB8F8AFA

Execution date: 03/09/2009

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This instrument was prepared
by and, after recording,
return to:

David Sachs
Aronberg Goldgehn Davis &
Garmisa
330 N. Wabash Avenue - Suite 1700
Chicago, Illinois 60611

Common Address:

4000 N. Lincoln Avenue
Chicago, Illinois

P.I.N.: 14-18-330-031-0000

Space above this line for Recorder's use only

**JUNIOR MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS**

THIS MORTGAGE is made as of the 3rd day of March, 2009 by and between LINCOLN IRVING LLC, an Illinois limited liability company ("Mortgagor"), and BRANDON KORESS ("Mortgagee");

WHEREAS, the Mortgagee has agreed to make a loan to the Mortgagor in the principal amount of ONE HUNDRED TWENTY-FIVE and 00/100 Dollars (\$125,000.00) (the "Loan"). The Loan shall be evidenced by a Promissory Note of even date herewith (as amended, restated or replaced from time to time, the "Note"), executed by the Mortgagor and due on December 31, 2009. The Note or any other document or instrument now or hereafter given to evidence or secure the payment of the Note or delivered to induce the Mortgagee to disburse the proceeds of the Loan, as amended, restated or replaced from time to time, are collectively referred to herein as the "Loan Documents".

NOW, THEREFORE, to provide additional security for the payment of the principal indebtedness of the Note; the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein and in the Note and the Loan Documents, all future advances and all other indebtedness of the Mortgagor to Mortgagee whether now or hereafter existing (collectively, the "Secured Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, Mortgagor does hereby irrevocably convey, grant, mortgage, bargain, sell, convey, transfer, pledge, set over, assign and grant a security interest to and in favor of, and warrant to Mortgagee and its successors and assigns, forever, the real estate ("Real Estate") located in the County of Cook, State of Illinois commonly known as 4000 N. Lincoln Avenue, Chicago, Illinois and legally described on Exhibit A attached hereto (all of which together with the Real Estate are referred to herein as the "Premises").

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used or intended to be used in connection with the Real Estate or the improvements, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the "Improvements");

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TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all income from the Premises to be applied against the Secured Indebtedness; provided, however, that Mortgagor may, so long as no Default has occurred hereunder, collect income as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises whether written or oral (the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease; and

TOGETHER WITH all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof; and Mortgagor hereby appoints Mortgagee its attorney-in-fact and authorizes Mortgagee, at its option, on behalf of Mortgagor, or the successors or assigns of Mortgagor, to adjust, compromise, claim, collect and receive such proceeds, to give proper acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Mortgagee, of the Secured Indebtedness, notwithstanding the fact that the same may not then be due or that the Secured Indebtedness is otherwise adequately secured; provided, however, that if there is not then existing an Event of Default hereunder, Mortgagee shall take action as attorney-in-fact, with respect to eminent domain proceedings or with respect to proceeds of any policies of insurance, only with the consent of Mortgagor, which consent shall not be unreasonably withheld.

TO HAVE AND TO HOLD the Premises, unto the Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all rights to possession of the Premises after the occurrence of any Event of Default as defined in any of the Loan Documents, the Mortgagor hereby **RELEASING AND WAIVING ALL RIGHTS UNDER AND BY VIRTUE OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS.**

Mortgagor represents and covenants that it is lawfully seized of the Premises, subject to a Mortgage in favor of American Enterprise Bank recorded with the Cook County Recorder of Deeds as Document No. 0332231097 on November 18, 2003, and an Assignment of Rents in favor of American Enterprise Bank recorded with the Cook County Recorder of Deeds as Document No. 0332231098 on November 18, 2003 (the foregoing documents being hereafter referred to as the "Senior Loan Documents" and American Enterprise Bank being hereafter referred to as the "Senior Lender"), and that it has good right, full power and lawful authority to convey and mortgage the same, and that it will warrant and forever defend said Premises and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever, except for Senior Lender. Mortgagee expressly agrees that this second (junior) Mortgage shall be subordinate to the mortgage in favor of Senior Lender.

TO HAVE AND TO HOLD the Premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, Etc. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; and (b) keep the Premises in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof (but subject, however to the mortgage of the Senior Lender existing as of the date hereof).

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2. Payment of Taxes and Assessments. Mortgagor shall pay before any penalty or interest attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges or liens of any nature against the Premises when due, and shall furnish to Mortgagee duplicate receipts of payment therefor.

3. Insurance. Mortgagor shall keep the Premises insured against loss or damage by fire, tornado, windstorm and extended coverage perils and such other hazards as may reasonably be required by Mortgagee, including, without limitation: (a) all-risk fire and extended coverage insurance for the full replacement value of the Premises; (b) if the Premises are located in a flood hazard district, flood insurance in the maximum amount obtainable; and (c) such other insurance as Mortgagee may from time to time reasonably require. Mortgagor also shall at all times maintain comprehensive public liability, property damage and worker's compensation insurance covering the Premises and any employees thereof, with such limits for personal injury, death and property damage as Mortgagee may reasonably require. All policies of insurance to be furnished hereunder shall be in forms, companies, amounts and deductibles reasonably satisfactory to Mortgagee, with Mortgagee clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Mortgagee (except for cancellation for non-payment of premiums which shall require ten (10) days prior written notice to Mortgagee).

4. Adjustment of Losses with Insurer and Application of Proceeds of Insurance. The Mortgagor shall give the Mortgagee prompt notice of any damage to or destruction of the Premises. In case of loss, and subject to the rights of the Senior Lender, Mortgagee is hereby authorized either (a) to settle and adjust in a commercially reasonable manner any claim under those insurance policies maintained by Mortgagor pursuant to Section 3 hereof without consent of Mortgagor, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, subject to the rights of the Senior Lender, Mortgagee is authorized to collect and receipt for any such insurance money. Such insurance proceeds may, after the payment of all Mortgagee expenses, including reasonable costs and attorneys' fees, at the option of Mortgagee, either be applied in payment or reduction of the indebtedness secured hereby, whether due or not, or be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said Premises. Notwithstanding the foregoing provisions of this Section 4 to the contrary, provided that there then exists no Event of Default under this Mortgage or under any other Loan Document, Mortgagor shall be entitled to apply the insurance proceeds from any loss or damage valued in the aggregate in an amount of not more than TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) to the restoration of the Premises or a portion thereof in compliance with all other terms and conditions of this Mortgage and the other Loan Documents, without the consent of Mortgagee. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the net proceeds of insurance are insufficient to so restore or rebuild the buildings and improvements, the additional costs to replace, repair, rebuild or restore shall be paid by Mortgagor. In the event Mortgagee elects to reimburse Mortgagor out of insurance proceeds, such proceeds shall be made available, from time to time, upon Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve. If the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, Mortgagee shall also be furnished with all plans and specifications for such rebuilding or restoration as the Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of completion of the work free and clear of liens.

5. Indemnity. Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: the making of the loan evidenced by the Note and secured by this Mortgage; any suit or proceeding (including probate and bankruptcy

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proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; the offer for sale or sale of all or any portion of the Premises; and/or the ownership, leasing, use, operation or maintenance of the Premises. All costs provided for herein and paid for by Mortgagee shall be so much additional Secured Indebtedness and shall become immediately due and payable without notice and with interest at the rate provided in the Note.

6. Effect of Extensions and Amendments. If the payment of the debt secured hereby or any part thereof be extended or varied or if any part of the security granted to secure such indebtedness be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, or having an interest in Mortgagor or in the beneficiary of Mortgagor, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Mortgagee to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Secured Indebtedness, in each case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien. Mortgagee shall consent to the refinance by Mortgagor of its existing debt with the Senior Lender or such other lender acceptable to Mortgagor provided the amount being refinanced does not exceed the outstanding principal balance of such senior debt as of the date thereof, without the prior written consent of Mortgagee.

7. Mortgagee's Performance of Defaulted Acts and Expenses Incurred by Mortgagee. Upon the occurrence of an Event of Default, Mortgagee may, but need not, make any payment or perform any act required herein or in the Note required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Mortgagor in any lease of the Premises. Upon the occurrence of an Event of Default, Mortgagee may, but shall not be required to rent, operate and manage the Premises and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee to protect the Premises or the lien hereof, shall be so much additional Secured Indebtedness, and shall become immediately due and payable without notice and with interest thereon at the Default Rate (as defined in Section 21). In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Mortgagee in connection with: (a) sustaining the lien of this Mortgage or its priority, (b) protecting and enforcing any of Mortgagee's rights hereunder, (c) recovering any Secured Indebtedness, (d) any litigation or proceedings affecting the Note, this Mortgage, the Premises or any guarantor or co-maker of the Note or this Mortgage, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings, shall be so much additional Secured Indebtedness, and shall become immediately due and payable without notice and with interest thereon at the Default Rate. The interest accruing under this Section shall be immediately due and payable by Mortgagor to Mortgagee, and shall be additional indebtedness evidenced by the Note and secured by this Mortgage. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

8. Acceleration of Indebtedness in Event of Default. It is agreed that upon the occurrence of any one or more of the following events (herein called "Defaults" or "Events of Default"):

(a) Mortgagor's failure to perform or observe any covenant or agreement, contained in this Mortgage, and such failure continues for more than 30 days following written notice thereof given by Mortgagee to Mortgagor, unless such failure is not capable of being cured within 30 days, Mortgagor commences to cure such failure within said 30 days and thereafter Mortgagor diligently prosecutes the cure, in which event Mortgagor will have additional time as is reasonably necessary, not to exceed 60 additional days, to cure such failure;

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- (b) the occurrence of any breach of any representation or warranty contained in this Mortgage;
- (c) the occurrence of a transfer prohibited under Section 20 hereof;
- (d) the occurrence of an Event of Default under any of the Loan Documents; or
- (e) a default under any of the Senior Loan Documents;

then and in every such case the whole of said principal sum hereby secured shall, at once at the option of Mortgagee, become immediately due and payable, together with accrued interest thereon, without notice to Mortgagor.

9. Foreclosure: Expense of Litigation. When the Secured Indebtedness, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage. In any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee, including but not limited to reasonable attorneys' fee, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true conditions of the title to or the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

10. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Premises 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 such items as are mentioned in the preceding Section hereof; second, all other items which under the terms hereof constitute Secured Indebtedness in addition to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

11. Appointment of Receiver. Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any Holders may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Secured Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may

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authorize the receiver to apply the net income in his hands in payment in whole or in part of: (i) the Secured Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (ii) if this is a leasehold mortgage, all rents due or which may become due under the underlying lease; and (iii) the deficiency in case of a sale and deficiency.

12. Assignment of Rents and Leases. To further secure the Secured Indebtedness, Mortgagor hereby sells, assigns and transfers unto Mortgagee, subject to the rights of the Senior Lender, all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such leases and agreements, and all the avails thereunder, to Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee its true and lawful attorney in its name and stead (with or without taking possession of the Premises as provided in Section 13 hereof) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as Mortgagee shall, in its discretion, determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of Section 13 hereof.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the Premises by Mortgagee pursuant to Section 13 hereof. In the exercise of the powers herein granted Mortgagee no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

13. Mortgagee's Right of Possession in Case of Default. In any case in which under the provisions of this Mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Premises personally or by its agents or attorneys. In such event Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Premises relating thereto, and may exclude Mortgagor, Mortgagor's beneficiaries, and their employees, agents or servants wholly therefrom, and may as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases, may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Secured Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Premises; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) to receive all of such avails, rents, issues and profits; hereby

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granting full power and authority to exercise each of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Except for the gross negligence or wilful misconduct of the Mortgagee and prior to the Mortgagee taking title to the Premises, Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which Mortgagee may or might incur under said leases, or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against 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 said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest at the rate provided in the Note, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

14. Application of Income Received by Mortgagee. Following an Event of Default, Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(a) to the payment of any amounts due the Senior Lender under any prior mortgage and the operating expenses of the Premises, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease;

(c) to the payment of all maintenance, repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Premises, and of placing the Premises in such condition as will, in the judgment of Mortgagee, make it readily rentable;

(d) to the payment of any Secured Indebtedness or any deficiency which may result from any foreclosure sale.

15. Mortgagee's Right of Inspection. Mortgagee and/or its representatives shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose, provided that Mortgagee does not interfere with Mortgagor's operations within its facilities.

16. Condemnation. Subject to the rights of the Senior Lender, Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any award or any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Secured Indebtedness, whether due or not, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said Premises, in accordance with plans and specifications to be submitted to and approved by Mortgagee. In the event Mortgagor is required or authorized by Mortgagee's election as aforesaid to rebuild or restore, the proceeds of the award shall be paid out in the same manner as is provided in Section 4 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, Mortgagor shall pay such cost in excess of the award, before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost or rebuilding or restoration shall, at the option of Mortgagee, be applied on account of the Secured Indebtedness or be paid to any other party entitled thereto.

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17. Giving of Notices. Any notices, communications and waivers under this Mortgage shall be in writing and shall be delivered as required under the Note.

18. Waiver of Defense. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note.

19. Waiver of Right of Redemption and other Rights. To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption under the Illinois mortgage foreclosure laws (the "Act"), on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note.

20. Transfer of Title. The occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and, therefore, a default hereunder: any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, all or any part of the title to the Premises except for leases of portions of the Premises in the ordinary course on a lease form reasonably acceptable to Mortgagee.

21. Definitions. "Default Rate" as used herein shall mean interest at the default rate under the Note. The word "Mortgagor" when used herein shall include the original Mortgagor named in the preambles hereof, its successors and assigns, and all owners from time to time of the Premises. The word "Guarantor" when used herein shall mean any and all of the guarantors of the Note. The words "Holders" and "Mortgagee" when used herein shall include all successors and assigns of the original holder of the Note and Mortgagee identified in the preambles hereof.

22. Captions. The captions and headings of various sections of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

23. Business Purpose. Mortgagor represents and agrees that the obligation secured hereby is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. 1601 *et seq.*, and constitutes a business, commercial loan within the meaning of Section 4 of the Illinois Interest Act 815 ILCS 205/4 (1992), and that the proceeds of the obligation secured hereby will not be used for the purchase of registered equity securities within the purview of Regulation "U" promulgated by the Federal Reserve System.

24. Partial Invalidity; Maximum Allowable Rate of Interest. Mortgagee intends and believes that each provision in this Mortgage and the Note comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Mortgage or the Note are found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such

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portion, provision or provisions of this Mortgage and the Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of Mortgagee that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Mortgage and the Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of Mortgagee under the remainder of this Mortgage and the Note shall continue in full force and effect. All agreements herein and in the Note are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to the Holders for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity; and if from any circumstance the Holders shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

25. Compliance with Environmental Laws. Mortgagor represents that, to the best of its knowledge, it is currently in compliance with and covenants and agrees that, it will manage and operate the Premises and will cause each tenant to occupy its demised portion of the Premises in compliance with, all federal, state and local laws, rules, regulations and ordinances regulating, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of hazardous or toxic substances or other materials (including, without limitation, raw materials, products, supplies or wastes). Mortgagor further covenants and agrees that it shall not install or permit to be installed in the Premises asbestos or any substance containing asbestos and deemed hazardous by or in violation of federal, state or local laws, rules, regulations or orders respecting such material. Mortgagor shall send to Mortgagee within five (5) days of receipt or completion thereof, any report, citation, notice or other writing including, without limitation, hazardous waste disposal manifests, by, to or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. Mortgagor shall remove from the Premises and dispose of any such hazardous or toxic substances or other materials in a manner consistent with and in compliance with applicable laws, rules, regulations and ordinances and shall take any and all other action to remedy, rectify, rehabilitate and correct any violation of any applicable law, rule, regulation or ordinance concerning toxic or hazardous substances or any violation of any agreement entered into between Mortgagor, Mortgagee and/or any third party with respect to hazardous or toxic materials. Mortgagor agrees to indemnify, defend with counsel reasonably acceptable to Mortgagee (at Mortgagor's sole cost), and hold Mortgagee harmless against any claim, respect or other costs, damages, liability or demand (including, without limitation, reasonable attorney fees and costs) incurred by Mortgagee arising out of any claimed violation by Mortgagor of any of the foregoing laws, regulations or ordinances or breach of any of the foregoing covenants or agreements, excluding matters relating to the gross negligence or willful misconduct of the Mortgagee. The foregoing indemnity shall survive repayment of the Secured Indebtedness but shall cease if Mortgagee takes title to the Premises.

26. Expenses Relating to the Note and Mortgage. Mortgagor will pay all expenses, charges, costs and fees relating to the loan evidenced by the Note and secured by this Mortgage or necessitated by the terms of the Note and/or this Mortgage, including without limitation, Mortgagee's reasonable attorneys' fees in connection with the negotiations, documentation, administration, servicing and enforcement of the Note, this Mortgage, all filing, registration or recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage.

27. Waiver of Trial by Jury. TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY AND ALL RIGHTS WHICH MORTGAGOR MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDINGS IN WHICH MORTGAGOR AND MORTGAGEE ARE ADVERSE PARTIES, IN CONNECTION WITH OR RELATING TO OR ARISING OUT OF THE NOTE OR THIS MORTGAGE.

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28. Governing Law. This Mortgage was accepted by Mortgagee in the State of Illinois and the proceeds of the Note secured hereby were disbursed in the State of Illinois. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Mortgage, the Note and the other Loan Documents, and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the state of Illinois applicable to contracts made and performed in such state.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be executed the day and year first above written.

Lincoln Irving LLC, an Illinois limited liability company
 By: *Kathryn Gannett*
 Kathryn Gannett, Manager
 By: *George Markopoulos*
 George Markopoulos, Manager

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that Kathryn Gannett who is personally known to me to be the Manager of Lincoln Irving LLC, an Illinois limited liability, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Manager, she signed and delivered the said instrument as her free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 3 ^{March 2009} day of ~~February, 2009.~~



Heather Fenchel
 Notary Public

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that George Markopoulos who is personally known to me to be the Manager of Lincoln Irving LLC, an Illinois limited liability, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Manager, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 3 ^{March 2009} day of ~~February, 2009.~~



Heather Fenchel
 Notary Public

508401

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EXHIBIT A

Legal Description

LOT 34 IN RUDOLPH'S SUBDIVISION OF BLOCKS 10 AND 11 IN W.B. OGDEN'S SUBDIVISION OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 18, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF RUDOLPH'S SUBDIVISION RECORDED AS DOCUMENT NUMBER 1426940, IN COOK COUNTY, ILLINOIS.

Address: 4000 N. Lincoln Avenue
Chicago, Illinois

P.I.N.: 14-18-330-031-0000

Property of Cook County Clerk's Office