

# UNOFFICIAL COPY

## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Doc#: 1006246041 Fee: \$62.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/03/2010 02:37 PM Pg: 1 of 14

Report Mortgage Fraud  
800-532-8785

The property identified as: **PIN:** 14-28-321-008-0000

**Address:**

**Street:** 437 W. Roslyn Place

**Street line 2:**

**City:** Chicago

**State:** IL

**ZIP Code:** 60614

**Lender:** Lee Munder, as Trustee under Trust Agreement Dated October 6, 1999 and known as The Lee Munder Revocable Trust

**Borrower:** Laurence P. Birch and Mary Rose Birch

**Loan / Mortgage Amount:** \$216,457.49

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:** 424C20E6-3688-49B7-B25E-B4625B5B7A94

**Execution date:** 11/30/2009

14

**MORTGAGE UNOFFICIAL COPY****Property:**

437 W. Roslyn Place  
Chicago, IL 60614  
PIN: 14-28-321-008-0000

**Prepared By And, Upon****Recording, Mail To:**

Brian J. Mulhern  
15 Salt Creek Lane, Suite 200  
Hinsdale, IL 60521

This Mortgage is made effective as of the 30th day of November, 2009, by **LAURENCE P. BIRCH and MARY ROSE BIRCH**, husband and wife, now of Chicago, Cook County, Illinois (together, "Mortgagors"), in favor of **LEE MUNDER, AS TRUSTEE UNDER TRUST AGREEMENT DATED OCTOBER 6, 1999 AND KNOWN AS THE LEE MUNDER REVOCABLE TRUST** ("Mortgagee"), and all Successor Trustees to secure a Note of even date herewith in the Principal amount of Two Hundred Sixteen Thousand Seven Hundred Twenty-Seven and 83/100 Dollars (\$ **216,727.83**).

**WHEREAS**, the Mortgagors have executed a Promissory Note dated November 30, 2009 in favor of Mortgagee in the Principal amount of \$ 216,727.83 with a twenty (20) year Term ("Note") (Maturity Date: January 1, 2030) in order to evidence updating revisions by the parties to a previous Loan Agreement and a Promissory Note dated October 1, 2001 in the original Principal amount of Two Hundred Fifty Thousand and no/100 Dollars; and

**NOW, THEREFORE**, in consideration of the foregoing Recital, which is made a part of this Mortgage, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Mortgagors hereby agree as follows:

**A. MORTGAGE.**

1. **Pledge.** Mortgagors hereby MORTGAGE, GRANT AND CONVEY to Mortgagee the above-referenced Property owned by them and legally described on Exhibit "A" attached hereto, in order to secure to Mortgagee: (1) Mortgagors' obligations for the repayment of all amounts due under the Loan Agreement and Note as amended/modified ("Indebtedness"); (2) The payment of any and all other sums, with Interest, advanced by Mortgagee in accordance herewith to protect the security of this Mortgage; and (3) The performance of the non-monetary covenants and agreements of Mortgagors contained herein and in the Note.

2. **Subordination.** This Mortgage is subject to: (a) a Mortgage against the Property dated October 26, 2006 and recorded November 13, 2006 as Cook County document # 063170517 in favor of Mortgage Electronic Registration System, Inc. for the benefit of Bank of America as security for a Note in the original Principal amount of \$ 1,225,000.00 ("First Mortgage"); and (b) a Mortgage against the Property in favor of Baxter Credit Union as security for a Note dated November 18, 2009 in the original Principal amount of \$ 180,000.00 ("Second Mortgage").

**B. INCLUDED RIGHTS.**

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**MORTGAGORS EXPRESSLY AGREE THAT THE PROPERTY IS HEREBY CONVEYED AND MORTGAGED TO MORTGAGEE:**

1. **TOGETHER WITH** any and all buildings and improvements now or hereafter constructed upon said Property or any part thereof and all fixtures and equipment located thereon or installed hereafter, said fixtures and equipment being deemed to be part of the Property to the extent they are permanently affixed thereto;

2. **TOGETHER WITH** any and all rents, issues, profits and leases thereof for so long and during all such times as Mortgagors and Mortgagors' successors and assigns may be entitled thereto, and all tenements, hereditaments, easements and appurtenances affecting the Property; and

3. **SUBJECT ONLY TO** rights of Bank of America under the First Mortgage and rights of Baxter Credit Union under the Second Mortgage.

## C. COVENANTS.

**MORTGAGORS HEREBY COVENANT AND AGREE AS FOLLOWS:**

### 1. Property.

a. **Preservation and Maintenance.** Mortgagors will abstain from and will not permit the commission of waste on the Property and will keep any buildings, improvements, fixtures and equipment now or hereafter thereon in good repair and will make replacements thereto as and when the same become necessary. Mortgagors shall promptly notify Mortgagee in writing of the occurrence of any loss or damage to the Property. Mortgagors shall not materially alter the buildings, improvements, fixtures or equipment now or hereafter upon said Property, or remove the same therefrom, or permit any tenants or other person to do so, without the prior written consent of the Mortgagee. Mortgagors will not permit any portion of the Property to be used for any unlawful purposes. Mortgagors covenants and agrees that in the ownership, operation and management of the Property, Mortgagors will observe and comply with all applicable federal, state and local statutes, ordinances, regulations, orders and restrictions including, without limitation, all zoning, building code and environmental protection ordinances, regulations, orders and restrictions.

b. **Renting/Leasing.** While this Mortgage is in effect, Mortgagors will not rent or lease the Property without the prior written consent of the Mortgagee.

2. **Charges and Liens.** Mortgagors shall pay when due all taxes and assessments (including any association assessments) that may be levied on said Property, and, upon request, shall promptly deliver to Mortgagee receipts showing payment thereof.

3. **Insurance.** Mortgagors shall keep the Property and all buildings, improvements, fixtures and equipment now or hereafter thereon sufficiently insured and shall

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obtain sufficient liability insurance. The policies of such insurance shall be in form, with insurers, and in such amounts as may be reasonably satisfactory to Mortgagee. Mortgagors shall deliver to Mortgagee the original (or certified) copy of each policy of insurance, or a certificate of insurance, and evidence of payment of all premiums for each such policy. Such policies of insurance shall contain a standard mortgagee clause naming Mortgagee as mortgage holder thereunder as Mortgagee's interests may appear, and shall provide that the insurance companies will give Mortgagee at least thirty (30) days' written notice before any such policy or policies of insurance shall be altered or cancelled and that no act or default of Mortgagors or any other person or entity shall affect the right of Mortgagee to be covered under such policy or policies of insurance in case of loss or damage. Mortgagors hereby direct all insurers under such policies to pay all proceeds payable thereunder to Mortgagee as Mortgagee's interests may appear.

**4. Protection of Mortgagee's Security.** If default is made by Mortgagors in the payment of any of the aforesaid taxes or assessments, in keeping the Property in a proper state of maintenance and repair, or in performing any other covenant of Mortgagors herein, Mortgagee may at Mortgagee's option and without any obligation on Mortgagee's part to do so, pay said taxes and assessments, make such repairs and perform such maintenance, and perform any other covenant of Mortgagors herein. All reasonable amounts expended by Mortgagee hereunder shall be secured hereby and shall be due and payable to Mortgagee forthwith on demand.

**5. Reimbursement for Mortgagee's Legal Expenses.** Should Mortgagee incur any cost or expense, including attorneys' fees, in enforcing Mortgagee's rights hereunder or in protecting the Property, whether or not any legal action is filed, or in the event that Mortgagee are made a party to any suit or proceeding by reason of the interest of Mortgagee in the Property, or if Mortgagee shall institute proceedings to foreclose this Mortgage, Mortgagors shall reimburse Mortgagee for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection therewith. All amounts incurred by Mortgagee hereunder shall be secured hereby and shall be due and payable to Mortgagee forthwith on demand.

**6. Acceleration.** Should a default occur as specified in Section C (15) below, or in the event judicial proceedings are instituted to foreclose any lien upon the mortgaged Property or any part thereof, Mortgagee may at any time after such default, and without notice, declare the Principal balance of the Note secured hereby, together with all accrued but unpaid Interest thereon, to be due and payable immediately. The commencement of proceedings to foreclose this Mortgage shall, in any event, be deemed such declaration. In addition to any right or remedy which Mortgagee may now or hereafter have by law, Mortgagee shall have the right and power: (a) to foreclose this Mortgage by legal action as provided by Illinois law and the rules of practice relating thereto; and (b) to enter upon and take possession of the Property with the irrevocable consent of Mortgagors as given and evidenced by its execution of this instrument, and as "Mortgagee in possession," let the Property, and receive all the rents, issues and profits thereof, which are overdue, due or to become due, and to apply the same, after the payment of all reasonable charges and expenses deemed by Mortgagee to be necessary, on account of the Indebtedness secured hereby, Mortgagors hereby agreeing that, in default of so doing, it may be dispossessed by the usual legal proceedings available against any defaulting tenant of real estate and further agreeing to any action to be brought in its name to dispossess any tenant defaulting in the payment of rent to Mortgagee or violating the terms of its occupancy, which right and power are effective and may be enforced either with or without any action to foreclose this Mortgage.

**7. Application of Proceeds of Foreclosure.** Upon a foreclosure sale of the Property or any part thereof, the proceeds of such sale shall be applied in the following order:

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a. **Costs.** To the payment of all costs of the sale of foreclosure, including reasonable attorneys' fees and the costs of surveys, engineering costs, title searches and/or abstracts and title insurance;

b. **Interest and Principal.** To the payment of the Principal, Interest and other amounts due under the Note secured hereby;

c. **Expenditures.** To the payment of all other expenses of Mortgagee incurred in connection with the foreclosure, including all money expended by Mortgagee and all other sale costs or other amounts payable by Mortgagors to Mortgagee hereunder; and

d. **Surplus.** The surplus, if any, to Mortgagors or to whomever else is lawfully entitled thereto.

8. **Waiver of Homestead, Redemption, Reinstatement.**

(a) TO THE EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGORS ACKNOWLEDGE THAT THE PROPERTY IS NOT "HOMESTEAD PROPERTY" AND HEREBY WAIVE AND RELEASE ANY AND ALL RIGHTS AND BENEFITS UNDER AND BY VIRTUE OF ANY HOMESTEAD EXEMPTION OR SIMILAR LAWS OF THE STATE OF ILLINOIS AND ALL OTHER EXEMPTION LAWS, MORATORIUM LAWS OR OTHER LAWS LIMITING THE ENFORCEMENT HEREOF;

(b) TO THE EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGORS WAIVE ANY AND ALL RIGHTS OF REDEMPTION UNDER ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE, AND ANY REDEMPTION RIGHTS GRANTED BY ILLINOIS LAW, ON BEHALF OF MORTGAGORS, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE; and

(c) FURTHER, MORTGAGORS HEREBY WAIVE THE BENEFIT OF ALL APPRAISEMENT, VALUATION, STAY OR EXTENSION LAWS, AND ANY REINSTATEMENT RIGHTS PROVIDED BY ILLINOIS LAW, NOW OR HEREAFTER IN FORCE, AND ALL RIGHTS OF MARSHALLING IN THE EVENT OF ANY SALE HEREUNDER OF THE PROPERTY OR ANY PART THEREOF OR ANY INTEREST THEREIN.

9. **Receiver; "Mortgagee in Possession."** Upon or at any time after the filing of any complaint or petition to foreclose this Mortgage, the court may, upon application of Mortgagee, place Mortgagee in possession or appoint a Receiver of the Property. Such appointment may be made either before or after the sale, without notice, and without regard to



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the solvency or insolvency, at the time of application for appointment, of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the Property or whether the same shall be then occupied as a homestead or not, and without bond being required of the applicant. Such receiver or mortgagee in possession, to the extent permitted by law, shall have the power to take possession, control and care of the Property, and to collect the rent, issues and profits of the Property during the pendency of such foreclosure, and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagors and Mortgagors's heirs, personal representatives and assigns, except for the intervention of such "mortgagee in possession" or Receiver, 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 Property, during the whole of said period. The court from time to time may authorize the Receiver to apply the net income in payment in whole or in part of:

a. **Management Costs.** The costs of management of the Property and collection of rents including, but not limited to, the fees of the receiver or mortgagee in possession, premiums for Receiver's bonds and reasonable attorneys' fees;

b. **Indebtedness.** The Indebtedness secured hereby or of any judgment foreclosing this Mortgage or any tax, special assessment or other lien which may be or become superior to the lien hereof, or of such judgment, provided such application is made prior to the foreclosure sale; and

c. **Deficiency.** The deficiency in case of sale and deficiency. Any such proceeding shall in no manner prevent or retard the collection of said Indebtedness by foreclosure or otherwise.

10. **Condemnation.** Any and all awards hereafter made or to be made to the present and all subsequent owners of the Property, by any governmental or other lawful authority for taking, by condemnation or eminent domain, the whole or any part of the Property or any improvement located thereon or any easement therein or appurtenant thereto (including any award from the United States government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof), are hereby assigned by Mortgagors to Mortgagee, which award Mortgagee are hereby authorized to collect and receive from the condemnation authorities, and Mortgagee are hereby authorized to give appropriate receipts therefor. Mortgagors covenants and agrees that Mortgagors will give Mortgagee immediate notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the Property or any easement therein or appurtenance thereto, including severance and consequential damage and change in grade of streets and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagors further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Mortgagors for any taking, either permanent or temporary, under any such proceeding. Mortgagee shall make available the proceeds of any award received in connection with and in compensation for any such damage or taking for the purpose of rebuilding and restoring so much of the improvements within the Property affected thereby, subject to the following conditions:

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a. **Default**. That there is no then any default under any of the terms, covenants and conditions of the Note;

b. **Leases**. That any and all then-existing Leases affected in any way by such damage or taking shall continue in full force and effect without reduction or abatement of rental (except during the period of untenability);

c. **Proof of Restoration**. That Mortgagee shall first be given satisfactory proof that such improvements have been fully restored or that by the expenditure of such money will be fully restored, free and clear of all liens and encumbrances;

d. **Insufficient Award**. That in the event such award shall be insufficient to restore or rebuild the said improvements, Mortgagors shall deposit promptly with Mortgagee the amount of such deficiency, which, together with the award proceeds, shall be sufficient to restore and rebuild the Property;

e. **Failure or Delay in Restoration**. That in the event Mortgagors shall fail within a reasonable time, subject to delays beyond its control, to restore or rebuild the said improvements, Mortgagee, at Mortgagee's option, may restore or rebuild the said improvements for or on behalf of Mortgagors and for such purpose may do all necessary acts; and

f. **Excess**. That the excess of said award (if any) not necessary for completing such restoration shall be applied as hereinafter provided as a credit upon any portion, as selected by Mortgagee, of the Indebtedness secured hereby.

In the event any of the said conditions is not or cannot be satisfied, then the proceeds shall be paid over to Mortgagee and shall be applied toward the payment of all amounts payable to Mortgagee under the Loan Agreement and Note, whether or not then due and payable. Under no circumstances shall Mortgagee become personally liable for the fulfillment of the terms, covenants and conditions contained in any of the said lease of the Property nor obligated to take any action to restore the said improvements.

11. **Severability**. Nothing contained herein or in the Note shall be construed or shall operate, either presently or prospectively: (a) to require the payment of Interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate; or (b) to require any party to make any payment or do any act contrary to law, and if any clause or provision herein contained shall otherwise so operate to invalidate this Mortgage, in whole or in part, then such clauses and provisions only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and Mortgagee shall be given a reasonable time to correct any such error.

12. **Partial Releases**. Mortgagee, without notice, and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens, may release any part of the Property or any person liable for the Indebtedness secured hereby, without in any way affecting the liability of any party to the Note secured by this Mortgage and without in any way affecting the priority of the lien of this Mortgage and may agree with any party obligated on said indebtedness herein to extend the time for payment of any part or all of the Indebtedness secured hereby. Such agreement shall not, in any way, release or

impair the lien created by this Mortgage, or reduce or modify the liability, of any person or entity personally obligated for the Indebtedness secured hereby.

**13. Environmental Warranty.**

**a. Representations and Warranties.** Mortgagors hereby represent and warrant to Mortgagee that, to the best of Mortgagors' knowledge, Mortgagors have not ever caused or permitted to be used, stored, disposed of, or otherwise located at the Property any hazardous waste, substance or material which, because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties, may be hazardous to human health or environment, including but not limited to petroleum products and asbestos.

**b. Survival.** The representations and warranties made in this Section C (13) shall survive:

- (i) the sale, transfer or conveyance of all or any portion of the Property;
  - (ii) the foreclosure of any liens on the Property by Mortgagee or a third party or the conveyance thereof by deed in lieu of foreclosure;
  - (iii) the repayment of all Indebtedness due and payable under the Note;
- and
- (iv) all other incidents of the termination of the lending relationship between Mortgagors and Mortgagee.

**14. Warrant and Defense of Title.** At the time of the execution and delivery of this Mortgage, Mortgagors hold title to the Property in fee simple, free of all liens and encumbrances whatsoever except the First Mortgage and the Second Mortgage. Mortgagors will forever warrant and defend their title to the Property against any and all claims whatsoever, and the lien created hereby is and will be kept a lien upon the Property and every part thereof. In addition to real estate taxes and assessments, Mortgagors shall pay when due all water and sewer service charges, all utility charges and all other amounts which might become a lien upon the Property prior to this Mortgage and shall, upon written request, furnish to Mortgagee duplicate receipts therefor.

**15. Default.**

**a. Events of Default.** The occurrence of any of the following events or conditions shall constitute a default hereunder ("Event of Default"):

- (i) Mortgagors fail to perform or observe any term, covenant or condition in this Mortgage;



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(ii) An "Event of Default" occurs under the Note or the Note is otherwise declared by Mortgagee to be due and payable prior to the Maturity Date (e.g. deaths of both Mortgagors; default under First Mortgage or Second Mortgage);

(iii) A petition under the Federal Bankruptcy Laws, as amended, or any similar law, state or federal, whether now or hereafter existing, is filed by/against a Mortgagor or Mortgagors which is not dismissed within forty-five (45) calendar days thereafter;

(iv) A Trustee or a Receiver is appointed for all or any portion of the Property or for Mortgagors and such Trustee or Receiver is not discharged within forty-five (45) calendar days thereafter;

(v) Mortgagors make an assignment for the benefit of creditors;

(vi) A judgment creditor of Mortgagors obtains a lien on or possession of any part of the Property by any means, which is not discharged or released within forty-five (45) calendar days thereafter;

is (vii) A notice of lien, levy or assessment is delivered to Mortgagors or filed of record, with respect to the Property by the United States or any department, instrumentality or agency thereof, or by any state, county, municipal or other governmental agency;

(viii) There occurs any material uninsured damage to or destruction of the Property; and

(ix) Mortgagors attempt to grant or convey title to the Property to any person or entity other than Mortgagee without payment in full of the Note.

**b. Remedies.** Upon the occurrence of an Event of Default hereunder, the entire Indebtedness and all obligations secured hereby may, at the option of Mortgagee, become immediately due and payable upon notice to Mortgagors, and, thereupon, or at any time during the existence of any such default, Mortgagee may proceed to foreclose this Mortgage by judicial proceedings according to applicable statutes. Any failure or deferral to exercise said option shall not constitute a waiver of the right to exercise the same at any other time. Mortgagee shall additionally have the right to file an action at law on the Note to avail themselves of any other remedies provided for in the Note or by applicable law, which remedies shall be concurrent and may be pursued simultaneously.

**c. Surrender of the Property.** In any case in which, under the provisions of this Mortgage, Mortgagee have a right to institute foreclosure proceedings, whether or not the entire Principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, upon demand of Mortgagee, Mortgagors shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Property, or any part thereof, personally or by its agents or attorneys, as for condition broken and Mortgagee in Mortgagee's discretion may enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records,

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papers and accounts of Mortgagors or the then owner(s) of the Property relating to the ownership, operation and maintenance of the Property, and may exclude Mortgagors, their agents or other occupants, wholly therefrom and may, as attorney-in-fact or agent of the Mortgagors, or in Mortgagee's own name and under the powers herein granted:

(i) Mortgagee may hold, operate, manage and control the Property, either personally or by their agents, and with full power to use such measures, legal or equitable, as in their discretion or in the discretion of their successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Property, including actions for recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagors;

(ii) Mortgagee may cancel or terminate any lease or sublease previously consented to by Mortgagee for any cause or on any ground which would entitle Mortgagors to cancel the same;

(iii) Mortgagee may elect to disaffirm any lease or sublease made subsequent to this Mortgage (all of which leases or subleases being subject and subordinate to this Mortgage),

(iv) Mortgagee may (but shall not be obligated to) extend or modify any then existing Leases and make new Leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date of the Note and the date of issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagors and all persons whose interest in the Property are subject to the lien hereof and to be binding also the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage Indebtedness secured hereby, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

(v) Mortgagee may (but shall not be obligated to make) make any and all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property as Mortgagee may deem judicious; and

(vi) Mortgagee may (but shall not be obligated to) insure and reinsure the Property against all risks incidental to Mortgagee's possession, operation and management thereof and receive all avails, rents, issues and profits therefrom.

**d. Rents.** Any avails, rents, issues and profits of the Property received by Mortgagee after having possession of the Property or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Mortgagee (or in case of a receivership, as the court) may determine in its reasonable business judgment:

(i) to the payment of the operating expenses of the Property, including reasonable compensation to Mortgagee or the Receiver and its agent or agents, if

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management of the Property has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(ii) to the payment of taxes, special assessments and water/sewer or other utility charges now due or which may hereafter become due on the Property, or which may become a lien prior to the lien of this Mortgage;

(iii) to the payment of all reasonable repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Property, to place said Property in such condition as will, in the reasonable judgment of Mortgagee or Receiver, make it readily saleable or rentable; and

(iv) to the payment of the Indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

**D. MISCELLANEOUS.**

1. **Applicable Law.** This Mortgage and the Note are governed by Illinois law.
2. **Incorporation of Note.** All terms and conditions contained in the Note are incorporated herein by reference.
3. **Remedies Cumulative.** Each and all of the rights, remedies and benefits provided to Mortgagee herein shall be cumulative and shall not be exclusive of any other rights, remedies or benefits provided by the Note or of any other rights, remedies or benefits allowed by law. Any waiver by Mortgagee of any default shall not constitute a waiver of any similar or other default.
4. **Notices.** All notices, demands and requests required or permitted to be given hereunder or by law shall be deemed given when delivered in person or four (4) business days after deposit in the United States mail with full postage prepaid by certified or registered mail, return receipt requested, addressed as follows:

**To Mortgagors at:**

Larry and Mary Rose Birch  
437 Roslyn Place  
Chicago, IL 60614

**To Mortgagee at:**

Lee Munder, Trustee  
The Landing at Plymouth Place  
315 N. LaGrange Road, Unit 600  
LaGrange Park, IL 60526

or to such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

5. **Successors and Assigns Bound; Captions; Assignment.** All of the covenants and conditions hereof shall run with the land and shall be binding upon and inure to the benefit of Mortgagors and Mortgagee and their respective executors, administrators, representatives, heirs, beneficiaries, successors and assigns and all persons claiming through or under them. Any reference herein to Mortgagee shall include the successors and assigns of Mortgagee. The captions and headings of the Sections of this Mortgage are for convenience and are not to be used to interpret or define the provisions hereof. Notwithstanding anything in this Mortgage to the contrary, Mortgagors may not assign, transfer or convey in any manner any of its rights, obligations or liabilities hereunder without the prior written consent of Mortgagee, which

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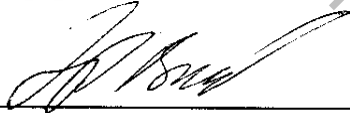
consent may be withheld or granted by Mortgagee in Mortgagee's sole and absolute discretion for any reason whatsoever.

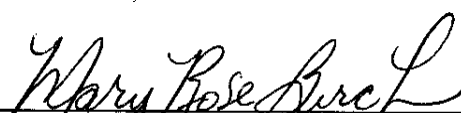
6. **Gender and Number.** All nouns, pronouns and relative terms shall be deemed to be masculine, feminine or neuter, singular or plural, as the context may indicate.

7. **Balance Due Upon Transfer of Property.** If all or any part of the Property is sold by Borrower (which shall include the execution of any form of installment agreement for deed) or transferred, conveyed, assigned or alienated by Mortgagors, the Principal balance of the Note and all unpaid Interest shall be due and payable to Mortgagee upon Closing of such transfer.

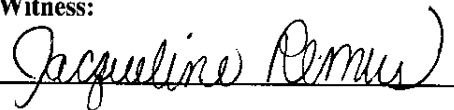
8. **Costs.** Mortgagors shall pay all of the Mortgagee's costs of collecting or attempting to collect the Note or protecting or enforcing its rights under this Mortgage, including, without limitation, reasonable attorneys' fees for time spent in connection with collecting or attempting to collect the Note, whether or not any legal action is filed. All such amounts shall be payable on demand, shall bear Interest at the rate specified therein from the date of expenditure, and shall be deemed secured by this Mortgage.

IN WITNESS WHEREOF, the undersigned Mortgagors have executed this Mortgage effective as of the 30th day of November, 2009.

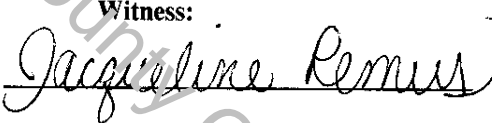
  
 \_\_\_\_\_  
 LAURENCE P. BIRCH

  
 \_\_\_\_\_  
 MARY ROSE BIRCH

Witness:

  
 \_\_\_\_\_

Witness:

  
 \_\_\_\_\_

**EXHIBIT "A"**

437 W. Roslyn Place  
 Chicago, IL 60614  
 PIN: 14-28-321-008-0000

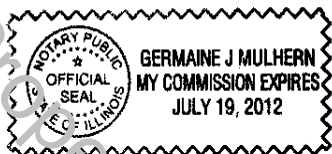
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STATE OF ILLINOIS; COUNTY OF COOK ) ss.

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **LAURENCE P. BIRCH** and **MARY ROSE BIRCH**, husband and wife, now of Chicago, Cook County, Illinois, personally known to me to be the same persons whose names are subscribed to the foregoing Mortgage as Mortgagors (or having produced sufficient identification), appeared before me this day in person and acknowledged that they signed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official Notary seal  
this 24th day of February, 2010.

*Germaine Mulhern*  
Notary Public



Property of Cook County Clerk's Office



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## EXHIBIT "A"

437 W. Roslyn Place  
Chicago, IL 60614  
PIN: 14-28-321-008-0000

## Legal Description

The Easterly  $\frac{1}{2}$  of Lot 26 in Goudy and Goodwillie's Subdivision of Lots 2, 3 and 4 in Assessor's Division of Out-Lot "B" in Wrightwood, a Subdivision of the Southwest  $\frac{1}{4}$  of Section 28, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

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