



Doc#: 1117231079 Fee: \$66.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 06/21/2011 12:16 PM Pg: 1 of 16

Loan No. 338871
RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

The Northwestern Mutual Life Ins. Co.
720 East Wisconsin Avenue - Rm N16WC
Milwaukee, WI 53202
Attn: Sheila Lawton

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This instrument was prepared by Judith L. Perkins, Attorney, for The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, WI 53202.

ABSOLUTE ASSIGNMENT OF LEASES AND RENTS
(With License Back)

THIS Absolute Assignment of Leases and Rents (this "Assignment") is made as of the 15th day of June, 2011, by and between LAKESHORE PARCEL A REALTY HOLDING COMPANY LLC, a Delaware limited liability company, whose mailing address is Lakeshore A LLC, 225 North Columbus Drive, Suite 100, Chicago, IL 60601, (herein called "Borrower") and THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation, whose mailing address is c/o Real Estate Department, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, (herein called "Lender").

WITNESSETH

FOR AND IN CONSIDERATION of the indebtedness hereinafter described, Borrower has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey, unto Lender, its successors and assigns forever, all and singular the property hereinafter described (collectively, the "Security"), to wit:

- (a) All rents, issues and profits arising from or related to the land, situated in the County of Cook and State of Illinois and described in Exhibit "A" attached hereto and fully incorporated herein by reference for all purposes and all improvements and any other property, whether real, personal or mixed, located thereon (which land, improvements and other property are hereinafter collectively called the "Property");

First American Title Order # NCS-488091 8 of 9 p

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(b) All of Borrower's rights, titles, interests and privileges, as lessor, in the leases now existing or hereafter made affecting the Property, whether or not made by Borrower and as the same may have been, or may from time to time hereafter be, modified, extended and renewed (hereinafter collectively called the "Leases" and individually called a "Lease");

(c) All tenant security deposits, if any, and other amounts due and becoming due under the Leases;

(d) All guarantees of the Leases, including guarantees of tenant performance;

(e) All insurance proceeds, including rental loss coverage and business interruption coverage with respect to the Leases; and

(f) All judgments and settlements of claims in favor of Borrower (including condemnation proceeds, if any) and all rights, claims and causes of action under any court proceeding, including without limitation any bankruptcy, reorganization or insolvency proceeding, or otherwise arising from the Leases.

TO HAVE AND TO HOLD the Security unto Lender, its successors and assigns forever, and Borrower does hereby bind itself, its heirs, legal representatives, successors and assigns, to warrant and forever defend the Security unto Lender, its successors and assigns forever against the claim or claims of all persons whomsoever claiming the same or any part thereof.

ARTICLE I DEFINITIONS

1.01 **Terms Defined Above.** As used in this Assignment, the terms "Borrower", "Leases", "Lender", "Property", and "Security" shall have the respective meanings indicated above.

1.02 **Certain Definitions.** The following terms shall have the meanings assigned to them below whenever they are used in this Assignment, unless the context clearly otherwise requires. Except where the context otherwise requires, words in the singular form shall include the plural and vice versa.

"**Event of Default**" shall mean any Event of Default as defined in the Lien Instrument.

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"Lien Instrument" shall mean that certain Mortgage and Security Agreement of even date herewith, executed by Borrower and granting a lien on the Property to Lender, as such instrument may be amended and restated from time to time.

"Loan Commitment" shall mean that certain Loan Application dated May 20, 2011 from Borrower to Lender together with that certain acceptance letter issued by Lender dated May 26, 2011.

"Loan Documents" shall mean the Note, the Lien Instrument, this Assignment, the Loan Commitment, that certain Certification of Borrower of even date here with, that certain Funding Agreement of even date herewith, that certain Limited Liability Company Supplement dated contemporaneously herewith, any other supplements and authorizations required by Lender and all other instruments and documents (as the same may be amended from time to time) executed by Borrower and delivered to Lender in connection with, or as security for, the indebtedness evidenced by the Note, except any separate environmental indemnity agreement.

"Note" shall mean that certain Promissory Note of even date herewith, in the original principal amount of \$99,000,000.00, executed by Borrower and payable to the order of Lender, as such instrument may be amended, renewed and restated from time to time.

"Obligations" shall mean the following:

- (a) The indebtedness evidenced by the Note and all interest thereon;
- (b) The performance of all covenants and agreements of Borrower contained in the Loan Documents;
- (c) All funds hereafter advanced by Lender to or for the benefit of Borrower as contemplated by any covenant or provision contained in any Loan Document and all interest thereon;
- (d) All renewals, extensions, rearrangements and modifications of any of the Obligations described hereinabove; and
- (e) Any and all reasonable attorneys' fees and expenses of collection payable under the terms of any Loan Document.

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ARTICLE II ASSIGNMENT

2.01 **Absolute Assignment.** This Assignment is, and is intended to be, an absolute and present assignment of the Security from Borrower to Lender with a concurrent license back to the Borrower (which license is subject to revocation upon the occurrence of an Event of Default as herein provided) and is not intended as merely the granting of a security interest relating to the Obligations.

2.02 **License.** Borrower is hereby granted the license to manage and control and operate the Security and to collect at the time of, but not prior to, the date provided for the payment thereof, all rents, issues and profits from the Property and to retain, use and enjoy the same except any retail lease termination fee exceeding \$250,000.00. The license created and granted hereby shall be revocable upon the terms and conditions contained herein. Notwithstanding the foregoing, any retail lease termination fee exceeding \$250,000.00 (shall be payable directly to, and held by Lender in an interest-bearing account and shall be applied by Lender as follows: to pay for leasing commissions, tenant improvements and other reasonable costs of re-leasing the retail tenant space or Loan prepayment (without any prepayment fee). Any amounts remaining on the Maturity Date (as defined in the Promissory Note of even date herewith (the "Note")) shall, at the election of Lender, either be applied to the outstanding balance under the Note, without a prepayment fee, or released to Borrower. Any amounts held by Lender at any time upon the occurrence of an Event of Default may, at Lender's option, be applied to any outstanding amounts due under the Note, with the prepayment privilege fee due pursuant to the prepayment provision of the Note.

In the event such retail lease termination fees are held by Lender, interest earned on the deposits in such account shall be earned on the average daily balance of the funds so held by Lender during a month (the "Applicable Month") shall be credited with interest on the first day of the following month at a rate equal to the 30-Day United States Treasury Bill Yield (as defined and calculated under the provisions of the Condition hereof entitled Application of Insurance Proceeds). The "30-Day United States Treasury Bill Yield" means the "Ask Yield" on the first business day of the Applicable Month for United States Treasury bills maturing the closest to 30 days from the first day of the Applicable Month as reported in The Wall Street Journal or a similar yield as reasonably determined by Lender.

2.03 **Revocation of License.** Immediately upon the occurrence of an Event of Default and at any time thereafter while such Event of Default shall continue, Lender may, at its option and without regard to the adequacy of the security for the Obligations, either by an authorized representative or agent, with or without bringing or instituting any judicial or other action or proceeding, or by a receiver appointed by a court, immediately

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revoke the license granted in Section 2.02, as evidenced by a written notice to said effect given to Borrower, and further, at Lender's option (without any obligation to do so), take possession of the Property and the Security and have, hold, manage, lease and operate the Property and the Security on such terms and for such period of time as Lender may deem proper, and, in addition, either with or without taking possession of the Property, demand, sue for or otherwise collect and receive all rents, issues and profits from the Property, including those past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to the Lender in its reasonable discretion, and to apply (in such order and priority as Lender shall determine in its sole discretion) such rents, issues and profits to the payment of:

(a) all expenses of (i) managing the Property, including without implied limitation, the salaries, fees and wages of a managing agent and such other employees as Lender may in its sole discretion deem necessary or desirable, (ii) operating and maintaining the Property, including without implied limitation, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Lender may in its sole discretion deem necessary or desirable, (iii) the cost of any and all alterations, renovations, repairs or replacements of or to the Property, and (iv) any and all expenses incident to taking and retaining possession of the Property and the Security; and

(b) the Obligations.

The exercise by Lender of the rights granted it in this Section 2.03, and the collection and receipt of rents, issues and profits and the application thereof as herein provided, shall not be considered a waiver of any Event of Default.

2.04 **Trust Funds**. All monies or funds covered by this Assignment paid to, or for the benefit of, Borrower after any Event of Default is declared, and shall be deemed to be, trust funds in the hands of Borrower for the sole benefit of Lender, until such Event of Default has been cured or waived or the Obligations have been paid and performed in full. Borrower, or any officer, director, representative or agent thereof receiving such trust funds or having control or direction of same, is hereby made and shall be construed to be a trustee of such trust funds so received or under its control and direction, and such person shall be under a strict obligation and duty should such persons receive or constructively receive trust funds to (1) remit any and all such trust funds to Lender within five (5) business days of receipt, upon demand therefor by Lender or (2) to apply such trust funds only to Obligations then due or the operating expenses of the Property.

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ARTICLE III COVENANTS, REPRESENTATIONS AND WARRANTIES

3.01 **Liability.** Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after an Event of Default or from any other act or omission of Lender in managing the Property or the Security after an Event of Default, except for acts constituting gross negligence or willful misconduct. Lender shall not be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge, any obligation, duty or liability under any Lease, and Borrower shall and does hereby indemnify Lender for, and save and hold Lender harmless from, any and all liability, loss or damages, except so much thereof as shall result from the gross negligence or willful misconduct of Lender, which may or might be incurred under any Lease or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in any Lease, including without implied limitation, any claims by any tenants of credit for rents for any period paid to and received by Borrower but not delivered to Lender. Should Lender incur any such liability under any Lease in defense of any such claim or demand, the amount thereof, including without implied limitation all costs, expenses and reasonable attorneys' fees, shall be added to the principal of the Note and Borrower shall reimburse Lender therefor within ten (10) business days following demand. With the exception of Lender's bad faith, illegal acts, willful misconduct or fraud, this Assignment shall not operate to place responsibility upon Lender for the control, care, upkeep, management, operation or repair of the Property and the Security or for the carrying out of any of the terms and conditions of any Lease; nor shall this Assignment operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other party, for any dangerous or defective condition of the Property or for any negligence in the control, care, upkeep, operation, management or repair of the Property resulting in loss or injury or death to any tenant, licensee, employee, stranger or other person whatsoever.

3.02 **Termination.** Upon payment and performance of the Obligations in full, this Assignment shall become null and void and of no further legal force or effect, but the affidavit, certificate, letter or statement of any officer, agent, authorized representative or attorney of Lender showing any part of the Obligations remaining unpaid or unperformed shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment upon which any person may, and is hereby authorized to, rely. Borrower hereby authorizes and directs all tenants under the Leases, all guarantors of Leases, all insurers providing rental loss or business interruption insurance with respect to the Property, all governmental authorities and all other occupants of the Property, upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that an Event of Default exists, to pay over to Lender all rents and other

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amounts due and to become due under the Leases and under guaranties of the Leases and all other issues and profits from the Property and to continue so to do until otherwise notified in writing by Lender. This right may be exercised without Lender taking actual or constructive possession of the Property or any part thereof.

3.03 **Security.** Lender may take or release any security for the payment or performance of the Obligations, may release any party primarily or secondarily liable therefor and may apply any security held by it to the satisfaction of all or any portion of the Obligations, without prejudice to any of its rights under this Assignment, the other Loan Documents or otherwise available at law or in equity.

3.04 **Covenants.** Borrower covenants with Lender (a) to observe and perform all the material obligations imposed upon the lessor under all Leases and not (except as expressly permitted in the Loan Documents) to do or use commercially reasonable efforts not to permit to be done anything to impair the same in any material respect without Lender's prior written consent, (b) not to collect any of the rent or other amounts due under any Lease or other issues or profits from the Property in any manner in advance of the time when the same shall become due (save and except only for collecting one month's rent in advance plus the security deposit, if any, at the time of execution of a Lease), (c) not to execute any other assignment of rents, issues or profits arising or accruing from the Leases or from the Property, (d) not to enter into any lease agreement affecting the Property, except those leases entered into in the ordinary course of business and utilizing Borrower's standard form lease previously approved by Lender, with no substantial modifications thereto, without the prior written consent of Lender; provided, however, that Lender's written consent shall not to be unreasonably withheld, conditioned or delayed, to the extent Borrower is acting in a commercially reasonable manner consistent with Borrower's usual and customary practices and such action is not likely to materially and adversely affect the values of the Property or Lender's rights under the Loan Documents, (e) to execute and deliver, at the request of Lender, all such further assurances and acknowledgments of the assignment contained herein and the other provisions hereof, with respect to specific Leases or otherwise, as Lender shall from time to time require, and (f) not to cancel, surrender or terminate any Lease, exercise any option which might lead to such termination or consent to any change, modification, or alteration thereof, to the release of any party liable thereunder or to the assignment of the lessee's interest therein, without the prior written consent of Lender, and any of said acts, if done without the prior written consent of Lender, shall be null and void. Notwithstanding clause (f) of the preceding sentence, and provided there is no Event of Default, Borrower may take the actions described in clause (f) without Lender's prior written consent if and only if such action is consistent with the usual and customary operation of the Property. With regard to retail tenant Leases only, Borrower further covenants with Lender to use reasonable efforts to obtain from any retail tenants at the Property, from time to time as reasonably requested by Lender (but in no event more than

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two times per year), estoppels certificates, in form and substance reasonably satisfactory to Lender, confirming the terms of such retail tenant's Lease and the absence of default thereunder. Notwithstanding any language to the contrary contained herein, Lender acknowledges that leases entered into in the ordinary course of business within the scope of the approved leasing and property guidelines shall not require Lender's consent.

3.05 Authority to Assign. Borrower represents and warrants that (a) Borrower has full right and authority to execute this Assignment and has no knowledge of any existing Leases, either orally or in writing, and Borrower has not executed any other instrument which might prevent Lender from operating under any of the terms and conditions of this Assignment, including any other assignment of the Leases or the rents, issues and profits from the Property.

3.06 Cross-Default. Violation or default in any material respect under any of the covenants, representations, warranties and provisions contained in this Assignment by Borrower shall be deemed a default hereunder as well as under the terms of the other Loan Documents, and any default in any material respect thereunder shall likewise be a default under this Assignment. Any default in any material respect by Borrower under any of the terms of any Lease shall be deemed a default hereunder and under the terms of the other Loan Documents, and any expenditures made by Lender in curing such default on Borrower's behalf, with interest thereon at the Default Rate (as defined in the Note), shall become part of the Obligations; provided, however, that a default by Borrower under ten (10) or fewer residential apartment leases at any given time shall not be deemed to be a default in any material respect as provided herein.

3.07 No Mortgagee in Possession. The acceptance by Lender of this Assignment, with all of the rights, powers, privileges and authority created hereby, shall not, prior to entry upon and taking possession of the Property by Lender, be deemed or construed to constitute Lender a "mortgagee in possession", or hereafter or at any time or in any event obligate Lender to appear in or defend any action or proceeding relating to any Lease, the Property or the Security, to take any action hereunder, to expend any money, incur any expense, perform or discharge any obligation, duty or liability under any Lease, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Borrower by any tenant and not actually delivered to Lender. Lender shall not be liable in any way for any injury or damage to any person or property sustained in or about the Property.

3.08 Representation and Warranty. Borrower represents and warrants that no Lease grants the tenant thereunder or any other party the right or option to acquire the Property or any portion of the Property.

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ARTICLE IV GENERAL

4.01 **Remedies**. The rights and remedies provided Lender in this Assignment and the other Loan Documents are cumulative. Nothing contained in this Assignment, and no act done or omitted by Lender pursuant hereto, including, without implied limitation, the collection of any rents, shall be deemed to be a waiver by Lender of any of its rights and remedies under the other Loan Documents or applicable law or a waiver of any default under the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies provided Lender by the other Loan Documents. The right of Lender to collect the principal sum and interest due on the Note and to enforce the other Loan Documents may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

4.02 **Notices**. Any notices, demands, requests and consents permitted or required hereunder or under any other Loan Document shall be in writing, may be delivered personally or sent by certified mail with postage prepaid or by reputable courier service with charges prepaid. Any notice or demand sent to Borrower by certified mail or reputable courier service shall be addressed to Borrower at c/o Lakeshore A LLC, 225 North Columbus Drive, Suite 100, Chicago, IL 60601 or such other address in the United States of America as Borrower shall designate in a notice to Lender given in the manner described herein. Any notice sent to Lender by certified mail or reputable courier service shall be addressed to The Northwestern Mutual Life Insurance Company to the attention of the Real Estate Investment Department at 720 East Wisconsin Avenue, Milwaukee, WI 53202, or at such other addresses as Lender shall designate in a notice given in the manner described herein. Any notice given to Lender shall refer to the Loan No. set forth above. Any notice or demand hereunder shall be deemed given when received. Any notice or demand which is rejected, the acceptance of delivery of which is refused or which is incapable of being delivered during normal business hours at the address specified herein or such other address designated pursuant hereto shall be deemed received as of the date of attempted delivery.

4.03 **Captions**. The titles and headings of the various Articles and Sections hereof are intended solely for reference and are not intended to modify, explain or affect the meaning of the provisions of this Assignment.

4.04 **Severability**. If any of the provisions of this Assignment or the application thereof to any persons or circumstances shall to any extent be invalid or unenforceable, the remainder of this Assignment, and the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

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4.05 **Attorneys' Fees**. In the event of any controversy, claim, dispute, or litigation between the parties hereto to enforce any provision of this Assignment or any right of Lender hereunder, the prevailing party shall be entitled to an award of all reasonable, third party out-of-pocket costs and expenses, including reasonable attorneys' fees incurred therein by the prevailing party, whether in preparation for or during any trial, as a result of an appeal from a judgment entered in such litigation or otherwise.

4.06 **Amendments**. This Assignment may not be modified, amended or otherwise changed in any manner unless done so by a writing executed by the parties hereto.

4.07 **Benefits**. This Assignment and all the covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

4.08 **Assignment**. Borrower shall have no right to assign or transfer the revocable license granted herein, except in connection with an allowed transfer of the Property in accordance with the terms of the Lien Instrument. Any such assignment or transfer shall constitute a default.

4.09 **Time of Essence**. Time is of the essence of this Assignment.

4.10 **Governing Law**. The laws of the State of Illinois shall govern and control the interpretation of this Assignment and the rights, obligations, duties and liabilities of the parties hereto.

4.11 **Limitation of Liability**. Notwithstanding any provision contained in this Assignment, the personal liability of Borrower shall be limited as provided in the Note.

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IN WITNESS WHEREOF, this Assignment has been entered into as of the day and year first-above written.

BORROWER: LAKESHORE PARCEL A REALTY HOLDING COMPANY LLC, a Delaware limited liability company

By: Lakeshore A LLC, an Illinois limited liability company, its Managing Member

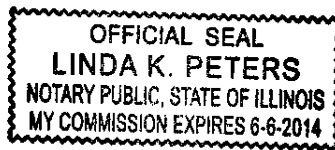
By: [Signature]
Name: David J. Carlini
Title: Manager

STATE OF _____)
COUNTY OF _____)ss.
_____)

The foregoing instrument was acknowledged before me this 15th day of June, 2011, by David J. Carlini, a manager of Lakeshore A LLC, the managing member on behalf of LAKESHORE PARCEL A REALTY HOLDING COMPANY LLC, a Delaware limited liability company, and acknowledged the execution of the foregoing instrument as the act and deed of said limited liability company.

My commission expires: 6-6-2014

Linda K. Peters
Notary Public



(Signatures continue on following page)

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(signatures continued from previous page)

LENDER: THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation

By: Northwestern Investment Management Company, LLC, a Delaware limited liability company, its wholly-owned affiliate and authorized representative



By: [Signature]
Thomas D. Zale,
Managing Director

Attest: [Signature]
Nicholas DeFino,
Assistant Secretary

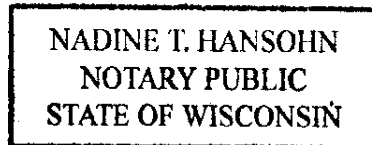
(corporate seal)

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

The foregoing instrument was acknowledged before me this 15th day of June, 2011, by Thomas D. Zale and Nicholas DeFino the Managing Director and Assistant Secretary respectively, of Northwestern Investment Management Company, LLC, on behalf of THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY and acknowledged the execution of the foregoing instrument as the act and deed of said corporation.

My commission expires:
January 15, 2012

[Signature]
Nadine T. Hansohn, Notary Public



UNOFFICIAL COPY**EXHIBIT "A"**
(Legal Description of Property)

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

PARCEL 1:

LOT 4 (EXCEPT THE WEST 60 FEET) IN LAKESHORE EAST SUBDIVISION, BEING A SUBDIVISION OF PART OF THE LANDS LYING EAST OF AND ADJOINING FORT DEARBORN ADDITION TO CHICAGO, SAID ADDITION BEING IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID LAKESHORE EAST SUBDIVISION RECORDED MARCH 4, 2003 AS DOCUMENT 0030301045, IN COOK COUNTY, ILLINOIS.

P.I.N. 17-10-318-061-0000

PARCEL 2:

THE WEST 60.00 FEET OF LOT 4 LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 3 IN LAKESHORE EAST SUBDIVISION, BEING A SUBDIVISION OF PART OF LANDS LYING EAST OF AND ADJOINING FORT DEARBORN ADDITION TO CHICAGO, SAID ADDITION BEING IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT OF SAID LAKESHORE EAST SUBDIVISION, RECORDED MARCH 4, 2003 AS DOCUMENT 0030301045, AND LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 41.00 FEET ABOVE CHICAGO CITY DATUM, AND LYING BELOW THE CENTER LINE OF THE STRUCTURAL SLAB OF THE ROADWAY AT THE PLAZA LEVEL, BEING AN INCLINE PLANE HAVING AN ELEVATION OF 53.55 FEET ABOVE CHICAGO CITY DATUM ALONG THE NORTH LINE OF SAID LOT 4 AND AN ELEVATION OF 55.33 FEET ABOVE CHICAGO CITY DATUM ALONG SAID EASTERLY EXTENSION OF THE NORTH LINE OF LOT 3, IN COOK COUNTY, ILLINOIS.

P.I.N. 17-10-318-062-0000 (Affects Parcel 2 and other property)

Property address: 345 E. Wacker Dr., Chicago, IL
(continued)

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PARCEL 3:

NON-EXCLUSIVE EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1, INCLUDING EASEMENTS FOR ACCESS TO IMPROVEMENTS BEING CONSTRUCTED OVER TEMPORARY CONSTRUCTION EASEMENT AREAS, FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS ON, OVER, THROUGH AND ACROSS THE STREETS, AND TO UTILIZE THE UTILITIES AND UTILITY EASEMENTS, ALL AS MORE PARTICULARLY DEFINED, DESCRIBED AND CREATED BY DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST MADE BY AND BETWEEN LAKESHORE EAST LLC, LAKESHORE EAST PARCEL P LLC, AND ASN LAKESHORE EAST LLC DATED AS OF JUNE 26, 2002 AND RECORDED JULY 2, 2002 AS DOCUMENT 0020732020, AS AMENDED BY FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF MARCH 3, 2003 AND RECORDED MARCH 7, 2003 AS DOCUMENT NUMBER 0030322531 AND AS FURTHER AMENDED BY SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF NOVEMBER 18, 2004 AND RECORDED NOVEMBER 19, 2004 AS DOCUMENT NUMBER 0501919099 AND THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC, DATED FEBRUARY 24, 2005 AND RECORDED FEBRUARY 25, 2005 AS DOCUMENT NUMBER 0505632009 AND FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF FEBRUARY 24, 2005 AND RECORDED FEBRUARY 25, 2005 AS DOCUMENT NUMBER 0505632012 AND BY THE FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF OCTOBER 27, 2006 AND RECORDED NOVEMBER 9, 2006 AS DOCUMENT 0631333004 AND SUBSEQUENTLY RECORDED ON FEBRUARY 9, 2007 AS DOCUMENT 0704044062, AND AS SUPPLEMENTED BY NOTICE OF SATISFACTION OF CONDITIONS RELATED TO FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LAKESHORE EAST LLC, DATED AS OF FEBRUARY 9, 2007 AND RECORDED MAY 22, 2007 AS DOCUMENT 0071422037, AND THE SIXTH AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF DECEMBER 20, 2007 AND RECORDED

(continued)

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DECEMBER 21, 2007 AS DOCUMENT 0735531065 AND RE-RECORDED ON APRIL 8, 2008 AS DOCUMENT 0809910104 AND THE SEVENTH AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF NOVEMBER 13, 2008 AND RECORDED NOVEMBER 14, 2008 AS DOCUMENT 0831910034 AND THE EIGHTH AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF NOVEMBER 13, 2008 AND RECORDED NOVEMBER 14, 2008 AS DOCUMENT 0831910035 AND THE AMENDMENT TO EIGHTH AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF FEBRUARY 10, 2011 AND RECORDED FEBRUARY 15, 2011 AS DOCUMENT 1104616038 AND THE NINTH AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LAKESHORE EAST EXECUTED BY LAKESHORE EAST LLC DATED AS OF JANUARY 10, 2011 AND RECORDED MARCH 17, 2011 AS DOCUMENT 1107644102.

PARCEL 4:

NON-EXCLUSIVE EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCELS 1 AND 2 AS MORE PARTICULARLY DEFINED, DESCRIBED, AND CREATED BY AN EASEMENT AND PARTY WALL AGREEMENT MADE BY AND BETWEEN AQUA REALTY HOLDING COMPANY LLC, AND LAKESHORE EAST PARCEL A LLC, DATED AS OF June 15, 2011 AND RECORDED June 21, 2011 AS DOCUMENT NUMBER 1117231073.

PARCEL 5:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR CONNECTION TO AND PEDESTRIAN INGRESS AND EGRESS THROUGH PEDESTRIAN MALL AS CREATED BY EASEMENTS, COVENANTS AND RESTRICTIONS DATED JUNE 25, 1986 AND RECORDED JUNE 30, 1986 AS DOCUMENT 86267044 AS AMENDED BY FIRST AMENDMENT TO EASEMENT, COVENANTS AND RESTRICTIONS DATED JUNE 27, 1996 AND RECORDED JULY 9, 1996 AS DOCUMENT 96522549 AND SECOND AMENDMENT TO EASEMENTS, COVENANTS AND RESTRICTIONS DATED AUGUST 24, 2007 AND RECORDED AUGUST 29, 2007 AS DOCUMENT 0724134059 BY AND AMONG AQUA AT LAKESHORE EAST LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, AND BRE/SWISS L.L.C., A DELAWARE LIMITED LIABILITY COMPANY.

(continued)

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PARCEL 6:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCELS 1 AND 2 FOR PEDESTRIAN INGRESS AND EGRESS, UTILITIES, ENCROACHMENTS, STORM DRAIN AND GENERAL ACCESS, AS CREATED BY EASEMENT AND PARTY WALL AGREEMENT DATED OCTOBER 24, 2008 AND RECORDED OCTOBER 27, 2008 AS DOCUMENT 0830145051, BY AND AMONG AQUA AT LAKESHORE EAST, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY AND BRE/SWISS L.L.C., A DELAWARE LIMITED LIABILITY COMPANY AS AMENDED BY FIRST AMENDMENT TO EASEMENT AND PARTY WALL AGREEMENT DATED FEBRUARY 3, 2010 AND RECORDED FEBRUARY 25, 2010 AS DOCUMENT 1005615044.

PARCEL 7:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 FOR INGRESS AND EGRESS FOR VEHICLES, PERSONS, MATERIALS AND EQUIPMENT AS CREATED BY SUPPLEMENTARY GRANT OF EASEMENTS RECORDED FEBRUARY 25, 2010 AS DOCUMENT 1005615045 MADE BY AND BETWEEN TIDES AT LAKESHORE EAST LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, AQUA AT LAKESHORE EAST LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, AND BRE/SWISS L.P., A DELAWARE LIMITED PARTNERSHIP.