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1100631005

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Doc#: 1100631005 Fee: \$78.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/06/2011 10:03 AM Pg: 1 of 22

Report Mortgage Fraud
800-532-8765

The property identified as: **PIN:** 14-18-106-001-0000

Address:

Street: 4717-29 N. Lincoln Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60625

Lender: Bismarck Enterprises, Inc.

Borrower: Lincoln Square Partners, LLC

Loan / Mortgage Amount: \$4,000,000.00

This property is located within the program area and is exempt from the requirements of 705 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 5B22BA50-3FAD-4BC1-ABBB-6BBDB3FEBDB2

Execution date: 01/04/2011

2 of 2 Stewart 08030779A / 574160

Property of Cook County Clerk's Office

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Prepared By and After
Recording Return To:

Burke, Warren, MacKay & Serritella, P.C.
330 North Wabash, 22nd Floor
Chicago, Illinois 60611
Attention: Douglas E. Wambach, Esq.

(The Above Space For Recorder's Use Only)

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (this "**Mortgage**") dated as of January 1, 2011 is made by **LINCOLN SQUARE PARTNERS, LLC**, an Illinois limited liability company ("**Mortgagor**"), in favor of **BISMARCK ENTERPRISES, INC.**, an Illinois corporation (together with its successors and assigns, including each and every holder of the Note, as defined below, "**Mortgagee**").

RECITALS

A. Mortgagor is the owner of certain parcels of land legally described on Exhibit A attached hereto (the "**Land**"). The Land, and all improvements now or hereafter made thereto, are collectively referred to herein as the "**Property**".

B. Mortgagor has executed and delivered to Mortgagee a Promissory Note dated concurrently herewith ("**Note**") in the principal amount of Four Million and No/100 U.S. Dollars (\$4,000,000.00), which Note evidences a loan from Mortgagee to Mortgagor in said amount ("**Loan**") and provides, among other things, for the final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on June 30, 2011.

C. It is a condition to Mortgagee's disbursement of the Loan that Mortgagor execute and deliver this Mortgage to Mortgagee, in order to provide Mortgagee with a first priority mortgage lien on the Property.

AGREEMENTS

NOW, THEREFORE, to secure payment of the indebtedness evidenced by the Note, including the principal thereof and interest thereon, and any extensions, substitutions and renewals thereof, in whole or in part, and any and all other sums which may be at any time due and owing or required to be paid hereunder or as

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provided in the Note, or any other document evidencing or securing the Loan (collectively, the "**Liabilities**"), and in consideration of the making of the Loan by Mortgagee, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor does hereby GRANT, BARGAIN, SELL, WARRANT, MORTGAGE AND CONVEY to Mortgagee, its successors and assigns, the Property;

TOGETHER WITH all right, title and interest, including the right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to the following (the Property, together with Mortgagor's interest in each of the items described below, is referred to herein as the "**Mortgaged Property**"):

a. any lands in or occupied by streets, alleys or public places adjoining the Land;

b. all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances, and all other rights and privileges thereunto belonging or appertaining;

c. all buildings, improvements, personal property, fixtures, fittings and furnishings, owned by Mortgagor and now or hereafter attached to, located at, or placed in the improvements on the Land including, without limitation all machinery, fittings, fixtures, apparatus, equipment or articles used to supply heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, and fire and sprinkler protection; all maintenance supplies and repair equipment; all draperies, carpeting, floor coverings, screen windows, storm windows and window coverings, blinds, awnings, shrubbery and plants; all elevators and escalators and any shafts, motors, machinery, fittings and supplies necessary for their use; and all building materials and supplies now or hereafter delivered to the Land (it being understood that the enumeration of any specific articles of property shall in no way be held to exclude any items of property not specifically enumerated), as well as renewals, replacements, proceeds, additions, accessories, increases, insurance payments, awards and substitutes thereof, together with all interest of Mortgagor in any such items hereafter acquired, as well as Mortgagor's interest in any lease, or conditional sales agreement under which the same is acquired, all of which personal property mentioned herein shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the Land;

d. all rents, income, contract rights, leases and profits now due or which may hereafter become due under or by virtue of any lease, license or agreement, whether written or verbal, for the use or occupancy of the Property or the sale of the Property or any part thereof, together with all tenant security deposits and earnest money deposits;

e. all awards, payments and proceeds now or hereafter obtainable by Mortgagor under any policy of insurance insuring the Property including but not limited to the proceeds of casualty insurance, title insurance, business interruption insurance, rent insurance or other insurance maintained with respect to the Property, whether by Mortgagor or otherwise;

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f. all awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Property, including any awards for damages sustained to the Property, for a temporary taking, change of grade of streets or taking of access;

g. all contracts, licenses, permits, management records, files, consents, governmental approvals and intangibles used, useful or required in the ownership, development and management of the Property together with all soil reports, environmental reports, appraisals, building permits, variances, licenses, utility permits and other permits and agreements relating to the construction or equipping of the improvements on the Property, or the operation or maintenance of the Property, including, without limitation, all warranties and contract rights;

h. each contract or agreement for the design, construction and equipping of the improvements located or to be located on the Land, together with all rights, title and interest of Mortgagor in and to any existing or future changes, extensions, revisions, modifications, guarantees of performance, or warranties of any kind thereunder;

i. all plans and specifications, surveys, site plans, working drawings and working papers relating to the Property and the construction and equipping of the improvements on the Property,

j. all building supplies and materials ordered or purchased for use in connection with the construction and equipping of the improvements on the Land;

k. all rights and interests of Mortgagor in and under any and all service and other agreements relating to the development, operation, maintenance, and repair of the Land or the buildings and improvements thereon;

l. all replacements and substitutions for the foregoing whether or not any of the foregoing is or shall be on or attached to the Land; and

m. all proceeds of the foregoing.

It is mutually agreed, intended, and declared, that all of the aforesaid Mortgaged Property owned by Mortgagor shall, so far as permitted by law, be deemed to form a part and parcel of the Property and for the purpose of this Mortgage be deemed to be real estate and covered by this Mortgage. It is also agreed that if any of the Mortgaged Property is a fixture or of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, this instrument shall constitute a fixture filing or a security agreement, as the case may be, and Mortgagor agrees to execute, deliver and file or refile any financing statement, continuation statement or other instruments Mortgagee may require from time to time to perfect or renew such security interest under the Uniform Commercial Code. Mortgagee's filing of one or more separate fixture filing financing statements shall in no way impair Mortgagee's security interest in said fixtures.

TO HAVE AND TO HOLD the Mortgaged Property and all other properties, rights and privileges hereby conveyed or assigned, unto Mortgagee, its successors and

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assigns, forever for the uses and purposes herein set forth. Mortgagor hereby releases and waives all rights under and by virtue of any homestead exemption laws, and Mortgagor hereby covenants that as of the date of this Mortgage, Mortgagor is well seized of the Property in fee simple, and with full legal and equitable title to the Mortgaged Property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that the Mortgaged Property is free and clear of encumbrances, except for any encumbrances of record consented to by Mortgagee, and that Mortgagor will forever defend the same against all lawful claims whatsoever.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Payment of Indebtedness and Performance of Covenants.

Mortgagor agrees to pay, when due or declared due, all of the Liabilities and to duly and punctually observe all of the terms, provisions, conditions, covenants and agreements on Mortgagor's part to be performed or observed as provided in this Mortgage, the Note and all other documents which evidence, secure or guarantee the Liabilities.

2. Representations.

Mortgagor hereby represents that:

a. Mortgagor is duly authorized to make and enter into this Mortgage and to carry out the transactions contemplated herein.

b. This Mortgage has been duly executed and delivered pursuant to authority legally adequate therefore. Mortgagor has been and is authorized and empowered by all necessary persons having the power of direction over it to execute and deliver this Mortgage; this Mortgage is a legal, valid and binding obligation of Mortgagor, enforceable in accordance with its terms, subject to bankruptcy and other laws affecting the enforcement of creditors' rights, and to the fact that the availability of the remedy of specific performance or of injunctive relief in equity is subject to the discretion of the court before which any proceeding therefor may be brought.

c. Mortgagor is not now in default under any instruments or obligations relating to the Mortgaged Property and no party has asserted any claim of default against Mortgagor relating to the Mortgaged Property.

d. The execution and performance of this Mortgage and the consummation of the transactions hereby contemplated will not result in any breach of, or constitute a default under, any articles of incorporation, bylaws, articles of organization, operating agreement, mortgage, lease, bank loan, credit agreement, trust indenture or other instrument to which Mortgagor is a party or by which it may be bound or affected; nor do any such instruments impose or contemplate any obligations which are or may be inconsistent with any other obligations imposed on Mortgagor under any other instruments heretofore or hereafter delivered by Mortgagor.

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e. There are no actions, suits or proceedings, including, without limitation, any condemnation or bankruptcy proceedings, pending or threatened against or affecting Mortgagor or the Mortgaged Property, or which may adversely affect the validity or enforceability of this Mortgage, at law or in equity, or before or by any governmental authority; and Mortgagor is not in default with respect to any writ, injunction, decree or demand of any court or any governmental authority affecting the Mortgaged Property.

f. All statements, financial or otherwise, submitted to Mortgagee in connection with this transaction are true and correct in all respects and fairly present the financial condition of the parties or entities covered by such statements as of the date hereof.

3. Maintenance, Repair and Compliance with Law, etc.

a. Mortgagor agrees: (i) not to abandon the Mortgaged Property; (ii) to keep the Mortgaged Property in good, safe and insurable condition and repair and not to commit or suffer waste; (iii) to refrain from impairing or diminishing the value of the Mortgaged Property or this Mortgage; and (iv) to cause the Mortgaged Property to be maintained in a competent and professional manner.

b. Without the prior written consent of Mortgagee, Mortgagor shall not cause, suffer or permit any (i) material alterations of the Mortgaged Property except as required by law or ordinance; (ii) change in the intended use or occupancy of the Mortgaged Property for which any improvements were constructed, including without limitation any change which would increase any fire or other hazard; (iii) change in the identity of the person or firm responsible for managing the Mortgaged Property; (iv) zoning reclassifications with respect to the Mortgaged Property; (v) unlawful use of, or nuisance to exist upon, the Mortgaged Property; or (vi) granting of any easements, licenses, covenants, conditions or declarations of use against the Mortgaged Property.

4. Taxes, Liens.

a. Mortgagor agrees to pay, not later than the due date and before any penalty or interest attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed or imposed on or against the Mortgaged Property and, at the request of the Mortgagee, to exhibit to Mortgagee, official receipts evidencing such payments.

b. With the exception of the lien of real estate taxes and assessments not due or delinquent and any liens and encumbrances in favor of Mortgagee, Mortgagor shall not create, suffer or permit any mortgage, lien, charge or encumbrance to attach to or be filed against the Mortgaged Property, whether such lien or encumbrance is inferior or superior to the lien of this Mortgage, including mechanic's liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Mortgaged Property.

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5. Change in Tax Laws.

Mortgagor agrees that, if the United States or any state or any of their subdivisions having jurisdiction, shall levy, assess, or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the interest of Mortgagee in the Mortgaged Property or upon Mortgagee by reason of or as holder of any of the foregoing, then, Mortgagor shall pay, or reimburse Mortgagee for, such taxes, assessments or impositions, and, unless all such taxes, assessments and impositions are paid or reimbursed by Mortgagor when and as they become due and payable, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee, notwithstanding anything contained herein or in any law heretofore or hereafter enacted.

6. Restrictions on Transfer.

Mortgagor shall not, without the prior written consent of Mortgagee or pursuant to a Permitted Transfer (as defined below), create, effect, contract for, consent to, suffer or permit any Prohibited Transfer. A "**Prohibited Transfer**" shall be any lease, conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any of the following:

- a. the Mortgaged Property or any part thereof or interest therein, excepting only sales or other dispositions of furniture, fixtures and equipment no longer used or useful in connection with the operation of the Mortgaged Property ("**Obsolete Collateral**"); or
- b. all or any part of any direct or indirect membership interest of the Mortgagor, or any person or entity controlling Mortgagor.

All of the above described transactions shall be a Prohibited Transfer if such transactions occur, are granted, accomplished, attempted or effectuated without the prior written consent of Mortgagee. Further, all such transactions shall be a Prohibited Transfer regardless of whether such transactions are effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise. Mortgagor acknowledges that Mortgagee shall be under no obligation to consent to any Prohibited Transfer and that any such consent may be subject to changes in the applicable interest rates charged under any instrument evidencing the Liabilities, the payment of a fee to Mortgagee or such other modifications to the terms and conditions of this Mortgage or any other agreement which evidences or secures the repayment of the Liabilities as Mortgagee in its sole discretion may determine. Further, any sale of Obsolete Collateral shall be allowed only to the extent that, prior to or simultaneous with the sale or other disposition thereof, such Obsolete Collateral has been replaced by property of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral.

7. Insurance.

Mortgagor will insure the Mortgaged Property against such perils and hazards, and in such amounts and with such limits, as Mortgagee may from time to time require,

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and in any event will continuously maintain the following described policies of insurance (the "**Insurance Policies**"):

- a. Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm, flood, earthquake and other risks covered by the so-called extended coverage endorsement in amounts not less than the full insurable replacement value of all Improvements, fixtures and equipment from time to time on the Mortgaged Property and bearing a replacement cost agreed amount endorsement;
- b. Comprehensive public liability insurance against death, bodily injury and property damage in an amount not less than Two Million and 00/100 Dollars (\$2,000,000.00) per person and Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence naming Mortgagee as an additional insured thereunder;
- c. Steam boiler, machinery and pressurized vessel insurance (if applicable to the Mortgaged Property); and
- d. If the Federal Insurance Administration has designated the Mortgaged Property to be in a special flood hazard area and designated the community in which the Mortgaged Property are located eligible for sale of subsidized insurance, first and second layer flood insurance when and as available; and
- e. Such other types and amounts of coverage as are customarily maintained by owners or operators of like properties.

All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Mortgagee. All Insurance Policies shall (i) other than liability insurance, include, when available, non-contributing mortgagee endorsements in favor of and for the insurance provided under this paragraph 7, naming Mortgagee as loss payee, (ii) other than liability insurance, include standard waiver of subrogation endorsements, (iii) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Mortgagee and (iv) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. Mortgagor will deliver all Insurance Policies, premium prepaid, to Mortgagee and, will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy. The requirements of the preceding sentence shall apply to any separate policies of insurance taken out by Mortgagor concurrent in form or contributing in the event of loss with the Insurance Policies. Insurance Policies maintained by tenants under the leases may, if in conformity with the requirements of this Mortgage and if approved by Mortgagee, be presented to Mortgagee in satisfaction of Mortgagor's obligation to provide the insurance coverages provided by those Insurance Policies.

8. Compliance with Laws.

Mortgagor agrees that it will comply with all restrictions affecting the Mortgaged Property including, without limitation, the Declaration and with all laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer, whether federal, state or local, exercising any power or regulation or supervision over Mortgagor, or any part of the Mortgaged Property,

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whether the same be directed to the repair thereof, manner of use thereof, structural alterations or improvements located thereon, or otherwise.

9. Stamp Tax.

Mortgagor agrees that, if the United States Government or any department, agency or bureau thereof or any state or any subdivision thereof shall at any time require documentary stamps or other taxes or impositions to be affixed to the Mortgage, Mortgagor will, upon request, pay for the stamps in the required amount and deliver them to Mortgagee, and Mortgagor agrees to indemnify Mortgagee against liability on account of such documentary stamps, whether such liability arises before or after payment of the Liabilities and regardless of whether this Mortgage shall have been released.

10. Intentionally Omitted.

11. Intentionally Omitted.

12. Indemnification.

Mortgagor agrees to indemnify Mortgagee from all loss, damage and expense, including reasonable attorneys' fees and paralegals' fees and expenses and the costs of any settlement or judgment, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage, and all such fees, expenses and costs shall be deemed additional Liabilities secured hereby.

13. Casualty and Condemnation.

a. Mortgagor will give Mortgagee prompt notice of any loss or damage to the Mortgaged Property.

b. In case of loss or damage covered by any of the Insurance Policies, Mortgagee may at its option and in accordance with the any applicable provisions in the Note either (i) settle and adjust any claim under such Insurance Policies without the consent of Mortgagor, or (ii) allow Mortgagor to settle and adjust such claim without the consent of Mortgagee; provided that in either case Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Liabilities, and shall be reimbursed to Mortgagee upon demand or may be deducted by Mortgagee from said insurance proceeds prior to any other application thereof. Each insurance company which has issued a casualty Insurance Policy pursuant to paragraph 7 is hereby authorized and directed by Mortgagor and Mortgagee to make payment for all losses covered by any Insurance Policy to Mortgagee alone, and not to Mortgagee and Mortgagor jointly.

c. Mortgagee shall apply the proceeds of Insurance Policies consequent upon any casualty to reimburse Mortgagor for the cost of restoring or repairing the

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Mortgaged Property subject to the conditions and in accordance with the provisions of this paragraph 13.

d. Following a casualty, Mortgagor shall restore or repair the Improvements on the Mortgage Property, to be of at least equal value, and of substantially the same character as prior to such casualty, all to be effected in accordance with plans, specifications and procedures approved in advance by Mortgagee, and Mortgagor shall pay all costs of such restoring or repairing, subject to the provisions of this paragraph 13.

e. Insurance proceeds held by Mortgagee for restoration or repairing of the Mortgage Property shall be disbursed from time to time upon Mortgagee or Mortgagee's agent being furnished with (i) evidence satisfactory to it of the estimated cost of the restoration or repair, (ii) funds sufficient in addition to the proceeds of insurance, to fully pay for the restoration or repair and to pay debt service on the Loan during the period of restoration or repair, and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as Mortgagee may require and approve. No payment made prior to the final completion of the restoration or repair shall exceed ninety percent (90%) of the value of the work performed from time to time, as such value shall be determined by Mortgagee in its sole judgment; funds deposited hereunder other than insurance proceeds shall be disbursed prior to disbursement of such proceeds; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited or irrevocably committed, to the satisfaction of Mortgagee, by or on behalf of Mortgagor to pay the cost of such repair or restoration, shall be sufficient in the reasonable judgment of Mortgagee to pay the entire unpaid cost of the restoration or repair, free of all liens or claims for lien. Any surplus remaining out of insurance proceeds held by Mortgagee after payment of such costs of restoration or repair shall be paid to Mortgagor, provided Mortgagor is not in default hereunder. No interest shall be allowed to Mortgagor on account of any proceeds of insurance or other funds held by Mortgagee.

f. All awards (the "**Awards**") made to the present or any subsequent, owner of the Mortgaged Property, by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property, are hereby assigned by Mortgagor to Mortgagee. Mortgagee may collect the Awards from the condemning authorities, and may give appropriate acquittances therefor. Mortgagor shall immediately notify Mortgagee of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting any part of the Mortgaged Property and shall deliver to Mortgagee copies of all papers served in connection with any such proceedings. Mortgagor shall make, execute and deliver to Mortgagee, at any time upon request, free of any encumbrance, any further assignments and other instruments deemed necessary by Mortgagee for the purpose of assigning the Awards to Mortgagee. If any portion of or interest in the Mortgaged Property is taken by condemnation or eminent domain, and the remaining portion of the Mortgaged Property is not, in the judgment of Mortgagee, a complete economic unit having equivalent value to the Mortgaged Property as it existed prior to the taking, then, at the option of Mortgagee, the entire Liabilities shall immediately become due. In the event of any

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partial taking of the Mortgaged Property or any interest in the Mortgaged Property, Mortgagor shall restore to as complete an economic unit having equivalent value to the Mortgaged Property as it existed prior to the taking. After deducting from the Award for such taking all of its expenses incurred in the collection and administration of the Award, including attorney's fees, Mortgagee shall apply the net proceeds to reimburse Mortgagor for the cost of restoration and rebuilding the Mortgaged Property in accordance with plans, specifications and procedures approved in advance by Mortgagee, and such Award shall be disbursed in the same manner as is provided above for the application of insurance proceeds. If all or any part of the Award is not applied for reimbursement of such restoration costs, the Award shall at the option of Mortgagee be applied against the Liabilities, in such order or manner as Mortgagee shall elect, or paid to Mortgagor.

14. Mortgagee's Performance of Mortgagor's Obligations.

Mortgagor agrees that Mortgagee may, but need not, from and after the occurrence of any Event of Default hereunder, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed expedient after reasonable inquiry into the validity thereof. By way of illustration, and not in limitation of the foregoing, Mortgagee may, but need not, (a) make full or partial payments of insurance premiums or tax payments which are unpaid by Mortgagor, if any, or (b) purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, or claim against the Mortgaged Property, or (c) redeem all or any part of the Mortgaged Property from sold taxes. All money paid for any of the purposes herein authorized and all other moneys advanced by Mortgagee to protect the Mortgaged Property and the lien hereof shall be additional Liabilities secured hereby and shall become immediately due and payable without notice and shall bear interest at the Default Rate (as defined in the Note) until paid to Mortgagee in full. In making any payment hereby authorized, Mortgagee shall be the sole judge of the legality, validity and priority thereof and of the amount necessary to be paid in satisfaction thereof.

15. Inspection.

Mortgagee, or any person designated by Mortgagee in writing, shall have the right, from time to time hereafter, to call at the Mortgaged Property, or at any other place where information relating thereto is kept or located, during reasonable business hours and, without hindrance or delay, to make such inspection and verification of the Mortgaged Property, and the affairs, finances and business of Mortgagor, including all books, records and documents relating thereto, in connection with the Mortgaged Property, as Mortgagee may consider reasonable under the circumstances, and to discuss the same with any agents or employees of Mortgagor. Mortgagor shall be liable for all costs and fees related to such inspections, field audits and verifications.

16. Events of Default.

Any of the following occurrences or acts shall constitute an event of default under this Mortgage ("Event of Default") if such act occurs and is not cured within any applicable cure period:

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- a. the occurrence of a "Default" under the Note, whether in payment or otherwise, or in the payment or performance of the Liabilities;
- b. the failure by Mortgagee to observe or perform any of Mortgagor's covenants, agreements or obligations under this Mortgage which shall continue unremedied for a period of 30 days after written notice from Mortgagee of such default; provided, however, that if Mortgagor promptly commences and diligently pursues a cure for such failure which cannot reasonably be cured within the 30-day period, Mortgagor shall have such additional time as may be reasonably necessary under the circumstances, not to exceed an additional 30 days, in order to complete such cure; or
- c. the occurrence of a Prohibited Transfer or the failure to obtain the Insurance Policies in accordance with paragraph 7.

17. Rights Upon Default.

If any Event of Default shall have occurred, then, to the extent permitted by applicable law, the following provisions shall apply:

- a. All Liabilities shall, at the option of Mortgagee, become immediately due and payable without presentment, demand or further notice.
- b. It shall be lawful for Mortgagee to take all actions authorized under applicable law or under any other agreement or instrument delivered by Mortgagor to Mortgagee in connection with the Loan or the Other Loan, including, without limitation, the Note, the Other Note, this Mortgage or the Other Mortgage.
- c. It shall be lawful for Mortgagee to immediately foreclose this Mortgage.
- d. If a suit is brought to foreclose this Mortgage, the court in which any proceeding is pending for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the Liabilities and without regard to the value of the Mortgaged Property, appoint Mortgagee as a mortgagee-in-possession or appoint a receiver (the provisions for the appointment of a receiver or mortgagee-in possession being an express condition upon which the Loan is made) for the benefit of Mortgagee with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due, during such foreclosure suit and to do all other things allowed under applicable law. Nothing herein contained shall be construed as constituting the Mortgagee as a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee, and in the exercise of the powers herein granted the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor.
- e. Mortgagee shall, at its option, have the right, acting through its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Mortgaged Property, expel and remove any persons, goods, or chattels occupying or upon the same, to collect or receive all the rents, issues and

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profits thereof and to manage and control the same, and to lease the same or any part hereof, from time to time, and after deducting all reasonable attorneys' fees and expenses, and all reasonable expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income upon the Liabilities or other sums secured hereby or upon any deficiency decree entered in any foreclosure proceedings.

f. Mortgagee or its duly authorized agent shall have the right to enter upon the Mortgaged Property to inspect, appraise and/or conduct any environmental assessments of the Mortgaged Property which Mortgagee, in its sole discretion, deems necessary. All expenses incurred by Mortgagee in connection with any inspections, appraisals or environmental assessments done pursuant hereto shall be additional Liabilities secured hereby and shall become immediately due and payable without notice and shall bear interest at the Default Rate specified in the Note until paid to Mortgagee in full. Nothing contained in this paragraph 17(f) shall create an affirmative duty on the part of Mortgagee, or otherwise bind Mortgagee in any respect, to conduct any such inspection, appraisal or environmental assessment.

g. If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, such foreclosure action may be pursued against any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and foreclosure sales may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

h. In the event of a foreclosure of this Mortgage, the Liabilities then due to Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more other mortgages which also secure the Liabilities.

18. Foreclosure.

In any foreclosure of this Mortgage, there shall be allowed, and included in the decree for sale, to be paid out of the rents or the proceeds of such foreclosure proceeding or sale the following:

- a. all of the Liabilities and other sums secured hereby which then remain unpaid;
- b. all other items advanced or paid by Mortgagee pursuant to the Note, this Mortgage or the Assignment, with interest thereon at the Default Rate specified in the Note from the date of advancement; and
- c. all court costs, reasonable attorneys' and paralegals' fees and expenses, appraiser's fees, advertising costs, notice expenses, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs, which may be estimated as to items to be expended after entry of the decree, of procuring all abstracts of title, title searches and examinations, title guarantees, title insurance policies and similar data with respect to title which Mortgagee may deem necessary. All such

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expenses shall become additional Liabilities secured hereby and shall be immediately due and payable, with interest thereon at the Default Rate specified in the Note, when paid or incurred by Mortgagee in connection with any proceedings, including but not limited to probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with the preparations for the commencement of any suit for foreclosure, whether or not actually commenced. The proceeds of any sale shall be distributed and applied to the items described in (a), (b) and (c) of this paragraph as Mortgagee may in its sole discretion determine, and any surplus of the proceeds of such sale shall be paid to Mortgagor.

19. Rights Cumulative.

Each remedy or right of Mortgagee shall not be exclusive of, but shall be in addition to, every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise of or omission to exercise any remedy or right accruing on any default shall constitute a waiver of default or constitute acquiescence therein, nor shall it affect any subsequent default of the same or different nature.

20. Execution of Additional Documents.

Mortgagor agrees that, upon request of Mortgagee from time to time, Mortgagor will execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage.

21. WAIVER OF RIGHT OF REDEMPTION.

MORTGAGOR REPRESENTS THAT IT HAS BEEN AUTHORIZED TO, AND MORTGAGOR DOES HEREBY, WAIVE, TO THE FULL EXTENT PERMITTED UNDER LAW, ANY AND ALL STATUTORY OR EQUITABLE RIGHTS OF REDEMPTION, REINSTATEMENT OR ANY OTHER RIGHT UNDER ANY "MORATORIUM LAW" ON BEHALF OF MORTGAGOR AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PROPERTY SUBSEQUENT TO THE DATE HEREOF.

22. Representation of Title.

At the time of the delivery of this Mortgage, the Mortgagor is well seized of an indefeasible estate in fee simple in the portion of the Mortgaged Property which constitutes real property and owns good title to the portion of the Mortgaged Property which constitutes personal property and has good right, full power and lawful authority to convey and mortgage and grant a security interest in the same, in the manner and form aforesaid; that the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever (except as may be agreed to in advance by Mortgagee), and that Mortgagor shall and will forever defend the title to the Mortgaged Property against the claims of all persons whatsoever.

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23. Future Advances.

This Mortgage is given to secure payment of the Note, whether the entire amount thereof shall have been advanced to Mortgagor at the date hereof, or at a later date, or not at all, and to secure the payment and performance of all other liabilities and obligations of Mortgagor under the Note and/or under any other documents with respect to the Loan and any other amount or amounts that may be added to the indebtedness secured hereby under the terms of this Mortgage, all of which indebtedness being equally secured with and having the same priority as any amounts advanced at the date hereof. It is agreed that any future advances by Mortgagee to or for the benefit of Mortgagor from time to time under this Mortgage or under any other documents with respect to the Loan and whether or not such advances are obligatory or are made at the option of Mortgagee, or otherwise, made at any time from the date of this Mortgage, and all interest accruing thereon, shall be equally secured by this Mortgage and have the same priority as all amounts, if any, advanced as of the date hereof and be subject to all of the terms and provisions of this Mortgage; provided, however, that the aggregate amount of the indebtedness secured hereby together with all such additional sums advanced shall not exceed Eight Million and No/100 Dollars (\$8,000,000.00).

24. Non-Marshalling Provision.

Mortgagor hereby agrees that Mortgagee shall have no obligation to marshal any collateral which secures the Liabilities and Mortgagor shall require any other of its creditors to waive any such marshalling obligation.

25. Miscellaneous.

a. Mortgagor agrees that, without affecting the liability of any person for payment of the Liabilities or affecting the lien of this Mortgage upon the Mortgaged Property or any part thereof (other than persons or property explicitly released as a result of the exercise by Mortgagee of its rights and privileges hereunder), Mortgagee may at any time and from time to time, on request of the Mortgagor, without notice to any person liable for payment of any Liabilities secured hereby, extend the time, or agree to alter the terms of payment of such Liabilities.

b. Mortgagor certifies and agrees that the proceeds of the Note will be used for proper business purposes, and consistently with all applicable laws and statutes.

c. Mortgagor agrees that this Mortgage is to be construed and governed by the laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

d. At the request of Mortgagor following full payment of all sums secured hereby, a satisfaction of mortgage shall be provided by Mortgagee to Mortgagor.

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e. This Mortgage shall be binding upon Mortgagor and upon the successors, assigns and vendees of Mortgagor and shall inure to the benefit of Mortgagee's successors and assigns. All references herein to Mortgagor and to Mortgagee shall be deemed to include their successors and assigns. Mortgagor's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for Mortgagor. Further, the term "Note" as used herein shall also include any note executed in renewal, substitution, amendment or replacement thereof.

f. Time is of the essence of this Mortgage, and any other document or instrument evidencing or securing the Liabilities.

g. Any notice which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed given (i) if and when personally delivered, (ii) on the next business day after deposit, if sent by a nationally recognized overnight courier addressed to a party at its address set forth below, or (iii) on the second (2nd) business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below, or at such other place as such party may have designated to all other parties by notice in writing in accordance herewith (but service or delivery or courtesy copies shall not be required):

If to Mortgagee: Lincoln Square Partners, LLC
c/o Bismarck Enterprises, Inc.
130 N. Stetson Avenue, Suite 810
Chicago, IL 60601
 Attn: Peter R. Wirtz

If to Mortgagor: Bismarck Enterprises, Inc.
180 N. Stetson Avenue, Suite 810
Chicago, IL 60601
 Attn: Peter R. Wirtz

h. No modification, waiver, estoppel, amendment, discharge or change of this Mortgage or any related instrument shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, estoppel, amendment, discharge or change is sought.

i. TO INDUCE MORTGAGEE TO ACCEPT THIS MORTGAGE, MORTGAGOR IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS MORTGAGE MAY BE LITIGATED OR ENFORCED IN THE STATE OR FEDERAL COURTS LOCATED IN COOK COUNTY, ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY SUCH COURT LOCATED WITHIN SAID COUNTY AND HEREBY WAIVES ANY OBJECTION IT MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS TO

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THE CONDUCT OF ANY PROCEEDING BROUGHT AGAINST MORTGAGOR BY MORTGAGEE IN ACCORDANCE WITH THIS PARAGRAPH.

j. MORTGAGOR IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS MORTGAGE OR ANY AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS MORTGAGE OR ANY SUCH AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

[Signature Page Follows]

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IN WITNESS WHEREOF, this instrument is executed by Mortgagor as of the date first above written.

BORROWER:

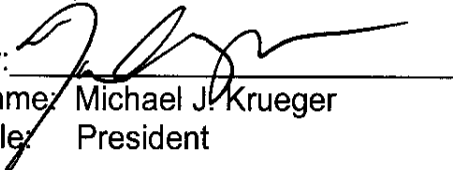
Lincoln Square Partners, LLC
an Illinois limited liability company

By: Bismarck Enterprises, Inc., an Illinois corporation
Its: Manager

By: 
Name: Peter R. Wirtz
Title: President


Mark Timmerman, Manager

By: MJK Holdings, Inc., an Illinois corporation
Its: Manager

By: 
Name: Michael J. Krueger
Title: President

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
)
 COUNTY OF _____) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Peter R. Wirtz, personally known to me to be the President of Bismarck Enterprises, Inc., an Illinois corporation, a manager of Lincoln Square Partners, LLC, an Illinois limited liability company and personally known 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 signed and delivered the said instrument in his capacity as President of such manager of such limited liability company, on behalf of such corporation as his free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Given under my hand and official seal this 29 day of Dec., 2010.

A. Tragger Finley
 Notary Public



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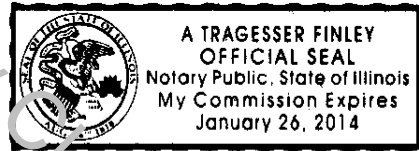
STATE OF ILLINOIS)
)
 COUNTY OF _____) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Mark Timmerman personally known to me to be a manager of Lincoln Square Partners, LLC, an Illinois limited liability company, and personally known 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 signed and delivered the said instrument in his capacity as manager of such limited liability company, on behalf of such limited liability company as his free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Given under my hand and official seal this 29 day of Dec., 2010.

A Tragegger Finley

 Notary Public



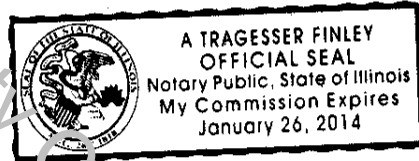
UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF _____) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Michael J. Krueger, personally known to me to be the President of MJK Holdings, Inc., an Illinois corporation, a manager of Lincoln Square Partners, LLC, an Illinois limited liability company and personally known 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 signed and delivered the said instrument in his capacity as President of such manager of such limited liability company, on behalf of such corporation as his free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Given under my hand and official seal this 29 day of Dec, 2010.

A. Tragger Finley
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION OF LAND

LOTS 1, 2 AND 3 IN JACOB LASKER'S RESUBDIVISION OF LOTS 110, 111, 112, 113, 114 AND 115 IN PARTITION BY CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THAT PART OF LOT 1 LYING NORTHEAST OF LINCOLN AVENUE IN PARTITION BY SUPERIOR COURT OF COOK COUNTY, ILLINOIS, OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Tax: 14 18 106 001 0000

Identification Number: _____

Property Address: 4717-4725 N. Lincoln/2325 W. Giddings, Chicago, Illinois

Property of Cook County Clerk's Office

Exhibit A