

# UNOFFICIAL COPY

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

DLA Piper LLP (US)  
444 West Lake Street, Suite 900  
Chicago, Illinois 60606  
Attention: Alison M. Mitchell



Doc# 1734634073 Fee \$54.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/12/2017 03:55 PM PG: 1 OF 9

## RECOGNITION AGREEMENT

THIS RECOGNITION AGREEMENT (this "Agreement") is entered into as of December 8, 2017, by and among **THE BOARD OF EDUCATION OF THE CITY OF CHICAGO**, a body politic and corporate, on behalf of **THE CITY OF CHICAGO**, a municipal corporation, **IN TRUST FOR THE USE OF SCHOOLS**, and the **PUBLIC BUILDING COMMISSION OF CHICAGO**, a municipal corporation of the State of Illinois (together with its successors and assigns, "**Ground Lessor**") and **KMIS DEVELOPERS LLC**, a Delaware limited liability company ("**Sublessee**").

### RECITALS

A. Concurrently herewith, Ground Lessor is selling to Sublessee certain real property located adjacent to the Leased Premises (as hereinafter defined) and commonly known as 5055 South State Street, Chicago, Illinois (the "**Acquisition**").

B. Ground Lessor and The Ounce Of Prevention Fund, an Illinois not-for-profit corporation (together with its successors and assigns, "**Lessee**") entered into that certain Indenture of Lease dated April 1, 1998, as amended by that certain First Amendment of Indenture of Lease dated June 23, 2010 by and between Lessor and Lessee and that certain Second Amendment of Indenture of Lease dated as of even date herewith (as amended from time to time, the "**Lease**") whereby Ground Lessor leased to Lessee the real property commonly known as 5044 South Wabash Avenue, Chicago, Illinois and as more particularly described on Exhibit A attached hereto (the "**Leased Premises**").

C. On even date herewith, Lessee and Sublessee entered into that certain Sublease Agreement (the "**Parking Lot Sublease**") pursuant to which, among other matters, Sublessee leases from Lessee forty-seven (47) regular parking spaces and three (3) handicap parking spaces in the parking located on the Premises (the "**Parking Lot**"), which parking spaces are more particularly described on Exhibit B attached hereto and incorporated herein (the "**Subleased Spaces**"), for the exclusive use and benefit of Sublessee and its tenants, employees, agents, visitors, staff, guests and invitees from the date hereof through March 31, 2097 (the "**Term**").

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All capitalized terms not otherwise defined shall have the meanings ascribed to them in the Parking Lot Sublease.

D. In connection with the Acquisition, Sublessee seeks assurances from Ground Lessor that Ground Lessor will recognize the Parking Lot Sublease under the circumstances described in this Agreement in the event of any termination, cancellation, rejection or expiration of the Lease.

E. Sublessee would not have entered into the Acquisition transaction but for Ground Lessor's agreements contained herein.

## AGREEMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by reference.

2. **Notices.** Any notice delivered by Ground Lessor to Lessee pursuant to the Lease shall be simultaneously delivered to Sublessee. Ground Lessor acknowledges and agrees as follows:

(a) With respect to a monetary default by Lessee under the Lease, Sublessee shall have ten (10) days from the later of (i) the effective date of Ground Lessor's notice to cure such default or (ii) the expiration of the period afforded to Lessee under the Lease with respect to said default;

(b) With respect to a non-monetary default by Lessee under the Lease, Sublessee shall have thirty (30) days from the later of (i) the effective date of Ground Lessor's notice to cure such default or (ii) the expiration of the period afforded to Lessee under the Lease with respect to said default; provided, however, such period shall be extended by an additional thirty (30) days if reasonably necessary to cure such non-monetary default so long as Sublessee promptly commences the cure of such Lessee default and diligently pursues such cure to completion within the additional thirty (30) day period;

(c) Without limiting Section 5 below, Ground Lessor will not terminate the Lease as a result of a default by Lessee unless Ground Lessor has provided a notice to Sublessee and Sublessee has failed to cure within the applicable cure periods;

(d) Sublessee shall not be obligated to undertake any such cures and in the event Sublessee does not cure the default, Ground Lessor may, subject to Section 5, terminate the Lease; and

(e) Ground Lessor shall accept payment or performance by Sublessee of any act or obligation on the part of Lessee to be performed under the terms of the Lease, with the same force and effect as if performed by Lessee.

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3. **Ground Lessor Bankruptcy.** Ground Lessor acknowledges and agrees that in any case commenced by or against Ground Lessor under the United States Bankruptcy Code, Sublessee shall have a substantial and material interest in the treatment and preservation of Lessee's rights and obligations under the Lease, and that Ground Lessor shall provide to Sublessee immediate and continuous adequate protection of such interests to the extent it may do so under applicable law. Ground Lessor and Sublessee agree that such adequate protection shall include, but shall not necessarily be limited to, the following:

(a) Sublessee shall be deemed a party to the Lease for purposes of Sections 363 and 365 of the Bankruptcy Code, and shall have standing to appear and act as a party in interest in relation to any matter arising out of or related to the Lease or the Leased Premises, or any plan affecting the Parking Lot Sublease or the Parking Lot.

(b) Ground Lessor shall serve Sublessee with copies of all notices, pleadings and other documents filed by Ground Lessor relating to or affecting the Lease or the Leased Premises. Any notice, pleading or document served by Ground Lessor on any other party in the bankruptcy case relating to or affecting the Lease or the Leased Premises shall be contemporaneously served by Ground Lessor on Sublessee.

(c) Ground Lessor shall not seek to sell the Leased Premises free and clear of the Lease or Lessee's and Sublessee's interest in the Leased Premises in any bankruptcy case or proceeding without thirty (30) days' notice to Lessee and Sublessee.

(d) If Ground Lessor seeks to terminate or reject the Lease or have the Lease deemed terminated or rejected, and Lessee fails to elect to retain its rights under the Lease and therefore, the Lease terminates, Section 5 below shall apply.

4. **Lessee Bankruptcy.** Ground Lessor shall promptly notify Sublessee if Ground Lessor is notified that Lessee has filed for bankruptcy, insolvency or similar type proceedings and shall promptly provide to Sublessee copies of any notices, pleadings and other papers Ground Lessor has received, with respect to any such proceeding. Sublessee shall have standing to appear and act as a party in interest in relation to any matter arising out of or related to the Subleased Spaces or the Parking Lot Sublease.

5. **Direct Lease.** In the event of any termination, cancellation, rejection or expiration of the Lease during the Term or in the event of any termination, cancellation, rejection or expiration of the interest, leasehold estate, rights or any part thereof of Lessee under the Lease, whether such termination, cancellation, rejection or expiration be voluntary, involuntary, by operation of law, or otherwise and regardless of the reason for such termination, cancellation, rejection or expiration (including reentry, notice, conditional limitation, surrender, summary proceeding, bankruptcy of Ground Lessor or Lessee or any other action or proceeding), Ground Lessor hereby agrees as follows:

(a) Sublessee shall not be evicted, removed of its possession of the Subleased Spaces or have any right or privilege granted to or inuring to the benefit of Sublessee under the Parking Lot Sublease disturbed, provided Sublessee has complied with the

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terms of the Parking Lot Sublease and is not in default thereunder (after expiration of all applicable notice and cure periods).

(b) Ground Lessor shall lease the Subleased Spaces to Sublessee and grant the other rights provided in the Parking Lot Sublease to Sublessee as if the Parking Lot Sublease was a direct lease between Ground Lessor, as lessor, and Sublessee, as lessee, for the remainder of the Term (the "**Substitute Lease**") without the necessity of executing a new parking lease, on all of the same terms and conditions as are in effect under the Parking Lot Sublease immediately preceding the termination of the Lease provided Sublessee has complied with terms of the Parking Lot Sublease and is not in default thereunder (after expiration of all applicable notice and cure periods). For the avoidance of doubt, no additional lease fees or rent shall be due and payable from Sublessee to Ground Lessor other than any amounts due under Sections 3, 4 and 6 of the Sublease for the maintenance, repair and improvement of the Parking Lot. If either Ground Lessor or Sublessee requests that a separate agreement be entered into to memorialize the above referenced agreement, the parties agree to cooperate with one another in good faith to evidence the terms of the substitute parking lease in said agreement; provided, however, that no agreement shall be required separate from this Agreement to evidence the terms of the Substitute Lease.

6. **Conveyances.** Any conveyance of all or any part of Sublessee's interest in the Parking Lot Sublease or of Ground Lessor's interest in the Leased Premises shall be made subject to the Parking Lot Sublease and this Agreement.

7. **Binding Effect; Covenants Running with the Land.** This Agreement and all of the provisions, benefits, rights and obligations contained in this Agreement shall run with the land and will be binding upon and will inure to, and be for the benefit of, the parties hereto and their respective successors and assigns.

8. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

10. **Legal Remedies.** Each party to this Agreement shall have the right to institute legal action or proceeding to enforce or interpret this Agreement or to protect or establish any right or remedy of any party under this Agreement in law or in equity, including appeals. Each party may, in addition to any other remedy available at law or equity, seek to enforce the performance of this Agreement by way of injunction or specific performance.

*[Remainder of page intentionally left blank; signature pages follow]*





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## EXHIBIT A

### LEGAL DESCRIPTION OF THE OUNCE OF PREVENTION LEASED PREMISES

THAT PART OF LOTS 1 TO 48, BOTH INCLUSIVE, IN BLOCK 3 AND LOTS 5 TO 48, BOTH INCLUSIVE, IN BLOCK 4 IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SUB-LOTS 1, 2 AND 3 IN HARRIS AND MC GIMSIE'S RESUBDIVISION OF LOTS 1, 2, 3 AND 4 IN BLOCK 4 IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH ALL OF THE VACATED NORTH AND SOUTH 20 FOOT ALLEYS LYING BETWEEN THE LOTS IN SAID BLOCKS 3 AND 4 IN WILLIAM M. DERBY'S SUBDIVISION AFORESAID AND TOGETHER WITH THE VACATED PART OF 50TH STREET LYING BETWEEN SAID BLOCKS 3 AND 4 IN WILLIAM M. DERBY'S SUBDIVISION AFORESAID AND THE VACATED ALLEYS IN SAID BLOCKS, TAKEN AS A TRACT, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH LINE OF VACATED 50TH STREET AND THE EAST LINE OF SOUTH STATE STREET; THENCE SOUTH ALONG SAID EAST LINE OF SOUTH STATE STREET, 16.00 FEET TO THE POINT OF BEGINNING; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 238.04 FEET; THENCE SOUTH AND PARALLEL TO THE WEST LINE OF SOUTH WABASH AVENUE, 294.97 FEET; THENCE EAST AND PERPENDICULAR TO THE WEST LINE OF SOUTH WABASH AVENUE, 103.36 FEET TO THE WEST LINE OF SOUTH WABASH AVENUE, THENCE SOUTH ALONG SAID WEST LINE OF WABASH AVENUE, 238.32 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 167.67 FEET; THENCE NORTHWESTERLY ALONG A CURVE TANGENT TO THE LAST DESCRIBED LINE HAVING A RADIUS OF 8.00 FEET, DELTA 76 DEGREES 48 MINUTES 52 SECONDS AND AN ARC OF 10.73 FEET; THENCE NORTHERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, 7.86 FEET; THENCE NORTHWESTERLY ALONG A CURVE TANGENT TO THE LAST DESCRIBED LINE HAVING A RADIUS OF 12.0 FEET, DELTA 63 DEGREES 40 MINUTES 24 SECONDS AND AN ARC LENGTH OF 13.34 FEET; THENCE NORTHERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, 11.90 FEET; THENCE NORTHWESTERLY ALONG A CURVE TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 16.0 FEET, DELTA 64 DEGREES 08 MINUTES 15 SECONDS AND AN ARC LENGTH OF 17.91 FEET; THENCE NORTHERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, 11.99 FEET; THENCE NORTHWESTERLY ALONG A CURVE TANGENT TO THE LAST DESCRIBED LINE, HAVING A RADIUS OF 12.00 FEET, DELTA 64 DEGREES 07 MINUTES 04 SECONDS, AND AN ARC LENGTH OF 13.42; THENCE NORTHWESTERLY ALONG A LINE TO THE LAST DESCRIBED CURVE, 11.28 FEET; THENCE NORTH ALONG A LINE PARALLEL WITH THE EAST LINE OF SOUTH STATE STREET, 148.66 FEET, THENCE WEST AND PERPENDICULAR TO THE EAST LINE OF SOUTH STATE STREET, 108.50 FEET TO THE EAST LINE OF SOUTH STATE STREET; THENCE NORTH ALONG THE EAST LINE OF SOUTH STATE STREET, 323.69 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

SAID PARCEL CONTAINING 2.905 ACRES (126,559 SQUARE FEET) MORE OR LESS

COMMONLY KNOWN AS 5044 S. WABASH AVENUE, CHICAGO IL.

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**EXHIBIT B**  
**LEGAL DESCRIPTION OF 50 SUBLEASED PARKING SPACES  
IN THE OUNCE OF PREVENTION PARKING LOT DESIGNATED FOR  
THE ATTUCKS PROPERTY AT 5055 S. STATE STREET**

PART OF P.I.N. 20-10-118-001-0000

KMIS PARKING

14 PARKING SPACES LABELED AS 1-14:

THAT PART OF LOTS 39 TO 48 BOTH INCLUSIVE, IN BLOCK 4, IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH THE VACATED PART OF 50 TH. STREET LYING NORTH OF BLOCK 4 IN SAID WILLIAM M. DERBY'S SUBDIVISION AFORESAID TAKEN AS A TRACT, AND DESCRIBED AS FOLLOWS:

THE SOUTH 112 FEET OF THE NORTH 292.40 FEET OF THE EAST 18 FEET OF THE WEST 29 FEET OF SAID TRACT OF LAND, IN COOK COUNTY, ILLINOIS.

PARKING AREA: 2,016 SQ.FT. MORE OR LESS

PART OF P.I.N. 20-10-118-001-0000

KMIS PARKING

14 PARKING SPACES LABELED AS 15-28:

THAT PART OF LOTS 39 TO 48 BOTH INCLUSIVE, IN BLOCK 4, IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH THE VACATED PART OF 50 TH. STREET LYING NORTH OF BLOCK 4 IN SAID WILLIAM M. DERBY'S SUBDIVISION AFORESAID TAKEN AS A TRACT, AND DESCRIBED AS FOLLOWS:

THE SOUTH 112 FEET OF THE NORTH 154.65 FEET OF THE EAST 18 FEET OF THE WEST 40 FEET OF SAID TRACT OF LAND, IN COOK COUNTY, ILLINOIS.

PARKING AREA: 2,016 SQ.FT. MORE OR LESS

PART OF P.I.N. 20-10-118-001-0000

KMIS PARKING

14 PARKING SPACES LABELED AS 38-51:

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THAT PART OF LOTS 39 TO 48 BOTH INCLUSIVE, IN BLOCK 4, IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH THE VACATED PART OF 50 TH. STREET LYING NORTH OF BLOCK 4 IN SAID WILLIAM M. DERBY'S SUBDIVISION AFORESAID TAKEN AS A TRACT, AND DESCRIBED AS FOLLOWS:

THE SOUTH 112 FEET OF THE NORTH 292.15 FEET OF THE EAST 18 FEET OF THE WEST 78 FEET OF SAID TRACT OF LAND, IN COOK COUNTY, ILLINOIS.

PARKING AREA: 2,016 SQ.FT. MORE OR LESS  
PART OF P.I.N. 20-10-118-001-0000

KMIS PARKING

5 PARKING SPACES LABELED AS 82-84:

THAT PART OF LOTS 39 TO 48 BOTH INCLUSIVE, IN BLOCK 4, IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH THE VACATED PART OF 50 TH. STREET LYING NORTH OF BLOCK 4 IN SAID WILLIAM M. DERBY'S SUBDIVISION AFORESAID TAKEN AS A TRACT, AND DESCRIBED AS FOLLOWS:

THE SOUTH 18 FEET OF THE NORTH 41 FEET OF THE EAST 40 FEET OF THE WEST 84 FEET OF SAID TRACT OF LAND, IN COOK COUNTY, ILLINOIS.

PARKING AREA: 720 SQ.FT. MORE OR LESS  
PART OF P.I.N. 20-10-118-001-0000

KMIS PARKING

3 HANDICAP PARKING SPACES:

THAT PART OF LOTS 39 TO 48 BOTH INCLUSIVE, IN BLOCK 4, IN WILLIAM M. DERBY'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN TOGETHER WITH THE VACATED PART OF 50 TH. STREET LYING NORTH OF BLOCK 4 IN SAID WILLIAM M. DERBY'S SUBDIVISION AFORESAID TAKEN AS A TRACT, AND DESCRIBED AS FOLLOWS:

THE SOUTH 50.5 FEET OF THE NORTH 291.75 FEET OF THE EAST 18 FEET OF THE WEST 140 FEET OF SAID TRACT OF LAND, IN COOK COUNTY, ILLINOIS.

PARKING AREA: 909 SQ.FT. MORE OR LESS