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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



0908318017

Doc#: 0908318017 Fee: \$84.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/24/2009 11:10 AM Pg: 1 of 25

196

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 17-22-304-062-0000

Address:

Street: 1629 S PRAIRIE AVE. UNIT 2211

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60616

Lender: 1600 MUSEUM PARK LLC

Borrower: DANIEL DIEWALD AND VIRGINIA DIEWALD

Loan / Mortgage Amount: \$64,000.00

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: D3DF6B71-218F-49D4-B8E0-0D40EC5F4904

Execution date: 03/19/2009

UNOFFICIAL COPY***This Document Prepared By And
When Recorded Return To:***

Michael J. Delrahim, Esq.
Brown, Udell, Pomerantz &
Delrahim, Ltd
1332 North Halsted Street
Suite #100
Chicago, Illinois 60642
(312) 475-9900

2079713 MTD Lowery
For Recorder's Use Only

**JUNIOR MORTGAGE, SECURITY AGREEMENT
AND FINANCING STATEMENT**

THIS JUNIOR MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Mortgage") is made as of this 19th day of March, 2009, by Daniel Diewald and Virginia Diewald (together, "**Mortgagor**"), in favor of 1600 Museum Park, LLC, an Illinois limited liability company (herein, together with its successors and assigns, called "**Mortgagee**"), having its principal place of business in Chicago, Illinois.

WITNESSETH

THAT WHEREAS, concurrently herewith, Mortgagor has executed a Promissory Note (the "**Note**"), in the original principal amount of SIXTY-FOUR THOUSAND AND NO/100 DOLLARS (\$64,000.00), payable to Mortgagee, bearing interest at the interest rates (together, the "**Interest Rate**") set forth in the Note, the entire remaining balance of principal and interest of which Note is due and payable on April 1, 2014;

NOW THEREFORE, Mortgagor, to secure the payment of the Indebtedness (hereafter defined), including interest and late charges in accordance with the terms, provisions and limitations of this Mortgage and of the Note, and the performance of the covenants and agreements herein contained by Mortgagor to be performed, and also in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt whereof is hereby acknowledged, does by these presents mortgage, grant, remise, release, alien and convey unto Mortgagee, its successors and assigns, all interest in the real estate located in the County of Cook and State of Illinois that is more fully described in Exhibit "A" attached hereto and made a part hereof, together with all improvements now or at any time constructed thereon, and all tenements, reversions, remainders, easements, fixtures and appurtenances now or hereafter thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all tenant security deposits, utility deposits, common area maintenance charges, real estate tax and insurance premium deposits and insurance premium rebates to which Mortgagor may be entitled or which Mortgagor may now or hereafter have therein or thereon, and all fixtures, apparatus, equipment and articles (other than tenant trade fixtures) which relate to the use, occupancy and enjoyment of the real estate, including, without limiting the generality of the foregoing, those

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used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation (whether single units or centrally controlled), it being understood that the enumeration of any specific articles of property shall in no way exclude or be held to exclude any items of property not specifically mentioned (all of the land, estate and property hereinabove described being herein together called the "Premises"), it being intended that all of the land, estate and property hereinabove described real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged be a unit, and it is hereby understood, agreed and declared (to the maximum extent permitted by law) to form part and parcel of the real estate and to be appropriated to the use of the real estate, and shall be, for the purposes of this Mortgage, deemed to be real estate and conveyed and mortgaged hereby;

TO HAVE AND TO HOLD the Premises unto the Mortgagee and its successors and assigns until all indebtedness evidenced by the Note is fully discharged, for the purposes and uses herein set forth.

This Mortgage shall also secure any and all renewals or extensions of the whole or any part of the Indebtedness hereby secured however evidenced, with interest at such lawful rate as may be agreed upon, and any such renewals or extensions or any change in the terms or rate of interest shall not impair in any manner the validity or priority of this Mortgage, nor release Mortgagor from personal liability for the Indebtedness hereby secured.

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 to substantially the same character as prior to such damage or destruction, so long as insurance proceeds are sufficient therefor; (b) keep the Premises constantly in good condition and repair, without waste; (c) keep the Premises free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof (collectively called "**Liens**") other than the Senior Mortgage (hereinafter defined), subject, however, to the rights of the Mortgagor set forth in Paragraph 2 below; (d) immediately pay when due any indebtedness which may be secured by a lien or charge on the Premises on a parity with or superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee, subject, however, to the rights of the Mortgagor set forth in Paragraph 2 below; (e) complete within a reasonable time any building(s) or other improvement(s) now or at any time in process of erection upon the Premises; (f) comply with all federal, state and local requirements of law, regulations, ordinances, orders and judgments and all covenants, easements and restrictions of record with respect to the Premises and the use thereof; (g) make no alterations in the Premises without Mortgagee's prior written consent which consent shall not be unreasonably withheld or delayed; (h) suffer or permit no change in the general nature of the occupancy of the Premises without Mortgagee's prior written consent; (j) observe and comply with all conditions and requirements (if any) necessary to preserve and extend all rights, easements, licenses, permits (including without limitation, zoning variations and any non-conforming uses and structures), privileges, franchises and concessions applicable to the Premises or contracted for in connection with any present or future

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use of the Premises; and (k) pay each item of Indebtedness (hereafter defined) secured by this Mortgage when due according to the terms hereof and of the Note.

2. **Right to Contest.** Notwithstanding anything in Paragraphs 4 and 5 of this Mortgage to the contrary, Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any lien on the Premises other than the Senior Mortgage, and defer payment and discharge thereof during the pending of such contest, provided that: (a) such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such lien; (b) within thirty (30) days after Mortgagor has been notified of the assertion of such lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such lien; and (c) Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee, a sum of money which shall be sufficient in the reasonable judgment of Mortgagee to pay in full such lien and all interest which might become due thereon, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest whenever, in the reasonable judgment of Mortgagee, such increase is advisable, or shall obtain a title endorsement or title indemnity to the lender's title insurance policies of Mortgagee or a surety bond of a surety company reasonably satisfactory to Mortgagee, insuring or bonding Mortgagee against any harm as a result of such contest. Such deposits shall earn interest at no more than commercial money market rates. If Mortgagor shall fail to prosecute such contest with reasonable diligence or shall fail to pay the amount of the lien plus any interest finally determined to be due upon the conclusion of such contest, to the extent such amount exceeds the amount which Mortgagee will pay as provided below, or shall fail to maintain sufficient funds on deposit as hereinabove provided or to provide a title endorsement or indemnity or surety bond, Mortgagee may, at its option, apply any money so deposited in payment of or on account of such lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such lien, together with all interest thereon, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Mortgagee shall, upon the final disposition of such contest, apply any money so deposited in full payment of such lien or that part thereof then unpaid, together with all interest thereon (provided Mortgagor is not then in default hereunder) when so requested in writing by Mortgagor and when furnished by Mortgagor with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount of payment to be made.

3. **Indebtedness.** "Indebtedness" means all obligations of Mortgagor to Mortgagee for payment of any and all amounts due under the Note or this Mortgage, together with any and all other indebtedness now or at any time due and owing from Mortgagor to Mortgagee, howsoever and whensoever arising or created. "Indebtedness" also includes all amounts so described herein and all costs of collection, legal expenses and in-house or reasonable outside attorneys' fees incurred or paid by Mortgagee in attempting the collection or enforcement of the Note or this Mortgage, or any extension or modification of this Mortgage, the Note, or the guaranty of the Note, or in any legal proceeding occurring by reason of Mortgagee's being the mortgagee under this Mortgage or any extension or modification thereof or the payee under the Note or any extension or modification thereof, including but not limited to any declaratory

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judgment action, or in the repossession, custody, sale, lease, assembly or other disposition of any collateral for the Note. Notwithstanding anything contained herein to the contrary, in no event shall the lien of this Mortgage secure outstanding liabilities in excess of One Hundred Ninety-Two Thousand and 00/100 Dollars (\$192,000.00).

4. **Payment of Taxes.** Mortgagor shall pay all general taxes before any penalty interest attaches, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor within thirty (30) days following the date of payment. Mortgagor may pay in full "under protest" any tax or assessment which Mortgagor may desire to contest, in the manner provided by law. If Mortgagor does not elect to pay under protest, Mortgagor will post such bond or other security as Mortgagee may reasonably require to protect the lien of this Mortgage.

5. **Tax Deposits.** If Senior Mortgagee does not require Mortgagor to make monthly escrow deposits for the payment of all real estate taxes and assessments assessed against the Premises, then, upon request of Mortgagee, Mortgagor shall deposit with Mortgagee or such depository ("**Depository**") as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee, together with and in addition to each monthly payment of principal and interest due on the Note, an amount equal to one-twelfth (1/12) of all real estate taxes and assessments (general and special) assessed against the Premises as determined by Mortgagee. Such deposits are to be held without any allowance of interest to Mortgagor and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general or special) when the same become due and payable, Mortgagor shall, not later than the thirtieth (30th) day prior to the last day on which the same may be paid without penalty or interest, deposit with Mortgagee or the Depository such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be deposited separate and apart from any other funds of Mortgagee or the Depository.

If any such taxes or assessments (general or special) shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessments shall also be a levy, charge, assessment or imposition upon or for any other premises not encumbered by the lien of this Mortgage, then the computation of any amount to be deposited under this Paragraph 5 shall be based upon the entire amount of such taxes or assessments, and Mortgagor shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation.

6. **Insurance.** Mortgagor shall keep all buildings and improvements on the Premises and the Collateral (defined in Paragraph 10 below) now or hereafter situated on said Premises insured against loss or damage by fire, lightning, wind storm, hail storm, aircraft, vehicles, smoke, explosion, riot or civil commotion as provided by the standard all risks policy and against such other hazards as may reasonably be required by Mortgagee, including without

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limitation of the generality of the foregoing: flood insurance whenever same is available and, in the reasonable opinion of Mortgagee, such protection is necessary. Mortgagor shall also provide insurance coverage with such limits for injury to and death of any person or damage to property of a combined single limit coverage of not less than the Indebtedness secured hereby. All policies of insurance to be furnished hereunder shall be in forms, companies and amounts satisfactory to Mortgagee, with waiver of subrogation and full replacement cost endorsements and a standard non-contributory mortgagee clause attached to all policies, 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, and the same shall list Mortgagee as an additional insured under said policy of insurance. Mortgagor shall deliver the original policy to Mortgagee and, in the case of insurance about to expire, shall deliver a certificate evidencing renewal not less than twenty-five (25) days prior to their respective dates of expiration.

Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard non-contributory mortgagee clause acceptable to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out, and shall promptly deliver to Mortgagee the original policy of insurance. In the event of a foreclosure of the lien of this Mortgage, or of a transfer of title to the Premises either in lieu of foreclosure or by purchase at the foreclosure sale, all interest in all insurance policies in force shall pass to Mortgagee, transferee or purchaser, as the case may be.

7. Intentionally Deleted

8. **Mortgagee's Interest In and Use of Tax Deposits; Security Interest.** If an Event of Default (hereafter defined) occurs or exists under this Mortgage, Mortgagee may, at its option but without being required so to do, apply any monies at the time on deposit pursuant to Paragraph 5 hereof on any of Mortgagor's obligations contained herein or in the Note, in such order and manner as the Mortgagee may elect. When the Indebtedness has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Premises as the same appear on the records of the Mortgagee. A security interest, within the meaning of the Illinois Uniform Commercial Code, 810 ILCS 5/1-101, et seq., is hereby granted to Mortgagee in and to all monies at any time on deposit pursuant to Paragraphs 5 hereof, and such monies and all of Mortgagor's right, title and interest herein are hereby assigned to Mortgagee, all as additional security for the Indebtedness hereunder and shall, in the absence of an Event of Default hereunder, be applied by Mortgagee or Depository for the direction or control of Mortgagor; provided, however, that neither Mortgagee nor the Depository shall be liable for any failure to apply to the payment of taxes or assessments any amount so deposited unless Mortgagor, while no Event of Default has occurred or exists, shall have furnished Mortgagee with the bills therefor and requested Mortgagee or the Depository in writing to make application of such funds to the payment of the particular taxes or assessments for payment of which they were deposited, accompanied by the bills for such taxes or assessments. Neither Mortgagee nor the Depository shall be liable for any act or omission taken in good faith, but only for its gross negligence or willful misconduct.

9. **Adjustment of Losses with Insurer and Application of Proceeds of Insurance.**

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In case of loss or damage by fire or other casualty, subject to the rights of Senior Mortgagee (hereinafter defined) under the Senior Mortgage, Mortgagee is authorized to settle and adjust and claim under insurance policies which insure against such risks, or allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, subject to the rights of Senior Mortgagee under the Senior Mortgage, Mortgagee is authorized to collect and issue a receipt for any such insurance proceeds. At the option of Mortgagee, subject to the rights of Senior Mortgagee under the Senior Mortgage, such insurance proceeds may be applied to the reduction to the Indebtedness, whether due or not, or may be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of the Premises. Regardless of whether such insurance proceeds are used to reimburse Mortgagor for the cost of rebuilding or restoration, and regardless of whether such insurance proceeds are adequate for such purpose, the Premises shall be restored or rebuilt by Mortgagor so as to be of at least equal value and substantially the same character as prior to such damage or destruction. Subject to the rights of Senior Mortgagee under the Senior Mortgage, if Mortgagee elects to make said proceeds available to reimburse Mortgagor or any lessee for the cost of repair, rebuilding or restoration of the buildings or other improvements on the Premises, such proceeds shall be disbursed in such manner and under such conditions as Mortgagee shall require, and, in any event, Mortgagee shall be furnished with satisfactory evidence of the estimated cost of the completion thereof, and shall be furnished with such architect's certificates, lien waivers, contractor's and subcontractor's sworn statements and other documentation or certificates as Mortgagee shall request. Mortgagee must approve plans and specifications of such work before such work shall be commenced, which approval shall not be unreasonably withheld or denied. If the estimated cost of completion exceeds the amount of the insurance proceeds available, Mortgagor shall, on written demand of Mortgagee, deposit with Mortgagee in cash the amount of such excess cost. 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 such proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of the completion of the work free and clear of liens. If the proceeds are made available by Mortgagee to reimburse Mortgagor for the cost of repair, rebuilding or restoration, any proceeds remaining after payment of all costs of such repair, rebuilding or restoration and the reasonable charges of Mortgagee shall, at the option of Mortgagee, and subject to the rights of Senior Mortgagee under the Senior Mortgage, be applied on account of the Indebtedness or paid to any party entitled thereto as the same appear on the records of Mortgagee. Any proceeds of insurance held by Mortgagee shall be invested in an interest-bearing account for the benefit of Mortgagor that is insured by an agency of the United States Government. The risk of loss of such funds, while so invested, shall be borne solely by Mortgagor.

10. **Security Agreement and Financing Statement.** Mortgagor and Mortgagee agree that: (a) this Mortgage shall constitute a Security Agreement within the meaning of the Illinois Uniform Commercial Code 810 ILCS 5/1-101 et seq., (the "**Code**") with respect to all sums on deposit with Mortgagee pursuant to Paragraphs 5, 7, 9 and 22 hereof ("**Deposits**") and with respect to any property included in the definition herein of the word "**Premises**," which property may not be deemed to form a part of the real estate described herein or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code), and all replacements of such property, substitutions for such property, additions to such property, and the proceeds

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thereof (said property, replacements, substitutions, additions and the proceeds thereof, but specifically excluding all personal property or trade fixtures of any lessee located on the Premises, being sometimes herein collectively referred to as the “**Collateral**”); and (b) the Deposits and all of Mortgagor’s right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness and to secure performance by Mortgagor of the terms, covenants and provisions hereof.

If an Event of Default occurs or exists under this Mortgage, then, in accordance with the provisions of any applicable law, Mortgagee, pursuant to the appropriate provisions of the Code, shall have an option to proceed with respect to both the real property and Collateral in accordance with its rights, powers and remedies with respect to the real property, in which event the default provisions of the Code shall not apply. The parties agree that if Mortgagee shall elect to proceed with respect to the Collateral separately from the real property, ten (10) days written notice of the sale of the Collateral shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, reasonable attorneys’ fees and legal expenses incurred by Mortgagee. Mortgagor agrees that, without the written consent of Mortgagee, Mortgagor will not remove or permit to be removed from the Premises any of the Collateral, except that so long as no Event of Default exists or occurs hereunder, Mortgagor shall be permitted to sell or otherwise dispose of the Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, but only upon replacing the same or substituting for the same other Collateral at least equal in value and utility to the initial value and utility of that disposed of and in such a manner that said replacement or substituted Collateral shall be subject to the security interest created hereby and that the security interest of Mortgagee shall be perfected and first in priority (subject only to the lien of the Senior Mortgage), it being expressly understood and agreed that all replacements, substitutions and additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered hereby. Mortgagor shall, from time to time, on request of Mortgagee, deliver to Mortgagee, at the cost of Mortgagor: (a) such further financing statements and security documents and assurances as Mortgagee may require to the end that the liens and security interest created hereby shall be and remain perfected and protected in accordance with the requirements of any present or future law; and (b) an inventory of the Collateral in reasonable detail. Mortgagor covenants and represents that all Collateral now is, and that all replacements thereof, substitutions therefor or additions thereto, unless the Mortgagee otherwise consents, will be free and clear of liens, encumbrances, title retention devices and security interests of others (except the lien of the Senior Mortgage).

Mortgagor and Mortgagee agree, to the extent permitted by law, that: (a) all of the property described within the definition of the word “**Premises**” herein are or are to become fixtures on the land described herein; (b) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a “**fixture filing**” within the meaning of Sections 9-313 and 9-402 of the Code; and (c) Mortgagor is a record owner of the land described herein.

If the Collateral is sold in connection with a sale of the Premises, Mortgagor shall notify Mortgagee prior to such sale and shall require, as a condition of such sale, that the purchaser specifically agree to assume Mortgagor’s obligations as to the security interests herein granted

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and to execute whatever agreements and filings are deemed necessary by Mortgagee to maintain Mortgagee's perfected security interest in the Collateral, Deposits and the deposits described in Paragraph 8 above; provided, however, such notice and condition shall not be required if Mortgagee has agreed to release its lien in the Collateral and the Premises in accordance with Paragraph 23.

11. **Stamp Tax; Effect of Changes in Laws Regarding Taxation.** If, by the laws of the United States of America or of any state or subdivision thereof having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note (other than income taxes assessed to Mortgagee), Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to reimburse Mortgagee for any reasonable sums which Mortgagee may expend by reason of the imposition of any tax on the issuance of the Note.

In the event of the enactment, after this date, of any law of the state in which the Premises is located deducting from the value of the land for the purpose of taxation of any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the Indebtedness or the holder thereof, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee: (a) it might be unlawful to require Mortgagor to make such payment; or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law; then and in any such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Indebtedness to be and become due and payable ninety (90) days from the giving of such notice.

12. **Observance of Lease Assignment.** As additional security for the payment of the Note and for the faithful performance of the terms and conditions contained herein, Mortgagor hereby assigns to Mortgagee all of Mortgagor's right, title and interest as landlord in and to the leases listed on the Schedule of Leases attached hereto as Exhibit "B," if any, and all future leases of the Premises. All leases of the Premises are subject to the approval of Mortgagee as to form, content and tenant(s), which approval shall not be unreasonably withheld or denied.

Mortgagor will not, without Mortgagee's prior written consent, which consent shall not be unreasonably withheld or denied: (a) execute any assignment or pledge of any rents or any leases of the Premises except an assignment or pledge securing the Indebtedness or an assignment or consent securing the Senior Permitted Debt (hereinafter defined); or (b) make any lease of the Premises except for actual occupancy by the tenant thereunder.

Mortgagor, at its sole cost and expense, will: (a) at all times promptly and faithfully abide by, discharge and perform all of the covenants, conditions and agreements contained in all leases of the Premises, on the part of the landlord thereunder to be kept and performed; (b) enforce or secure the performance of all of the covenants, conditions and agreements of such leases on the part of the tenants to be kept and performed, but Mortgagor shall not modify, amend, cancel, terminate or accept surrender of any lease without the prior written consent of Mortgagee, which

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consent shall not be unreasonably withheld, except that such consent is not required for any such action which is in the ordinary course of business and which does not have a material adverse effect on the operation of, or rental income from the Premises; (c) appear in and defend any action or proceeding arising under, growing out of or in any manner connected with such leases or the obligations, duties or liabilities of the landlord or of any tenants thereunder; (d) transfer and assign or cause to be separately transferred and assigned to Mortgagee, upon written request of Mortgagee, any lease or leases of the Premises heretofore or hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (e) furnish Mortgagee, within thirty (30) days after a written request by Mortgagee so to do, a written statement containing the names of all tenants and the terms of all leases of the Premises, including the spaces occupied and the rentals payable thereunder; and (f) exercise within thirty (30) days of any written demand therefor by Mortgagee any right to request from the tenant under any lease of the Premises a certificate with respect to the status thereof.

Nothing in this Mortgage or in any other documents relating to the loan secured hereby shall be construed to obligate Mortgagee expressly or by implication, to perform any of the covenants of any landlord under any of the leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay or cause to be performed and paid.

In the event of the enforcement by Mortgagee of any remedies provided for by law or by this Mortgage, the tenant under each lease of the Premises shall, at the option of Mortgagee, attorn to any person succeeding to the interest of landlord as a result of such enforcement and shall recognize such successor in interest as landlord under such lease without change in the terms or other provisions thereof; provided, however, that said successor in interest shall not be bound by any payment of any rent or additional rent for more than one month in advance or any amendment or modification to any lease made without the consent of Mortgagee or said successor in interest. Each tenant, upon request by said successor in interest, shall execute and deliver an instrument or instruments confirming such attornment.

Mortgagee shall have the option to declare this Mortgage in default because of a material default of landlord beyond all applicable cure periods in any lease of the Premises, whether or not such default is cured by Mortgagee pursuant to the right granted herein. It is covenanted and agreed that a default under any Assignment of Rents or Leases executed pursuant to this Paragraph 12 shall constitute an Event of Default hereunder after expiration of all applicable notice and grace periods, on account of which the whole of the Indebtedness secured hereby shall at once, at the option of Mortgagee, become immediately due and payable, without notice to Mortgagor.

13. **Mortgagor and Lien Not Released.** From time to time Mortgagee may, at Mortgagee's option, without giving notice to or obtaining the consent of Mortgagor or Mortgagor's successors or assigns or the consent of any junior lien holder, senior lien holder, guarantor or tenant, without liability on Mortgagee's part and notwithstanding Mortgagor's breach of any covenant, agreement or condition: (a) release anyone primarily or secondarily liable on any of the Indebtedness; (b) accept a renewal note or notes therefor; (c) release from the lien of this Mortgage any part of the Premises; (d) take or release other or additional security for the Indebtedness; (e) consent to any plat, map or plan of the Premises; (f) consent to the granting

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of any easement; (g) join in any extension or subordination agreement; (h) agree in writing with Mortgagor to modify the rate of interest or period of amortization of the Note or change the time of payment or the amount of the monthly installments payable thereunder; and (i) waive or fail to exercise any right, power or remedy granted by law or herein or in any other instrument given at any time to evidence or secure the payment of the Indebtedness.

Any actions taken by Mortgagee pursuant to the terms of this Paragraph 13 shall not impair or affect: (a) the obligations of Mortgagor or Mortgagor's successors or assigns to pay any sums at any time secured by this Mortgage and to observe all of the covenants, agreements and conditions herein contained; (b) the guaranty of any individual or legal entity for payment of the Indebtedness; and (c) the lien or priority of the lien hereof against the Premises. Mortgagor shall pay to Mortgagee a reasonable service charge and such title insurance premiums and reasonable attorneys' fees as may be incurred by Mortgagee for any action described in this Paragraph 13 taken at the request of Mortgagor or its beneficiary or beneficiaries.

14. **Mortgagee's Reliance on Tax Bills, etc.** Mortgagee, in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim or lien which may be asserted.

15. **Acceleration of Indebtedness in Case of an Event of Default.** An "Event of Default" shall mean the following: (a) if Mortgagor shall fail to make due and punctual payment of principal or interest on the Note, or any other payment due in accordance with the terms thereof, beyond all applicable cure periods (which terms are hereby incorporated by reference); or (b) if Mortgagor or any guarantor of the Note shall file (i) a petition for liquidation, reorganization or adjustment of debt under Title 11 of the United States Code (11 U.S.C. § 101 et seq.) or any similar law, state or federal, whether now or hereafter existing, (ii) any answer admitting insolvency or inability to pay its debts, or (iii) fail to obtain a vacation or stay of involuntary proceedings within ninety (90) days, as hereinafter provided, or (c) if any order for relief for the Mortgagor or for any guarantor of the Note shall be entered in any case under Title 11 of the United States Bankruptcy Code, or a trustee or a receiver shall be appointed for Mortgagor or for any guarantor of the Note in any voluntary or involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the property for Mortgagor or for any guarantor of the Note in any voluntary or involuntary proceeding for the reorganization, dissolution, liquidation, adjustment of debt or winding up of Mortgagor or of any guarantor of the Note, and such trustee or receiver shall not be discharged or such jurisdiction not be relinquished or vacated or stayed on appeal or otherwise stayed within ninety (90) days; or (d) if Mortgagor or any guarantor of the Note secured hereby shall make an assignment for the benefit of creditors, or shall admit in writing his inability to pay his debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all or any major part of his property; or (e) if there shall be a default by Mortgagor under paragraph 39(e) of this Mortgage; or (f) if Mortgagor shall fail to observe or perform any other covenant, agreement or condition set forth herein and required to be kept or performed or observed by the Mortgagor, which failure is not cured within thirty (30) days after written notice thereof, provided that, if

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Mortgagor acts diligently, continuously in good faith to cure such failure within such thirty (30) day period after written notice and such failure cannot reasonably be cured within such time period, then such time period shall be extended; or (g) if Mortgagor shall fail to observe or perform any covenant, agreement or condition required to be kept or observed by Mortgagor or any guarantor in any other instrument given at any time to evidence, guaranty or secure the payment of the Indebtedness beyond all applicable cure periods set forth therein; or (h) any other event or omission which is described as an Event of Default in this Mortgage.

If an Event of Default shall exist or occur, then the whole of the Indebtedness shall at once, at the option of Mortgagee, become immediately due and payable without notice to Mortgagor. If while any insurance proceeds or condemnation awards are held by or for the Mortgagee to reimburse Mortgagor or any lessee for the cost of repair, rebuilding or restoration of the buildings or other improvements on the Premises, as set forth in Paragraphs 9 and 22 hereof, Mortgagee shall be or become entitled to accelerate the maturity of the Indebtedness, then and in such event, Mortgagee shall be entitled to apply all such insurance proceeds and condemnation awards then held by or for it in reduction of the Indebtedness, and any excess held by it over the amount of the Indebtedness shall be paid Mortgagor or any party entitled thereto, without interest, as the same appear on the records of Mortgagee.

16. **Foreclosure; Expense of Litigation.** When the 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. In any civil action to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the order or judgment for foreclosure and sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, special process server 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 said order or judgment) of procuring all such abstracts of title, title searches and examination, title insurance policies and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such civil action or to evidence to bidders at any sale which may be had pursuant to such order or judgment the true condition of the title to, or the value of the Premises. All reasonable expenditures and expenses of the nature in this Paragraph mentioned and such reasonable 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 attorneys employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate, appellate and bankruptcy proceedings, or in preparation for the commencement or defense of any action or proceeding or threatened action or proceeding, shall be immediately due and payable by Mortgagor, promptly on receipt of a statement, with interest thereon at the rate set forth in the Note applicable to a period when a default exists thereunder, and shall be secured by this Mortgage.

At all times, Mortgagor shall appear in and defend any suit, action or proceeding that might in any way in the sole judgment of Mortgagee affect the value of the Premises, the priority of this Mortgage or the rights and powers of Mortgagee hereunder or under any document given at any time to secure the Indebtedness. Mortgagor shall, at all times, indemnify, hold harmless and reimburse Mortgagee on demand for any and all loss, damage, expense or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any

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proceeding in which Mortgagee is held to have been liable as a result of negligence or willful act of Mortgagor.

17. **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 Paragraph hereof; second, all other items which may under the terms hereof constitute secured Indebtedness additional 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 any party entitled thereto as their rights may appear.

18. **Appointment of Receiver or Mortgagee in Possession.** Upon, or at any time after, the commencement of an action to foreclose this Mortgage, the court in which such action was commenced may, upon request of Mortgagee, appoint a receiver of the Premises either before or after foreclosure sale, without notice and 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 or any holder of the Note may be appointed as such receiver or as Mortgagee in possession. Such receiver or Mortgagee in possession shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action and, in case of a sale and deficiency, during the full statutory period of redemption (if any), whether there be redemption or not, as well as during any further times (if any) when Mortgagor, except for the intervention of such receiver or Mortgagee in possession, would be entitled to collect such rents, issues and profits, and 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 authorize the receiver or Mortgagee in possession to apply the net income in its hands in payment in whole or in part of: (a) the Indebtedness secured hereby or by any order or judgment foreclosing the lien of this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or the lien of such order or judgment, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

19. **Mortgagee's Performance of Defaulted Acts.** If an Event of Default exists or occurs under this Mortgage, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner Mortgagee deems reasonably 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 said Premises or contest any tax or assessment or cure any default of any landlord in any lease of the Premises. All monies paid for any of the purposes herein authorized and all reasonable expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Paragraph 11 or to protect the Premises or the lien hereof, shall be so much additional Indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the rate of interest set forth in the Note applicable to a period when a default exists thereunder. Inaction of Mortgagee

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shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

20. **Rights Cumulative.** Each right, power and remedy conferred upon the Mortgagee by this Mortgage and by all other documents evidencing or securing the Indebtedness and conferred by law and in equity is cumulative and in addition to every other right, power and remedy, express or implied, given now or hereafter existing, at law and in equity; and each and every right, power and remedy herein or therein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee; and the exercise or the beginning of the exercise of any right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of, or discontinuance by, Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

21. **Mortgagee's Right of Inspection.** Mortgagee shall have the right to inspect the Premises at all reasonable times upon reasonable advance notice to Mortgagor, and access thereto shall be permitted for that purpose.

22. **Condemnation.** Subject to the rights of Senior Mortgagee under the Senior Mortgage, Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation (the "Condemnation Proceeds"). At the option of Mortgagee, subject to the rights of Senior Mortgagee under the Senior Mortgage, the Condemnation Proceeds may be applied to the reduction to the Indebtedness, whether due or not, or may be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of the Premises. Regardless of whether such Condemnation Proceeds are used to reimburse Mortgagor for the cost of said rebuilding or restoration, and regardless of whether such Condemnation Proceeds are adequate for such purpose, the Premises shall be restored or rebuilt by Mortgagor so as to be of at least equal value and substantially the same character as prior to such taking or damage. Subject to the rights of Senior Mortgagee under the Senior Mortgage, if Mortgagee elects to make said proceeds available to reimburse Mortgagor or any lessee for the cost of repair, rebuilding or restoration of the buildings or other improvements on the Premises, such proceeds shall be disbursed in such manner and under such conditions as Mortgagee shall require, and, in any event, Mortgagee shall be furnished with satisfactory evidence of the estimated cost of the completion thereof, and shall be furnished with such architect's certificates, lien waivers, contractor's and subcontractor's sworn statements and other documentation or certificates as Mortgagee shall request. Mortgagee must approve plans and specifications of such work before such work shall be commenced, which approval shall not be unreasonably withheld or denied. If the estimated cost of completion exceeds the amount of the Condemnation Proceeds available, Mortgagor shall, on written demand of Mortgagee, deposit with Mortgagee in cash the amount of such excess cost. 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 such proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of the completion of the work free and clear of liens. If the Condemnation Proceeds are made available by Mortgagee to reimburse Mortgagor for the cost of

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repair, rebuilding or restoration, any proceeds remaining after payment of all costs of such repair, rebuilding or restoration and the reasonable charges of Mortgagee shall, at the option of Mortgagee, and subject to the rights of Senior Mortgagee under the Senior Mortgage, be applied on account of the Indebtedness or paid to any party entitled thereto as the same appear on the records of Mortgagee. Any Condemnation Proceeds held by Mortgagee shall be invested in an interest-bearing account for the benefit of Mortgagor that is insured by an agency of the United States Government. The risk of loss of such funds, while so invested, shall be borne solely by Mortgagor.

23. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien hereof by proper instrument in recordable form upon payment and discharge of all Indebtedness secured hereby (including any prepayment charges and late charges provided for herein or in the Note).

24. **Giving Notice.** Any notice which either party hereto may desire or be required to give to the other party shall be deemed sufficient if given in accordance with the terms of the Note.

25. **Waiver of Defense.** No action for the enforcement of the lien or of 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.

26. **Waiver of Statutory Rights.** Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of the lien of this Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety.

27. **Financial Statements and Records.** Mortgagor covenants and agrees that he will keep and maintain books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times and on reasonable notice, be open to the inspection of Mortgagee and its accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained in accordance with generally accepted accounting principles consistently applied. Mortgagor further covenants and agrees to deliver such financial statements and information as Mortgagee shall require from time to time.

28. **Filing and Recording Charges and Taxes.** Mortgagors will pay all filing, registration, recording and search and information fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all other documents securing the Note, and all federal, state, county and municipal taxes, other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing, recording or registration of the Note, this Mortgage and all other documents securing the Note and all assignments thereof.

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29. Intentionally Deleted.

30. **Due on Sale or Further Encumbrance Clause.** The occurrence at any time of 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 shall be deemed to be an unpermitted transfer of title to the Premises and therefore an Event of Default hereunder.

Any consent by Mortgagee, or any waiver of an Event of Default under this Paragraph, shall not constitute a consent to, or waiver of, any right, remedy or power of Mortgagee upon a subsequent Event of Default under this Paragraph.

31. **Binding Nature.** This Mortgage and all provisions hereof shall extend to and be binding upon the original Mortgagor named on page one (1) hereof and his heirs, personal representatives, successors, grantees, assigns, each subsequent owner or owners of the Premises and all persons claiming under or through Mortgagor; and the word "**Mortgagor**" when used herein shall include all persons primarily and secondarily liable for the payment of the Indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage.

32. **Release of Previous Holder.** The word "**Mortgagee**" when used herein shall include the successors and assigns of the original Mortgagee named on page one (1) hereof, and the holder or holders, from time to time, of the Note. However, whenever the Note is sold, each prior holder shall be automatically freed and relieved, on and after the date of such sale, of all liability with respect to the performance of each covenant and obligation of Mortgagee hereunder thereafter to be performed, provided that any monies in which Mortgagor has an interest, which monies are then held by the seller of the Note, are turned over to the purchaser of the Note.

33. **Severability and Applicable Law.** In the event one or more of the provisions contained in this Mortgage or in the Note or in any other document given at any time to secure the payment of the Note shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, the Note or other document, and this Mortgage, the Note or other document shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The validity and interpretation of this Mortgage and the Note it secures are to be construed in accordance with and governed by the laws of the State of Illinois.

34. **Governmental Compliance.** Mortgagor shall not by act or omission permit any lands or improvements not subject to the lien of this Mortgage to include the Premises or any part thereof in fulfillment of any governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises to be so used. Similarly, no lands or improvements comprising the Premises shall be included with any lands or improvements not subject to the lien of this Mortgage in fulfillment of any governmental requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as a

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single zoning lot separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this Paragraph shall be void.

35. **Estoppel Certificates**. Each of Mortgagor and Mortgagee, within fifteen (15) days after receipt of a written request from the other, agrees to furnish from time to time a signed statement setting forth the amount of the Indebtedness and whether or not any default, offset or defense then is alleged to exist against the Indebtedness and, if so, specifying the nature thereof.

36. **Non-Joinder of Tenant**. After an Event of Default, Mortgagee shall have the right and option to commence a civil action to foreclose the lien of this Mortgage and to obtain an order or judgment of foreclosure and sale subject to the rights of any tenant or tenants of the Premises. The failure to join any tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any such order or judgment to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness secured hereby, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

37. **Regulation G Clause**. Mortgagor covenants that the proceeds evidenced by the Note secured hereby will not be used for the purchase or carrying of registered equity securities within the purview and operation of Regulation G issued by the Board of Governors of the Federal Reserve System, or for the purpose of releasing or retiring any indebtedness which was originally incurred for any such purpose.

38. **Lien for Loan Commissions, Service Charges and the Like**. So long as the original Mortgagee named on page one (1) hereof is the owner of the Note, and regardless of whether any proceeds of the loan evidenced by the Note have been disbursed, this Mortgage also secures the payment of all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with the loan transaction intended to be secured hereby, all in accordance with the application of, and loan commitment issued to and accepted by Mortgagor in connection with said loan.

39. **Senior Loan Documents**. Mortgagor hereby represents, warrants, covenants and agrees as follows:

(a) This Mortgage is subject and subordinate to that certain _____ (the "Senior Mortgage"), dated March 18, 2009, made by Mortgagor to Wells Fargo Bank, N.A. ("Senior Mortgagee") to secure a loan (the "Senior Loan") in the original principal amount of \$415,500.00, which Senior Loan is evidenced by a note (the "Senior Note"), of even date with the Senior Mortgage. The indebtedness secured by the Senior Mortgage is herein sometimes called the "Senior Permitted Debt." The Senior Note, the Senior Mortgage and the other documents evidencing or securing the Senior Loan are herein together sometimes called the "Senior Loan Documents."

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(b) As of the date of this Mortgage, the aggregate outstanding balance of the Senior Permitted Debt is \$415,500.00, and Senior Mortgagee is the owner and holder thereof and is the mortgagee under the Senior Mortgage.

(c) The Senior Loan Documents are current and in good standing, and no default or event of default or event or condition which itself or with the passage of time or the giving of notice or both would constitute a default or event of default under the Senior Loan Documents has occurred or been asserted by Senior Mortgagee; and Senior Mortgagee has not purported to declare the Senior Permitted Debt or any portion thereof due and payable or to accelerate same or to foreclose or otherwise realize upon the security of the Senior Loan Documents.

(d) Neither the Indebtedness nor the encumbrance of the Premises by this Mortgage or any of the other documents securing the Indebtedness will constitute a default or event of default under any of the Senior Loan Documents; and either no consent of the Senior Mortgagee to the execution and delivery of the Note, this Mortgage or any other documents securing the Note is required, or such consent has been obtained and is in full force and effect.

(e) Mortgagor will duly and punctually perform, observe and pay all of the covenants, terms, provisions, conditions, obligations, liabilities, payments and agreements on the part of Mortgagor to be performed, observed and paid under the terms of the Senior Loan Documents, and shall not suffer or permit to exist any default or event of default under any of the Senior Loan Documents; and any failure on the part of Mortgagor to punctually perform, observe or pay all of the covenants, terms, provisions, conditions, obligations, liabilities, payments and agreements on the part of Mortgagor to be performed, observed and paid under the terms of the Senior Loan Documents shall constitute an immediate Event of Default hereunder, whether or not such failure shall be cured by Mortgagee in accordance with the provisions of this Mortgage.

(f) Mortgagor shall give immediate notice to Mortgagee of any assertion or claim made by Senior Mortgagee of the occurrence of a default or event of default under any of the Senior Loan Documents.

(g) Nothing herein or in the Note or the other documents securing the Note shall require, obligate or make Mortgagee or any holder of the Note liable to perform, observe or pay any of the terms, provisions, conditions, agreements or payments required to be performed, observed or paid pursuant to the Senior Loan Documents; provided, however, that Mortgagee may, at its sole discretion, perform, observe or pay all or any such term, provision, condition, agreement or payment and do and make any and all such acts, things and payments required to prevent or cure any default under the Senior Loan Documents; and any monies advanced or expended by Mortgagee in connection therewith shall be so much additional Indebtedness hereby secured, and shall be immediately due and payable with interest at the default rate from the date expended to the date paid.

(h) So long as any portion of the stated principal balance of the Note shall remain outstanding, Mortgagor shall not, without the prior written consent of Mortgagee, make any prepayment upon the Senior Permitted Debt or modify the terms, provisions or conditions of the Senior Loan Documents.

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(i) It is expressly covenanted and agreed that upon each payment made by Mortgagee upon the Senior Permitted Debt, Mortgagee shall be and is hereby subrogated to all rights, liens and privileges which before such payment were vested in the owner or legal holder of the Senior Permitted Debt, and upon such payment, the lien of this Mortgage shall be, to all intents and purposes, and to the extent of the payments so made, a first lien, subrogated as aforesaid, upon the Premises.

40. Governmental Requirements; Utilities. Mortgagor will at all times fully comply with, and cause the Premises and the use and condition thereof fully to comply with, all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders and decrees of any kind whatsoever that apply or relate to Mortgagor or the Premises or the use thereof, and will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, those relating to land use and development, landmark preservation, construction, access, water rights and use, noise and pollution) which are applicable to Mortgagor or have been granted for the Premises or the use thereof. Mortgagor will pay all utility charges incurred in connection with the Premises and maintain all utility services available for use at the Premises.

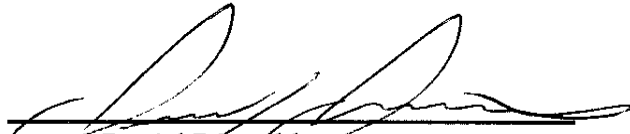
41. Consent to Jurisdiction TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN THE JURISDICTION IN WHICH THE PREMISES IS LOCATED. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT HAVING SITUS IN THE JURISDICTION IN WHICH THE PREMISES IS LOCATED, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.


42. Waiver of Jury Trial. MORTGAGOR AND MORTGAGEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

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43. Condominium Rider. The provisions of that certain Condominium Rider, which is attached hereto, is incorporated into this Mortgage as if the provisions thereof were recited herein.

IN WITNESS WHEREOF, Mortgagor has executed this instrument as of the day and year first above written.


Daniel Diewald


Virginia Diewald

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel Diewald, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary acts, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19 day of March, 2009.

[Signature]

 NOTARY PUBLIC
 My Commission Expires:

COOK COUNTY CLERK'S OFFICE
 111 N. WASHINGTON ST. CHICAGO, IL 60602
 TEL: 312.600.3200 FAX: 312.600.3201
 WWW.COOKCOUNTYCLERK.COM

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Virginia Diewald, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her own free and voluntary acts, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19 day of March, 2009.

[Signature]

 NOTARY PUBLIC
 My Commission Expires:

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

UNIT 2211 AND GU-145 IN THE 1600 MUSEUM PARK CONDOMINIUMS, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE 66 FOOT WIDE EAST 18TH STREET WITH THE EAST LINE OF THE 66 FOOT WIDE SOUTH PRAIRIE AVENUE; THENCE NORTH 00 DEGREES 05 MINUTES 55 SECONDS WEST ALONG THE EAST LINE OF SOUTH PRAIRIE AVENUE, AFORESAID, 404.92 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 05 MINUTES 55 SECONDS WEST ALONG THE EAST LINE OF SOUTH PRAIRIE AVENUE, AFORESAID, 219.04 FEET TO THE NORTHWEST CORNER OF LOT 1 IN E.L. SHERMAN'S SUBDIVISION OF LOTS 4, 5 AND 6 IN BLOCK 1 OF CLARKE'S ADDITION AND LOT 1 IN BLOCK 1 AND THE WEST HALF OF BLOCK 2 OF SUBDIVISION OF 49 1/2 ACRES SOUTH OF AND ADJOINING THE NORTH 20.90 ACRES OF THE SOUTHWEST FRACTIONAL QUARTER OF SAID SECTION 22; THENCE NORTH 89 DEGREES 56 MINUTES 28 SECONDS EAST ALONG THE NORTH LINE OF LOT 1 IN E.L. SHERMAN'S SUBDIVISION, AFORESAID, 119.65 FEET TO A POINT ON THE WEST RIGHT OF WAY OF THE ILLINOIS CENTRAL RAILROAD COMPANY AS FIXED BY AGREEMENT RECORDED OCTOBER 20, 1941 AS DOCUMENT NUMBER 12778000 AND BY A COUNTERPART AGREEMENT RECORDED DECEMBER 6, 1941, AS DOCUMENT NUMBER 12806262; THENCE SOUTH 16 DEGREES 48 MINUTES 27 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE FIXED BY AGREEMENT, 57.74 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF THE ILLINOIS CENTRAL RAILROAD; THENCE SOUTH 27 DEGREES 23 MINUTES 27 SECONDS EAST ALONG THE LAST MENTIONED WEST RIGHT OF WAY LINE OF THE ILLINOIS CENTRAL RAILROAD, 175.70 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 90.34 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 31 SECONDS EAST, 7.82 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 126.33 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS; AND

THE PROPERTY AND SPACE OF THE ILLINOIS CENTRAL RAILROAD COMPANY LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 65.00 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE BOUNDARIES, PROJECTED VERTICALLY, OF THAT PART OF SAID LAND PROPERTY AND SPACE, DESCRIBED AS FOLLOWS:

THAT PART OF LOTS 7 AND 12 IN ASSESSORS DIVISION OF LOTS 1, 2 AND 3 IN BLOCK 1 OF CLARKE'S ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF FRACTIONAL SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

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BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 12 AND RUNNING THENCE NORTH 00 DEGREES 02 MINUTES 49 SECONDS WEST ALONG THE WEST LINE OF SAID LOTS 12 AND 7, A DISTANCE OF 84.19 FEET TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE NORTH 89 DEGREES 57 MINUTES 41 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 58.26 FEET; THENCE SOUTH 27 DEGREES 02 MINUTES 14 SECONDS EAST ALONG A STRAIGHT LINE, A DISTANCE OF 94.49 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID LOT 12, AT A POINT 101.28 FEET EAST OF THE SOUTHWEST CORNER THEREOF, AND THENCE SOUTH 89 DEGREES 57 MINUTES 41 SECONDS WEST ALONG SAID SOUTH LINE OF LOT 12, A DISTANCE OF 101.28 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

WHICH SURVEY IS ATTACHED TO THE DECLARATION OF CONDOMINIUM PURSUANT TO THE CONDOMINIUM PROPERTY ACT FOR 1600 MUSEUM PARK CONDOMINIUMS, MADE BY 1600 MUSEUM PARK LLC, AN ILLINOIS LIMITED LIABILITY COMPANY AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS, AS DOCUMENT NUMBER 0835010078 AS AMENDED FROM TIME TO TIME, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS THEREOF, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE EXCLUSIVE RIGHT TO THE USE OF STORAGE SPACE S-176, A LIMITED COMMON ELEMENT, AS DELINEATED ON THE SURVEY ATTACHED TO THE DECLARATION OF CONDOMINIUM AFORESAID, RECORDED AS DOCUMENT NUMBER 0835010078.

COMMONLY KNOWN AS: 1629 South Prairie Avenue, Unit 221/GU-145/S-176, Chicago, Illinois 60616

PIN: 17-22-304-026-0000; 17-22-304-062-0000 (affects underlying land and other property)

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CONDOMINIUM RIDER

THIS CONDOMINIUM RIDER is made this 19th day of March, 2009 and is incorporated into and shall be deemed to amend and supplement the Junior Mortgage, Security Agreement and Financing Statement (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to 1600 MUSEUM PARK, LLC AN ILLINOIS LIMITED LIABILITY COMPANY (the "Lender") of the same date and covering the Property described in the Security Instrument and located at

1629 South Prairie Avenue, Unit 2211, GU-145, Chicago, Illinois

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project known as:

1600 Museum Park Condominium Association

(the "Condominium Project"), If the owners association or other entity which acts for the Condominium Project (the "Owners Association") holds title to property for the benefit or use of its members or shareholders, the Property also includes Borrower's interest in the Owners Association and the uses, proceeds and benefits of 'Borrower' s interest.

CONDOMINIUM COVENANTS In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. Condominium Obligations. Borrower shall perform all of Borrower's obligations under the Condominium Project's Constituent Documents. The "Constituent Documents" are the: (i) Declaration or any other document which creates the Condominium Project; (ii) by-laws; (iii) code of regulations; and (iv) other equivalent documents. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. Hazard Insurance So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included within the term "extended coverage," then:

- (i) Lender waives any right Lender may have with respect to the monthly payment to Lender of one-twelfth of the yearly premium installments for hazard insurance on the Property; and
- (ii) Borrower's obligation to maintain hazard insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

Borrower shall give Lender prompt notice of any lapse in required hazard insurance coverage.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any

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proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the Security Instrument, with any excess paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.


D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

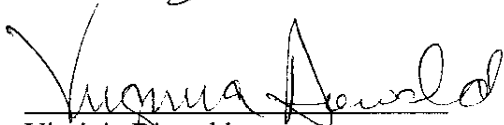
- (i) the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
- (ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of Lender;
- (iii) termination of professional management and assumption of self-management of the Owners Association; or
- (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay condominium dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment

By SIGNING BELOW, Borrower accepts and agree to the terms and provisions contained in this Condominium Rider.


Daniel Diewald

3-19-09
Date


Virginia Diewald

3/19/09
Date