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0934944011

Illinois Anti-Predatory Lending Database Program

Doc#: 0934944011 Fee: \$66.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/15/2009 09:24 AM Pg: 1 of 16

Certificate of Exemption

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 14-31-213-027-0000

Address:

Street: 2032 North Winchester Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60614

Lender: The PrivateBank and Trust Company

Borrower: 2032 Winchester Ave., L.L.C.

Loan / Mortgage Amount: \$700,000.00

This property is located within Cook County and is exempt from the requirements of 765 ILCS (7/7) et seq. because it consists of more than 4 units.

Certificate number: 541E8EB2-D52E-49FD-ABEC-D17227075AE5

Execution date: 12/09/2009

Property of Cook County Clerk's Office

16 KY

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**This document prepared by and
after recording return to:**

**Andrew H. Tripp
Ungaretti & Harris LLP
3500 Three First National Plaza
Chicago, Illinois 60602**

This space reserved for Recorder's use only

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

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS (the "Mortgage") is made as of December 9, 2009, by **2032 WINCHESTER AVE, L.L.C.**, a Delaware limited liability company (the "Mortgagor"), whose address is 71 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, for the benefit of **THE PRIVATEBANK AND TRUST COMPANY**, an Illinois banking corporation (the "Lender"), whose address is 120 South LaSalle Street, Chicago, Illinois 60603.

Mortgagor, in consideration of the indebtedness herein recited, irrevocably grants, conveys, mortgages and assigns to Lender, with power of sale, all of Mortgagor's estate, right, title and interest, now owned or hereafter acquired, including any reversion or remainder interest, in the real property located in Cook County, Illinois described on **Exhibit A** attached hereto and incorporated herein including all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, tenements, hereditaments, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property (collectively "Premises");

TOGETHER with all of Mortgagor's estate, right, title and interest, now owned or hereafter acquired, in:

a. all buildings, structures, improvements, parking areas, landscaping, equipment, fixtures (the "Fixtures") and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Premises, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges,

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recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Improvements in any manner now or hereafter erected on, attached to, used or adapted for use in the operation of the Premises (all of the foregoing together with replacements and additions thereto are referred to herein as "Improvements");

b. all compensation, awards, damages, rights of action and proceeds, including interest thereon and/or the proceeds of any policies of insurance therefor, arising out of or relating to a (i) taking or damaging of the Premises or Improvements thereon by reason of any public or private improvement, condemnation proceeding (including change of grade), sale or transfer in lieu of condemnation, or fire, earthquake or other casualty, or (ii) any injury to or decrease in the value of the Premises or the Improvements for any reason whatsoever;

c. all the right, title and interest of Mortgagor in, to and under all written and oral leases and rental agreements (including extensions, renewals and subleases; all of the foregoing shall be referred to collectively herein as the "Leases") now or hereafter affecting the Premises including, without limitation, all rents, issues, profits and other revenues and income therefrom, all guaranties of tenants' performance under the Leases, and all rights and claims of any kind that Mortgagor may have against any tenant under the Leases or in connection with the termination or rejection of the Leases in a bankruptcy or insolvency proceeding;

d. all contracts, rights, general intangibles, permits, licenses, certificates, claims or causes of action pertaining to or affecting the Premises or the Improvements; and

e. all additions, accessions, replacements, substitutions, proceeds and products of the real and personal property, tangible and intangible, described herein.

All of the foregoing described collateral is exclusive of any furniture, furnishings or trade fixtures owned and supplied by tenants of the Premises. The Premises, the Improvements, the Leases and all of the rest of the foregoing property described in clauses "a" through "e" above, inclusive, are herein referred to as the "Property."

TO SECURE TO Lender (a) the repayment of the indebtedness evidenced by that certain Mortgage Term Note dated of even date herewith made by Mortgagor to Lender (as amended, restated, modified, substituted or replaced from time to time, the "Note") in the principal sum of **SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS (\$700,000.00)**, with interest thereon as set forth in the Note, and all renewals, replacements, extensions and modifications thereof and with a maturity date of December 9, 2014; (b) the repayment of the indebtedness evidenced by that certain Replacement Mortgage Term Note dated as of even date herewith made by 721 Roscoe, L.L.C., a Delaware limited liability company ("721 Roscoe") to Lender (as amended, restated, modified, substituted or replaced from time to time, the "721 Roscoe Note") in the principal sum of **ONE MILLION, FIFTEEN THOUSAND, FOUR HUNDRED AND ELEVEN AND 68/100 DOLLARS (\$1,015,411.68)**, with interest thereon as set forth in the 721 Roscoe Note, and all renewals, replacements, extensions and modifications thereof and with a maturity date of November 17, 2014; (c) the payment of all other sums, with interest thereon,

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advanced in accordance herewith to protect the security of this Mortgage or to fulfill any of Mortgagor's obligations hereunder or under the other Loan Documents (as defined below) as further set forth below; (d) the performance of the covenants and agreements of Mortgagor contained herein or in the other Loan Documents; (e) the performance of the covenants and agreements of 721 Roscoe contained in any of the documents evidencing and/or securing the indebtedness evidenced by the 721 Roscoe Note (as amended, restated, modified, substituted or replaced from time to time, collectively, the "721 Roscoe Loan Documents") (f) the repayment of all sums now or hereafter owing to Lender by Mortgagor pursuant to any instrument which recites that it is secured hereby; and (g) any and all other liabilities and obligations of the Mortgagor to the Lender, howsoever created, arising or evidenced, and howsoever owned, held or acquired, whether now or hereafter existing, whether now due or to become due, direct or indirect, absolute or contingent, and whether several, joint or joint and several, howsoever and whensoever arising. The indebtedness and obligations described in clauses (a)-(g) above are collectively referred to herein as the "Indebtedness." The Note, this Mortgage, that certain Environmental Indemnity Agreement executed by Mortgagor and the Guarantor (hereinafter defined) in favor of Lender dated as of even date herewith (the "Environmental Indemnity Agreement"), that certain Guaranty executed by BTP Investments, LLC, a Delaware limited liability company (the "Guarantor"), in favor of the Lender dated as of even dated herewith (the "Guaranty") and all other documents evidencing, securing or guaranteeing the Indebtedness as the same may be modified, amended, substituted or replaced from time to time, are collectively referred to herein as the "Loan Documents."

Mortgagor covenants and agrees to warrant and forever defend unto Lender the title to the Property against all claims and demands subject to the title exceptions set forth on **Exhibit B** attached hereto and incorporated herein (collectively, the "Permitted Exceptions").

Mortgagor represents, warrants, covenants and agrees for the benefit of Lender as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Mortgagor shall promptly pay when due the principal of and interest on the Note, any prepayment premium and other charges provided in the Loan Documents and all other sums secured by this Mortgage.

2. PAYMENT OF TAXES AND OTHER CHARGES. Mortgagor hereby covenants and agrees to pay prior to delinquency all real estate and other taxes, insurance premiums, assessments and other charges (collectively, "Impositions") payable with respect to the Property from time to time, and to provide Lender with proof of the payment of the Impositions concurrently with each payment thereof by Mortgagor. After the occurrence of an Event of Default (as defined below) and at Lender's sole option at any time thereafter, Mortgagor shall pay to Lender, on a monthly basis, and in addition to the monthly payments due on the Note, one-twelfth (1/12th) of the Impositions payable with respect to the Property (as determined by Lender in its sole discretion) for each year. Such funds shall be held by Lender without liability for the payment of interest and applied by Lender to the payment of the Impositions from time to time.

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3. CHARGES, LIENS. Except for the Permitted Exceptions, without Lender's prior written consent, Mortgagor shall not allow any lien other than this Mortgage to be filed or perfected against the Property. If any lien other than this Mortgage is filed or perfected against the Property without Lender's prior written consent, Mortgagor shall, within thirty (30) days after receiving notice of the filing of such lien, cause such lien to be released of record and deliver evidence of such release to Lender.

4. INSURANCE. Mortgagor shall obtain and maintain at Mortgagor's sole cost and expense the following insurance policies with respect to the Property:

- (1) "All Risk" property and fire insurance (with extended coverage endorsement including malicious mischief and vandalism) in an amount not less than the full replacement value of the Property (with a deductible not to exceed \$10,000), naming Lender as Loss Payee and Mortgagee and including agreed amount and replacement cost endorsements;
- (2) Comprehensive general liability insurance in an amount not less than \$2,000,000.00 insuring against personal injury, death and property damage and naming Lender as additional insured;
- (3) Business interruption insurance covering loss of rental or other income (including all expenses payable by tenants) for up to twelve (12) months; and
- (4) Such other types of insurance or endorsements to existing insurance as may be required from time to time by Lender.

Upon each reasonable request of Lender, Mortgagor shall increase the coverages under any of the insurance policies required to be maintained hereunder or otherwise modify such policies in accordance with Lender's request. All of the insurance policies required hereunder shall be issued by corporate insurers licensed to do business in the state in which the Property is located and rated A-VIII or better by A.M. Best Company, and shall be in form acceptable to Lender. If and to the extent that the Property is located within an area that has been or is hereafter designated or identified as an area having special flood hazards by the Department of Housing and Urban Development or such other official as shall from time to time be authorized by federal or state law to make such designation pursuant to any national or state program of flood insurance, Mortgagor shall carry flood insurance with respect to the Property in amounts not less than the maximum limit of coverage then available with respect to the Property or the amount of the Indebtedness, whichever is less. Certificates of all insurance required to be maintained hereunder shall be delivered to Lender, along with evidence of payment in full of all premiums required thereunder, contemporaneously with Mortgagor's execution of this Mortgage. All such certificates shall be in form acceptable to Lender and shall require the insurance company to give to Lender at least thirty (30) days prior written notice before canceling the policy for any reason or materially amending it. Certificates evidencing all renewal and substitute policies of insurance shall be delivered to Lender, along with evidence of the payment in full of all premiums required thereunder, at least fifteen (15) days before termination of the policies being renewed or substituted. If any act or occurrence of any kind or nature (including any casualty for

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which insurance was not obtained or obtainable) shall result in damage to or destruction of the Property (such event being called a "Loss"), Mortgagor will give prompt written notice thereof to Lender. All insurance proceeds paid or payable in connection with any Loss shall be paid to Lender and applied by Lender to the payment of the Indebtedness in such order as Lender may elect; provided in the event of any such damage or destruction, (i) if the proceeds are \$100,000 or less, Lender shall release same to Mortgagor for use to repair and restore the Property and (ii) if the proceeds exceed \$100,000, Lender shall make the proceeds of insurance received as a result of such damage or destruction available for the repair and restoration of the Property, subject to the following conditions: (i) that there does not then exist any Event of Default under this Mortgage or any of the other Loan Documents; (ii) that in the event such proceeds shall be insufficient to repair and restore the Property, Mortgagor shall deposit promptly with the Lender the amount of such deficiency; (iii) such other customary and reasonable conditions as Lender may require and (iv) the excess of said insurance proceeds above the amount necessary to complete such repair and restoration shall be applied as a credit upon any portion, as selected by the Lender, of the indebtedness secured hereby.

5. PRESERVATION AND MAINTENANCE OF PROPERTY. Mortgagor (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereof, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (c) shall keep the Property, including all improvements, fixtures, equipment, machinery and appliances thereon, in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, and (d) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

6. INSPECTION. Lender may upon reasonable prior notice to Mortgagor make or cause to be made reasonable entries upon the Property during normal business hours to inspect the interior and exterior thereof, subject to the rights of tenants.

7. FINANCIAL DATA. Mortgagor will furnish to Lender, on request, any financial information and reports that Lender may from time to time reasonably request, including, if Lender so requires, financial statements, income tax returns and operating statements (together with rent rolls and other supporting data regarding the operation of the Property and Improvements) of Mortgagor.

8. CONDEMNATION. If the Property, or any part thereof, shall be condemned for any reason, including without limitation fire or earthquake damage, or otherwise taken for public or quasi-public use under the power of eminent domain, or be transferred in lieu thereof, all damages or other amounts awarded for the taking of, or injury to, the Property shall be paid to Lender and applied by Lender to the payment of the Indebtedness in such order as Lender may elect.

9. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. Mortgagor agrees that this Mortgage shall constitute a "security agreement" within the meaning of the

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Uniform Commercial Code as adopted by the State of Illinois (810 ILCS 5/9-101 *et. seq.*)(the "Code") with respect to (a) all sums at any time on deposit for the benefit of Mortgagor or held by Lender (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the Note, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) (which property is hereinafter referred to as "Personal Property"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property, the Fixtures and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to Lender, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Lender, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property. Mortgagor authorizes Lender to make any necessary filings and recordings in order to maintain a perfected security interest in the Collateral. Upon an Event of Default hereunder, in addition to the rights and remedies set forth in Section 15 herein, Lender shall also have all of the rights and remedies of a secured party under the Code with respect to the Collateral.

10. INTENTIONALLY OMITTED.

11. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN MORTGAGOR; ASSUMPTION. Lender may, at its option, declare all sums secured by this Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by Section 15 of this Mortgage, if either (a) subject to Section 3 hereof, if applicable, title to the Property is transferred or encumbered (except by the Permitted Exceptions) or (b) any interest in Mortgagor is transferred or encumbered, without in each case the prior written consent of Lender, which consent shall be at Lender's sole discretion. Lender shall have the right to condition its consent to any proposed sale or transfer described in this Section 11 upon, among other things, Lender's approval of the transferee's creditworthiness and management ability, and the transferee's execution, prior to the sale or transfer, of a written assumption agreement containing such terms as Lender may require, including, if required by Lender, the imposition of an assumption fee of one percent (1%) of the then outstanding balance of the indebtedness. Consent by Lender to one transfer of the Property shall not constitute consent to subsequent transfers or waiver of the provisions of this Section 11. No transfer by Mortgagor shall relieve Mortgagor of liability for payment of the Indebtedness. Nothing herein shall prevent the transfer of interests in Mortgagor by devise or descent. In addition, and notwithstanding the foregoing, additional, but subordinate mortgages may be granted to Lender and, subject to the prior written consent of Lender, which consent may be given or withheld in the sole discretion of Lender, may be granted to entities owned by or under common control with Lender.

12. NOTICES. Except for any notice required under applicable law to be given in another manner, any and all notices, elections, demands, or requests permitted or required to be made under this Mortgage or under the Note shall be in writing, signed by the party giving such notice, election, demand or request, and shall be delivered personally, by telegram, or sent by

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certified or Express United States mail, postage prepaid, or by Federal Express or similar service requiring a receipt, to the other party at the addresses stated above, or to such other party and at such other address within the United States of America as any party may designate in writing as provided herein. The date of receipt of such notice, election, demand or request shall be the earliest of (i) the date of actual receipt, (ii) three (3) days after the date of mailing by certified mail, (iii) one (1) day after the date of mailing by Express Mail or the delivery (for redelivery) to Federal Express or another similar service requiring a receipt, or (iv) the date of personal delivery (or refusal upon presentation for delivery).

13. ASSIGNMENT OF LEASES AND RENTS. Mortgagor does hereby absolutely and unconditionally grant, bargain, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of Mortgagor in, to and under the Leases of the Property, whether now in existence or hereafter entered into, and all guaranties, amendments, extensions and renewals of said Leases and any of them, and all rents, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the Property. This assignment is absolute, is effective immediately, and is irrevocable by Mortgagor so long as the Indebtedness remains outstanding. Notwithstanding the foregoing, until a Notice is sent to Mortgagor in writing that an Event of Default has occurred (which notice is hereafter called a "Notice"), Mortgagor may receive, collect and enjoy the rents, income and profits accruing from the Property. After the occurrence of an Event of Default hereunder, Lender may, at its option, after service of a Notice, receive and collect all such rents, income and profits from the Property as they become due. Lender shall thereafter continue to receive and collect all such rents, income and profits, as long as such Event of Default(s) shall exist, and during the pendency of any foreclosure proceedings.

14. DEFAULT. The following shall each constitute an event of default ("Event of Default"):

a. Failure of Mortgagor to make any payment of principal, interest, or any fees due under the Note when due after the expiration of any applicable cure period; or

b. Failure of Mortgagor within the time required by this Mortgage to make any payment for taxes, insurance or for reserves for such payments, or any other payment necessary to prevent filing of or discharge of any lien or otherwise required by this Mortgage; or

c. Filing by Mortgagor of a voluntary petition in bankruptcy or filing by Mortgagor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the seeking, consenting to, or acquiescing by Mortgagor in the appointment of any trustee, receiver, custodian, conservator or liquidator for Mortgagor, any part of the Property, or any of the income or rents of the Property; or

d. Filing of a petition against Mortgagor seeking any reorganization, arrangement, composition, readjustment, liquidation, or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for

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debts, or the appointment of any trustee, receiver, custodian, conservator or liquidator of Mortgagor, of any part of the Property or of any of the income or rents of the Property, unless such petition shall be dismissed within thirty (30) days after such filing, but in any event prior to the entry of an order, judgment or decree approving such petition; or

e. The institution of any proceeding for the dissolution or termination of Mortgagor voluntarily, involuntarily, or by operation of law; or

f. A material adverse change occurs in the assets, liabilities or net worth of Mortgagor or any of the guarantors of the indebtedness evidenced by the Note; or

g. Any warranty, representation or statement furnished to Lender by or on behalf of Mortgagor under the Note, this Mortgage, any of the other Loan Documents shall prove to have been false or misleading in any material respect; or

h. Failure of Mortgagor to observe or perform any other obligation under this Mortgage, any other Loan Document when such observance or performance is due, and such failure shall continue for thirty (30) days after Lender delivers written notice thereof to Mortgagor; or

i. If any guaranty of the indebtedness evidenced by the Note is terminated or any guarantor attempts to withdraw, cancel or disclaim any guaranty; or

j. The occurrence of any default under any of the documents evidencing or securing any other indebtedness of Mortgagor or any of the guarantors of the Indebtedness which is now or hereafter owed to Lender; or

k. The occurrence of any default by 721 Roscoe under any of the 721 Roscoe Loan Documents after the giving of any applicable notice and the expiration of any applicable cure period.

15. RIGHTS AND REMEDIES ON DEFAULT.

Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies:

(a) Lender may declare the entire Indebtedness, including the then unpaid principal balance on the Note, the accrued but unpaid interest thereon, court costs and attorney's fees hereunder immediately due and payable, without notice, presentment, protest, demand or action of any nature whatsoever (each of which hereby is expressly waived by Mortgagor), whereupon the same shall become immediately due and payable. Additionally, Lender shall not be required to make any further advances on the Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time, would constitute an Event of Default.

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(b) Lender may, at Lender's option, perform on behalf of Mortgagor the covenants and obligations which Mortgagor has failed to perform in accordance with the terms of this Mortgage and the Loan Documents and make such appearances, disburse such sums and take such actions as Lender deems necessary, in its sole discretion, to protect Lender's interests under this Mortgage and under the Loan Documents. Any amounts disbursed by Lender pursuant to this Section 15(b) shall bear interest at the Default Rate provided in the Note, shall become additional Indebtedness secured by this Mortgage, and shall be payable by Mortgagor to Lender upon demand.

(c) Lender may foreclose the lien hereof in accordance with the laws of the State of Illinois, including, without limitation, the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 *et. seq.*), and:

(i) in any suit or proceeding to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree for sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for reasonable attorneys' fees, appraisers' 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, as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title or to the value of the Property; and

(ii) such expenses and fees as may be reasonably incurred in the protection of the Property in the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation and proceedings affecting this Mortgage, the Note or the Property or the rights of Lender hereunder or as to which Lender may be made a party by virtue of its interest in the Property pursuant to this Mortgage or otherwise, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall constitute so much additional Indebtedness, and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate as indicated in the Note.

Mortgagor hereby expressly waives any and all rights of redemption from sale, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent herein that any and all such rights of redemption of Mortgagor and all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of 735 ILCS 5/15-1601 or other applicable law or replacement statutes. Mortgagor hereby agrees that it shall not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein, or otherwise granted or delegated to Lender but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and if Mortgagor is a trustee, Mortgagor represents that the provisions of this Section (including the waiver of redemption rights) are made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

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(d) Lender may exercise the rights and remedies of a secured party under the applicable provisions of the Uniform Commercial Code, as adopted by the State of Illinois.

(e) Lender may exercise any other rights or remedies provided by the applicable laws of the State of Illinois.

(f) Mortgagor and any guarantor of the Indebtedness shall be liable for any deficiency remaining in the Indebtedness subsequent to any sale described in this Section 15.

16. ATTORNEYS' FEES. In the event suit or action is instituted to enforce or interpret any of the terms of this Mortgage (including without limitation efforts to modify or vacate any automatic stay or injunction), all attorney fees and court costs incurred by Lender shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the post-maturity interest rate as provided in the Note. The term "attorneys' fees" as used in the Loan Documents shall be deemed to mean such fees as are reasonable and are actually incurred.

17. GOVERNING LAW; SEVERABILITY. This Mortgage shall be governed by the law of the State of Illinois applicable to contracts made and to be performed therein (excluding choice-of-law principles). In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable.

18. TIME OF ESSENCE. Time is of the essence of this Mortgage and of all of the obligations of Mortgagor under the Loan Documents.

19. COSTS. Mortgagor hereby agrees to pay all third party costs and expenses incurred by Lender in connection with the transaction evidenced by this Mortgage and in connection with the enforcement of the rights and remedies of Lender under this Mortgage and under the Loan Documents, including, without limitation, the costs of any title searches, surveys, title insurance premiums, attorneys' fees and expenses and other costs and expenses incurred by Lender hereunder or under the Loan Documents.

20. WAIVER OF JURY TRIAL. MORTGAGOR HEREBY KNOWINGLY AND VOLUNTARILY WAIVES ANY AND ALL RIGHTS THAT MORTGAGOR MAY NOW OR HEREAFTER HAVE UNDER THE LAWS OF THE UNITED STATES OF AMERICA OR THE LAWS OF THE STATE OF ILLINOIS, TO A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING DIRECTLY OR INDIRECTLY IN ANY ACTION OR PROCEEDING RELATING TO THIS MORTGAGE, THE LOAN DOCUMENTS OR ANY TRANSACTIONS CONTEMPLATED THEREBY OR RELATED THERETO INCLUDING SPECIFICALLY, WITHOUT LIMITATION, ANY AND ALL DEFENSES, RIGHTS, CLAIMS AND/OR COUNTERCLAIMS IN ANY SUCH ACTION OR PROCEEDING.

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21. BUSINESS LOAN. Mortgagor represents and agrees that the loan evidenced by the Note and secured by this Mortgage is a loan secured by a mortgage on real estate within the purview of 815 ILCS 205/4 (or any substitute, amended or replacement statute).

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first written above.

MORTGAGOR:

2032 WINCHESTER AVE, L.L.C.,
a Delaware limited liability company

By: *Ronald Wray*
Name (printed): Ronald D Wray
Title: Vice President

[END OF SIGNATURE PAGE]

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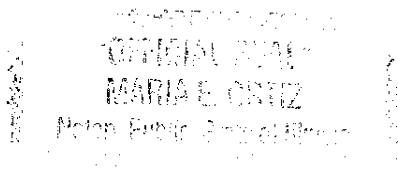
STATE OF ILLINOIS)
) ss
COUNTY OF Cook)

I, Maria Ortiz a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ronald Wray, the Vice President of 2032 WINCHESTER AVE, L.L.C, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own 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 9 day of Dec, 2009.



NOTARY PUBLIC



(SEAL)

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EXHIBIT A

DESCRIPTION OF PREMISES

LOT 54 IN BLOCK 40 IN SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 14-31-213-027-0000

Common Address: 2032 North Winchester Avenue, Chicago, Illinois

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EXHIBIT B

PERMITTED EXCEPTIONS

1. TAXES FOR THE YEAR 2009 AND SUBSEQUENT YEARS WHICH ARE NOT YET DUE AND PAYABLE;
2. EXISTING LEASES AND TENANCIES, WHICH, BY THEIR TERMS, SHALL BE SUBJECT AND SUBORDINATE TO THE LIEN OF THIS MORTGAGE, AND RIGHTS OF TENANTS THEREUNDER, AND THOSE CLAIMING BY, THROUGH OR UNDER THOSE TENANTS; AND
3. APPARENT EASEMENTS FOR PUBLIC UTILITIES SERVING THE PREMISES, AS EVIDENCED BY THE OVERHEAD WIRES LOCATED ON THE SUBJECT PROPERTY, AS SHOWN ON THE SURVEY DATED DECEMBER 7, 2009, PREPARED BY PROFESSIONAL LAND SURVEYING, INC., AND KNOWN AS JOB NO. 95296;
4. ENCROACHMENT OF THE WOOD LANDING AND STAIRS LOCATED ON THE EAST END OF THE SUBJECT PROPERTY ONTO THE PUBLIC WAY EAST OF AND ADJOINING THE LAND BY APPROXIMATELY 1.08 FEET, AS SHOWN ON THE SURVEY DATED DECEMBER 7, 2009, PREPARED BY PROFESSIONAL LAND SURVEYING, INC., AND KNOWN AS JOB NO. 95296;
5. ENCROACHMENT OF THE STEPS LOCATED ON THE SOUTHEAST END OF THE SUBJECT PROPERTY AND ONTO THE PROPERTY SOUTH AND ADJOINING THE LAND BY APPROXIMATELY 1.20 FEET, AS SHOWN ON THE SURVEY DATED DECEMBER 7, 2009, PREPARED BY PROFESSIONAL LAND SURVEYING, INC., AND KNOWN AS JOB NO. 95296; AND
6. ENCROACHMENT OF THE STEPS LOCATED ON THE SOUTH WEST END OF THE SUBJECT PROPERTY AND ONTO THE PROPERTY SOUTH AND ADJOINING THE LAND BY APPROXIMATELY 0.55 FEET, AS SHOWN ON THE SURVEY DATED DECEMBER 7, 2009, PREPARED BY PROFESSIONAL LAND SURVEYING, INC., AND KNOWN AS JOB NO. 95296.