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This instrument was prepared by and, after recording, return to:

Allen C. Balk
MELTZER, PURTILL & STELLE LLC
1515 East Woodfield Road
Second Floor
Schaumburg, IL 60173-5431



Doc#: 0521003128
Eugene "Gene" Moore Fee: \$70.50
Cook County Recorder of Deeds
Date: 07/29/2005 04:11 PM Pg: 1 of 24

Permanent Real Estate Tax Index No.:
See **Exhibit A** attached

24

Street Address:
Trafalgar Square Condominiums
6245 Lincoln Avenue, Morton
Grove, Cook County, Illinois

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (this "Agreement"), is made and entered into this 28th day of July, 2005, by and among TRAFALGAR SQUARE CONDOMINIUM, LLC, an Illinois limited liability company ("Borrower"), THE NERI TRAFALGAR SQUARE LIMITED PARTNERSHIP, an Illinois partnership ("Subordinate Lender"), and COLE TAYLOR BANK, an Illinois banking corporation ("Senior Lender").

RECITALS:

A. Borrower will acquire certain real property legally described in **Exhibit A** (the "Property"), on which Borrower intends to construct residential condominium units. The Property, all improvements now or in the future constructed or located on the Property, and all personal property, contract rights and other intangibles related to the Property are collectively referred to as the "Project." The residential condominium units to be constructed and sold as part of the Project are called "Units" herein, which also includes parking spaces which may be sold with residential condominium units.

B. Senior Lender has made or agreed to make (i) an acquisition and development loan to Borrower in the original principal amount of Ten Million Two Hundred Five Thousand and 00/100 Dollars (\$10,205,000.00) (the "Senior A&D Loan"), and (ii) a revolving construction loan in the original principal amount of Fourteen Million and 00/100 Dollars (\$14,000,000.00) (the "Senior Revolver Loan"). The Senior A&D Loan and Senior Revolver Loan are referred to individually and collectively herein as the "Senior Loan". All or substantially all of the proceeds of the Senior Loan are to be used

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in connection with acquisition, ownership, financing, development, construction, improvement and sale of the Property. The Senior Loan is evidenced by, among other things, an A & D Note in the amount of \$10,205,000.00 and a Revolver Note in the amount of \$14,000,000.00, and is secured by, among other things, a Mortgage and Security Agreement (the "Senior Mortgage"), made by Borrower in favor of Senior Lender dated of even date herewith and to be recorded by Cook County Recorder, concurrently herewith. The Revolving Construction Loan Agreement, Notes, Senior Mortgage, and other documents evidencing, securing, or otherwise relating to the Senior Loan, are collectively referred to as the "Senior Loan Documents".

C. Subordinate Lender has made or agreed to make a loan to Borrower in the original principal amount of One Million Eight Hundred Seventy-Five Thousand and 00/100 Dollars (\$1,875,000.00) (the "Subordinate Loan"). The Subordinate Loan proceeds are to be used in connection with the acquisition of the Property. The Subordinate Loan is evidenced by, among other things, a Loan Agreement and Promissory Note, and is secured by, among other things, a Mortgage, Assignment of Rents and Leases and Fixture Filing (the "Subordinate Mortgage"), executed by Borrower in favor of Subordinate Lender and recorded with the Cook County Recorder concurrently herewith. The Loan Agreement, Promissory Note, Subordinate Mortgage, and other documents evidencing, securing, or otherwise relating to the Subordinate Loan are collectively referred to as the "Subordinate Loan Documents".

D. Senior Lender has required Subordinate Lender to enter into this Agreement as a condition to its consent to the Subordinate Loan.

E. Senior Lender and Subordinate Lender (collectively, "Lenders") or either of them, a "Lender") have entered into this Agreement to set forth the terms of subordination between them, and Borrower has also entered this Agreement to acknowledge its agreement with and approval of such terms.

AGREEMENTS

1. Subordination.

1.1 Lien Subordination. Subordinate Lender hereby unconditionally subordinates the lien of the Subordinate Mortgage, any other liens in personal property securing the Subordinate Loan and evidenced by the Subordinate Loan Documents or any UCC financing statement, and all of Subordinate Lender's rights, remedies and privileges thereunder to the lien of the Senior Mortgage, any other liens in personal property securing the Senior Loan and evidenced by the Senior Loan Documents or any UCC financing statement, and all of Senior Lender's rights, remedies, and privileges thereunder, including without limitation, any judgment which may be obtained on any of the obligations or indebtedness described in the Subordinate Loan Documents (and any amendments, modifications, renewals or extensions thereof). Nothing contained in the Subordinate Loan Documents shall operate to defeat, render invalid, or impair the priority

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and seniority of the liens of Senior Lender under the Senior Mortgage and the other Senior Loan Documents.

1.2 **Payment Subordination.** Subordinate Lender hereby subordinates its right to receive payments from Borrower or derived from the Property of any and all amounts owing under the Subordinate Loan Documents ("Subordinate Indebtedness") to Senior Lender's right to receive payments from Borrower or derived from the Property of any and all amounts owing under the Senior Loan Documents ("Senior Indebtedness"). Notwithstanding anything to the contrary set forth in the Subordinate Loan Documents, no payment shall be made by or on behalf of Borrower for or on account of the Subordinate Loan, and Subordinate Lender shall not take or receive from Borrower, Guarantor or any other party, directly or indirectly, in cash or other property or by setoff or in any other manner, payment of all or any portion of the Subordinate Loan, unless and until the Senior Indebtedness has been indefeasibly paid in full, it being agreed by Senior Lender, that prior to an Event of Default, it shall cause at least 91% of the sale proceeds derived from the Project to be applied to the Senior Indebtedness. In the event Subordinate Lender receives any payments prohibited by this Agreement, Subordinate Lender agrees that any such payments received by Subordinate Lender will be held by Subordinate Lender in trust solely for the benefit of Senior Lender. Subordinate Lender further agrees to assign and/or pay over to Senior Lender the payments so held in trust within five days of Subordinate Lender's receipt thereof.

1.3 **Document Subordination.** The Subordinate Loan Documents are hereby made and shall hereafter be subject and subordinate in all respects to the Senior Mortgage and the other Senior Loan Documents. All rights of the Subordinate Lender under the Subordinate Loan Documents in and to the Property and the proceeds thereof, including, but not limited to rents, issues and profits, proceeds of sales of the Property or any portion thereof, including any Units or Parking Spaces (as defined in the Senior Loan Agreement), and proceeds of insurance and condemnation awards and settlements in lieu thereof, are and shall be subject and subordinate to (i) the rights of Senior Lender in and to the Property and such proceeds thereof on the terms set forth in the Senior Mortgage and the other Senior Loan Documents; and (ii) subject to the terms of this Agreement, any and all advances made and other expenses incurred under, and as permitted in, the Senior Mortgage and the other Senior Loan Documents.

2. **Modifications of Senior Loan.**

2.1 **Senior Loan Modifications Requiring Consent of Subordinate Lender.** Subject to the provisions of Section 2.2, the following modifications to the Senior Loan Documents shall constitute "Permissible Modifications," and, as a condition of Subordinate Lender's subordination to such modifications, shall require the Subordinate Lender's consent, which consent shall not be unreasonably withheld, delayed or conditioned:

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2.1.1 shortening the maturity date of the Senior Loan (other than an election to accelerate upon default),

2.1.2 increasing the interest rate charged under the Loan (other than an increase to a default rate and imposition of late charges after default),

2.1.3 except as provided in the Senior Loan Documents, increasing the "Partial Release Amount" (as defined in the Senior Loan Agreement) or other amount required under the Senior Loan Documents in connection with the partial release of the Senior Mortgage as against any Unit or Parking Space in the Project (other than Senior Lender's election to collect and keep all net sales proceeds from Unit or Parking Space sales while an uncured event of default exists under the Senior Loan),

2.1.4 increasing the total amount of the Senior Loan (i.e., the non-revolving principal amount of a non-revolving loan, or the maximum outstanding balance under a revolving credit line loan) by more than 10%, (but additional advances made by Senior Lender to protect its lien or its security, including without limitation, to complete the Project, pay taxes, insurance premiums or after an event of default has occurred shall not constitute a Permissible Modification and shall not require Subordinate Lender's approval, as confirmed in Sections 2.2 below), or

2.1.5 eliminating or curtailing the terms of any notice or cure period afforded to Borrower under the Senior Loan Documents.

2.2 Modifications Not Requiring Consent of Subordinate Lender.

Notwithstanding the limitations set forth in Section 2.1, Subordinate Lender's agreement herein to subordinate its payment rights under the Subordinate Loan Documents shall automatically apply to the following additional advances, extensions, amendments, or other modifications of the Senior Loan Documents, without the need for the consent of Subordinate Lender:

2.2.1 any and all additional advances, extensions, amendments, or other modifications of the Senior Loan Documents or Senior Mortgage that do not constitute or contain any Permissible Modifications as defined in Section 2.1;

2.2.2 after an event of default under the Senior Loan and until such default is completely cured, Senior Lender's election to advance funds sufficient to cure such defaults or to complete the construction, marketing, and sale of all of the Units or Parking Spaces in the Project, even though such additional advances may result in the aggregate amount advanced by Senior Lender exceeding the original principal amount of the Senior Loan or the amount of increase permitted in Section 2.1.3 above;

2.2.3 regardless of whether a default has occurred under the Senior Loan Documents, Senior Lender's election to advance additional funds to preserve or protect the Project and its security in the Project, including but not limited to advances

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to prevent waste or destruction, to pay or prevent liens, to pay taxes, insurance premiums, or other assessments or charges against the Project, to defend Borrower's title or Senior Lender's lien priority, to pay collection costs or other expenses under the Senior Loan Documents, or to address any other risks reasonably perceived by Senior Lender as jeopardizing its security, the Project, or the Senior Loan;

2.2.4 any and all advances, extensions, amendments or other modifications of the Senior Loan Documents for subsequent phases or parcels of the same development as the Project; and/or

2.2.5 any other modification, amendment, deferral, extensions, renewal, or waiver not expressly provided for in Section 2.1.

2.3 Subordinate Lender Representations and Covenants.

Subordinate Lender hereby represents, warrants and certifies to Senior Lender that, as of the date of this Agreement: (i) the documents described on **Exhibit B** attached hereto are all of the Subordinate Loan Documents, true, correct and complete copies of which have been delivered to Senior Lender, and (ii) the Subordinate Loan Documents have not been modified, amended or terminated. Subordinate Lender hereby covenants that, without the prior written consent of Senior Lender, it shall not modify, waive or amend any of the terms or provisions of the Subordinate Loan Documents; provided, however, Subordinate Lender shall have the right, without the consent of Senior Lender in each instance, to enter into any amendment, deferral, extension, modification, increase, renewal, replacement, consolidation, supplement or waiver (collectively, a "Subordinate Loan Modification") of the Subordinate Loan or the Subordinate Loan Documents provided that no such Subordinate Loan Modification shall (i) increase the interest rate or principal amount of the Subordinate Loan, (ii) increase or accelerate in any material respect any monetary obligations of Borrower under the Subordinate Loan Documents (except that Subordinate Lender may, subject to Section 7.1 below, accelerate the Subordinate Loan at the same time the Senior Lender accelerates the Senior Loan (iii) extend or shorten the scheduled maturity date of the Subordinate Loan (except that Subordinate Lender may permit Borrower to exercise any extension options in accordance with the terms and provisions of the Subordinate Loan Documents), (iv) convert or exchange the Subordinate Loan into or for any other indebtedness or subordinate any of the Subordinate Loan to any indebtedness of Borrower, (v) provide for any additional contingent interest, additional interest or so-called "kicker" measured on the basis of the sales price of Units or Parking Spaces, (vi) cross default the Subordinate Loan with any other indebtedness other than the Senior Loan, (vii) extend the period during which voluntary prepayments are prohibited or during which prepayments require the payment of a prepayment fee or premium or yield maintenance charge or increase the amount of any such prepayment fee, premium or yield maintenance charge, (viii) add any events of default under the Subordinate Loan Documents, (ix) shorten any notice and cure periods provided in the Subordinate Loan Documents or (x) accept a grant of any lien on or security interest in any collateral or property of Borrower or any other person not originally granted under the Subordinate Loan Documents or spread the lien and security

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interest of the Subordinate Loan Documents to encumber additional collateral. At least fifteen (15) days prior to any such Subordinate Loan Modification taking effect, Subordinate Lender shall deliver to Senior Lender copies of all documents evidencing such Subordinate Loan Modification, and shall deliver copies of fully executed documents evidencing such Subordinate Loan Modifications within five (5) days of execution. In addition and notwithstanding the foregoing provisions of this Section 2.3, any amounts funded by the Subordinate Lender under the Subordinate Loan Documents as a result of (a) the making of any Protective Advances (hereinafter defined) or other advances by the Subordinate Lender, or (b) interest accruals or accretions and any compounding thereof (including default interest), shall not be deemed to contravene this Section 2. The restrictions in this Section 2 apply to amendments of the Subordinate Loan Documents and not to the exercise of any rights or remedies (e.g. making Protective Advances) or taking effect of any provisions (e.g., imposition of default rates of interest) set forth in the Subordinate Loan Documents. Subordinate Lender hereby specifically acknowledges and agrees that Subordinate Lender's failure to obtain Senior Lender's prior written consent to any modification of the Subordinate Loan Documents, but only to the extent required by this Agreement, will constitute an Event of Default under the Senior Loan Documents. As used herein, "Protective Advances" shall mean all sums advanced for the purpose of protecting the lien of the Subordinate Loan Documents, including without limitation, payments to the Senior Lender to keep the Senior Loan "In-balance", payment of real estate taxes (including special payments in lieu of real estate taxes), maintenance costs, insurance premiums or other items (including capital items) reasonably necessary to protect the Property or the collateral pledged as security for the Subordinate Loan, respectively, from forfeiture, casualty, loss or waste, or as otherwise provided in the Senior Loan Documents, and with respect to the Subordinate Loan, amounts advanced by Subordinate Lender as provided herein.

3. Cross-Default or Cross-Collateralization.

3.1 No Cross-Collateralization with Other Projects. Subject to the clarification in Section 3.3 and regardless of the provisions of the Senior Loan Documents, Senior Lender agrees that so long as the Subordinate Loan has not been fully repaid, then the Project shall constitute collateral only for Borrower's performance of its obligations under the Senior Loan Documents, and the Project shall not constitute collateral for: (i) any other loan made by Senior Lender to Borrower or Borrower's affiliates with respect to properties other than the Project, or (ii) if the Senior Loan includes indebtedness or obligations relating to multiple properties, any portion of such indebtedness and obligations that do not relate to the Project.

3.2 No Cross-Default with Other Projects. Subject to the clarification in Section 3.3 and regardless of the provisions of the Senior Loan Documents, Senior Lender shall not enforce any cross-default provisions in the Senior Loan Documents to exercise any default remedies against the Project solely as a result of defaults that occur under loans other than the Senior Loan.

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3.3 **Cross-Default and Cross Collateralization Between Separate Loans Within Same Development.** Notwithstanding the limitations of Sections 3.1 and 3.2, if the Subordinate Mortgage encumbers multiple phases of the Project, and the Senior Lender makes or has made separate loans with respect to such multiple phases: (i) the Senior Lender shall be entitled to cross-collateralize such separate loans, including the Senior Loan, that are secured by mortgages against the phases that also constitute security for the Subordinate Loan, and (ii) the Senior Lender shall be entitled to cross-default such separate loans and to exercise a default remedy against the Project as a result of defaults under other loans made with respect to the other phases that also constitute security for the Subordinate Loan.

3.4 **No Cross-Collateralization with Other Projects.** Regardless of the provisions of the Subordinate Loan Documents, Subordinate Lender agrees that so long as the Senior Loan has not been fully repaid, then the Project shall constitute collateral only for Borrower's and Guarantor's performance of its obligations under the Subordinate Loan Documents, and the Project shall not constitute collateral for: (i) any other loan made by Subordinate Lender to Borrower or Borrower's affiliates with respect to properties other than the Project, or (ii) if the Subordinate Loan includes indebtedness or obligations relating to multiple properties, any portion of such indebtedness and obligations that do not relate to the Project.

3.5 **No Cross-Default with Other Projects.** Regardless of the provisions of the Subordinate Loan Documents, Subordinate Lender shall not enforce any cross-default provisions in the Subordinate Loan Documents to exercise any default remedies against the Project as a result of defaults do not stem from the Project or that occur under loans other than the Subordinate Loan or with respect to indebtedness or obligations that relate to properties other than the Project.

4. **Partial Releases.**

4.1 Until the Senior Indebtedness is paid in full, Subordinate Lender, shall appoint the Senior Lender as its attorney-in-fact, which power of attorney is coupled with an interest, and Senior Lender and the Title Company shall be authorized to execute and deliver, on behalf of the Subordinate Lender, releases of the Subordinate Mortgage and any other liens created under the Subordinate Loan Documents from individual Units, or other legal parcels of the Property upon the closing of the sale thereof, provided that Subordinate Lender receives, for paydown of the Subordinate Indebtedness, the net proceeds, if any, from the sale of any such Unit or Parking Space after payment of all costs and expenses of such sale and payment to Senior Lender of any amount required under the Senior Loan Documents for the partial release of the Senior Mortgage from such Unit, even if the amount of such paydown is less than the amount required under the Subordinate Loan Documents or if Subordinate Lender receives no paydown whatsoever from such sale.

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4.2 Subordinate Lender's obligation to release the Subordinate Mortgage upon the sale of any Unit or Parking Space shall not be affected by any default under the Senior Loan Documents or any default under the Subordinate Loan Documents. Subordinate Lender acknowledges that Senior Lender would not make the Loan to Borrower without this provision. Subordinate Lender agrees to execute and deliver such instruments as required by the Title Company or Senior Lender for release of Units from the Subordinate Lien in accordance with the requirements of this Section 4 within five business days after written request from Senior Lender, the Title Company, or any escrow agent.

4.3 Until the Senior Indebtedness is paid in full, the consent of the Subordinate Lender shall not be required for the sale of any portions of the Property (including any Unit or Parking Space). The Senior Lender agrees that it will not sell or otherwise transfer the Senior Indebtedness to the Borrower or any affiliate of the Borrower.

5. Dealings Among Lenders and Borrower; Waivers

5.1 In making disbursements under the Senior Loan, Senior Lender has no obligation or duty to, nor has Senior Lender represented that it will, verify the application of any proceeds by the person or persons to whom Senior Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in the Senior Loan Documents shall not defeat or diminish the subordination provided for herein.

5.2 In making disbursements under the Senior Loan, Senior Lender may waive any and all conditions to a disbursement contained in the Senior Loan Documents. Any such waiver shall not defeat the subordination herein in whole or in part.

5.3 Neither Lender has made any representations to the other Lender about Borrower's creditworthiness or the Project, nor is either Lender relying on the underwriting or due diligence investigation of the other Lender.

5.4 The subordination provided for herein shall not be rendered ineffective by Senior Lender's discharge or release of the Borrower or release, substitution, exchange, or surrender of any collateral for the Senior Loan, nor by any elections made by Senior Lender as to the method and manner in which it may proceed against such collateral.

5.5 Subordinate Lender waives its right to claim priority due to the Senior Lender's failure to perfect or renew or continue perfection of liens. Subordinate Lender also waives its right to challenge a foreclosure of the Senior Loan based on characterization of property as real or personal.

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5.6 Subordinate Lender waives any right to be subrogated to the rights of the Senior Lender unless or until Subordinate Lender has paid the entire amount of indebtedness owing under the senior loan.

5.7 Borrower agrees that Subordinate Lender and Senior Lender may communicate directly about any and all matters relating to their respective loans, including, after an event of default under either such loan, communication between the Lenders relating to any default remedies that may be pursued or possible loan restructurings or workout arrangements. Borrower hereby authorizes such communications and waives any and all rights to prior notice of such communications.

6. **Option to Purchase.** Within 30 days after the declaration of an event of Default under the Senior Indebtedness, but prior to exercise the Senior Lender's remedies under Senior Loan Documents, Subordinate Lender shall have the right, at its option, to (i) purchase from the Senior Lender (without any warranty or representation by the Senior Lender except for its ownership of the Senior Indebtedness and the Senior Loan Documents, the amount of the Senior Indebtedness (subject to claims and defenses of the Borrower) and its right and authority to sell the same free of liens and encumbrances) all, but not less than all, of the Senior Indebtedness for a purchase price payable in immediately available funds equal to the full amount of the Senior Indebtedness owing on the date of payment (specifically including, but not limited to, an amount equal to all outstanding letters of credit issued by Senior Lender for the benefit of Borrower pursuant to the Senior Loan Agreement unless such letters of credit are terminated and returned to the Senior Lender), whereupon the Subordinate Lender shall succeed to the rights, and assume all of the obligations, of the Senior Lender under the Senior Loan Documents; or (ii) pay off the Senior Indebtedness in full in immediately available funds equal to the full amount of the Senior Indebtedness owing on the date of payment (specifically including, but not limited to, an amount equal to all outstanding letters of credit issued by Senior Lender for the benefit of Borrower pursuant to the Senior Loan Agreement unless such letters of credit are terminated and returned to the Senior Lender).

7. **Standstill Agreement.**

7.1 Notwithstanding Subordinate Lender's rights under applicable law or any provision of the Subordinate Loan Documents, unless and until the Senior Indebtedness shall have been fully paid and all outstanding commitments of the Senior Lender for the incurring of additional Senior Indebtedness shall have been terminated in writing, the Subordinate Lender will not, without the Senior Lender's prior written consent:

(i) Ask, demand, take or receive any other security from Borrower, Guarantor (as defined in the Loan Agreement), or any affiliate or any member of Borrower, for any of the Subordinate Indebtedness and such security shall be expressly provided for in the Subordinate Lender Loan Documents, as

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modified; provided, however, if such additional liens or security interests are, and shall be, at all times junior and subordinate to the prior liens and security interests of the Senior Lender therein, the Senior Lender's consent shall not be unreasonably withheld;

(ii) Commence or join with any other creditor or creditors of Borrower in commencing any bankruptcy, reorganization, receivership, insolvency or similar proceeding against Borrower;

(iii) Take any action against Borrower or Guarantor or any of either of its or their assets, to enforce payment of, or to collect the whole or any part of the Subordinate Indebtedness, take any action to foreclose or otherwise enforce its lien on any of Borrower's assets, or exercise any other rights or remedies it may have under the Subordinate Lender Loan Documents or under applicable law with respect to Borrower's assets (each, an "Enforcement Activity") provided, however, that in the event Senior Lender shall commence any action to foreclose upon or otherwise enforce its liens upon Borrower's assets, Senior Lender shall name Subordinate Lender as a party defendant in any such action and Subordinate Lender may, at its own expense, participate in and have its lien rights adjudicated in conjunction with such action; provided further, that in connection with any such action Subordinate Lender will at all times recognize the superior position of Senior Lender's liens. This "standstill" is not intended to prevent Subordinate Lender from taking emergency action to protect the security for the Subordinate Loan (such as the making of Protective Advances and tendering payment to the Senior Lender to cure the Borrower's monetary default), so long as Subordinate Lender makes a reasonable effort to give notice of such Protective Advances to Senior Lender and to allow Senior Lender, rather than Subordinate Lender, the opportunity to make the Protective Advances, it being understood that any action or proposal for action by the Senior Lender shall take precedence over any action or proposal for action by the Subordinate Lender.

(iv) Make any amendments or modifications to any of the Subordinate Lender Loan Documents except as provided under Section 2.3 hereof.

7.2 The provisions of this Agreement shall apply with respect to all of the Senior Indebtedness, regardless of whether the Senior Indebtedness has already been incurred or may be incurred in the future by future advances or other financial accommodations made or extended by the Senior Lender to Borrower.

7.3 If the Subordinate Lender, in violation of this Agreement shall commence, prosecute or participate in any suit, action or proceeding against the Borrower of the Guarantor, or shall attempt to enforce, foreclose or realize upon its security interest or lien in the Collateral, the Borrower or the Senior Lender may interpose as a defense or plea the making of this Agreement and the Senior Lender may intervene and interpose

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such defense in its name or in the name of the Borrower or Guarantor, and the Borrower or Guarantor or the Senior Lender may by virtue of this Agreement restrain the enforcement thereof in the name of the Borrower or the Senior Lender.

7.4 Subordinate Lender hereby acknowledges and agrees that the intent and effect of this Agreement is and shall be to afford Senior Lender, in the event of Default under the Senior Lender Loan Documents, sole discretion and control with regard to the operation and disposition of the Senior Lender Collateral then subject to the Senior Lender Loan Documents. To that end, Subordinate Lender hereby covenants and agrees that upon a Default under the Senior Lender Loan Documents, Subordinate Lender shall have no right to receive any notice, except as expressly required by law and/or set forth in Section 8.1 below, and no right to participate in or consent to any negotiations or settlement between Senior Lender and Borrower, and Subordinate Lender shall have no right to interfere with or impede any actions or decisions made, directed or undertaken by Senior Lender with or without the involvement of the Borrower in the workout of the Senior Indebtedness and the Senior Lender Collateral. Without limitation of the generality of the foregoing, Subordinate Lender acknowledges and agrees that if Senior Lender and Borrower agree on the amount of the Senior Indebtedness owing to Senior Lender, such Agreement shall be binding on Subordinate Lender and Subordinate Lender disclaims any right to question or contest or seek an accounting of the amount of the Senior Indebtedness.

8. Notices of Default and Cure Rights.

8.1 Any rights to notice and a cure period given to Borrower in the Senior Loan Documents shall also benefit the Subordinate Lender (if the Subordinate Lender is capable of curing such default), and any rights to notice and a cure period given to Borrower in the Subordinate Loan shall also benefit the Senior Lender. Accordingly, in the event that either Lender issues any written notice of default under its loan to Borrower, it shall provide a copy of such notice to the other Lender, and the other Lender shall have the same right to cure such default as is afforded to Borrower. Failure to provide a copy of such notice or delay in providing such notice shall not invalidate any action or remedy undertaken against Borrower by the Lender issuing such notice of default, but such failure or delay shall operate to extend any cure period or Standstill Period otherwise available to such other Lender under the applicable loan documents.

8.2 Any notices given to any party hereunder shall be given via overnight courier or messenger service, registered mail, return receipt requested, personal service, or facsimile transmission (followed by telephone confirmation of receipt or any of the other permitted methods of giving notice) to the parties at the following addresses, or to such other address as may be designated by such party:

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Senior Lender:

Cole Taylor Bank
5501 W. 79th Street
Burbank, Illinois 60459
Attention: Gerald Eberhardt

With copy to:

Meltzer, Purtill & Stelle, LLC
1515 E. Woodfield Road 2nd Floor
Schaumburg, Illinois 60173
Attention: Allen C. Balk, Esq.

Subordinate Lender:

The Neri Trafalgar Square Limited
Partnership
201 East Ogden Avenue Suite 26
Hinsdale, Illinois 60521
Attention: Bruce McLaren

With copy to:

The Pape Law Firm
100 West Roosevelt Road
Wheaton, Illinois 60187
Attention: Arthur E. Pape, Esq.

Borrower:

Trafalgar Square Condominium, LLC
145 S. Northwest Highway
Park Ridge, Illinois 60068
Attention: Guido C. Neri

With copy to:

DiSilvestro & Associates
5231 North Harlem Avenue
Chicago, Illinois 60656
Attention: Robert DiSilvestro, Esq.

9. **Liquidation or Insolvency.**

9.1 In the event of any liquidation or dissolution of Borrower, or any receivership, insolvency, bankruptcy, liquidation, readjustment, reorganization, or similar proceeding relating to Borrower or any portion of its property, all amounts due under the Senior Loan Documents (including without limitation, post-petition interest accrued under the Senior Loan after Borrower's bankruptcy filing) shall first be paid in full before any payment is made upon or in respect of the obligations under the Subordinate Loan Documents (including without limitation, post-petition interest accrued under the Subordinate Loan after Borrower's bankruptcy filing).

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9.2 Subordinate Lender agrees to vote for any plan of reorganization or insolvency approved by Senior Lender in respect of Borrower in any bankruptcy proceeding respecting Borrower; provided, however, that Senior Lender agrees not to unreasonably withhold or delay its consent to Subordinate Lender's voting for a different plan of reorganization if (i) the different plan is at least as beneficial to Senior Lender (including without limitation with respect to Senior Lender's payment (and time of payment), lien and remedy rights thereunder) as the plan approved by Senior Lender, and (ii) Subordinate Lender agrees in writing (a) that any payments received by Subordinate Lender by virtue of such bankruptcy proceeding will be held by Subordinate Lender in trust for the benefit of Senior Lender until such time as the Senior Loan is satisfied in full, and (b) if the Senior Loan will not be satisfied in full by virtue of such Bankruptcy Proceeding, pay over to Senior Lender the payments so held in trust up to the amount of the deficiency.

10. Insurance and Condemnation Provisions.

10.1 Subordinate Lender hereby subordinates all of its right, title, interest or claim in and to: (i) all proceeds of all policies of insurance covering the Property or insuring the Borrower, and (ii) all awards or other compensation made for any taking of all or any part of the Property, to the rights of Senior Lender in and to such insurance proceeds and condemnation awards.

10.2 So long as any indebtedness remains outstanding under the Senior Loan Documents, Senior Lender shall be exclusively entitled to receive any and all insurance or condemnation awards or proceeds, either for application to such indebtedness or for such repair, reconstruction, or renewal of the Project as Senior Lender shall direct in its sole discretion. If, following any such application or disposition of the insurance proceeds or condemnation awards and other compensation, any balance remains, then such excess shall be made payable to Subordinate Lender, or if Subordinate Lender's rights to receive such proceeds are disputed by the Borrower or other parties, then Senior Lender may either make such excess payable to the joint order of Borrower and Subordinate Lender as their interests may appear under the Subordinate Loan Documents, or Senior Lender may interplead such excess into court for further disposition.

10.3 Subordinate Lender agrees at any time and from time to time to execute such documents as Senior Lender or the insurer may reasonably require to confirm that any rights that Subordinate Lender may have as a loss payee or additional insured are expressly subject and subordinate to the rights of Senior Lender as an additional insured or loss payee. If any insurance or condemnation awards or proceeds are tendered or paid to Subordinate Lender in violation of this Section 8, Subordinate Lender shall immediately transfer such awards or proceeds to Senior Lender.

11. Other Provisions.

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11.1 Subordinate Lender acknowledges having received and reviewed copies of all of the Senior Loan Documents and consents to and approves all of the provisions of each of the Senior Loan Documents and all other agreements.

11.2 This Agreement constitutes the entire agreement between the parties, and shall supersede and cancel any prior agreements regarding the subordination of the Subordinate Loan Documents and any liens or rights created thereunder.

11.3 If any provision of this Agreement is invalid, illegal, or unenforceable, such provision shall be considered severed from the rest of this Agreement and the remaining provisions shall continue in full force and effect as if the invalid provision had not been included.

11.4 This Agreement inures to the benefit of and is binding upon the parties hereto and their respective heirs, successors and assigns.

11.5 This Agreement is construed by and governed in accordance with the laws of the state in which the Project is located.

11.6 Expenses.

11.6.1 To the extent not paid by Borrower or out of or from any collateral securing the Senior Loan which is realized by Senior Lender, Subordinate Lender agrees upon demand to pay to Senior Lender the amount of any and all reasonable expenses, including, without limitation, the reasonable fees and expenses of its counsel and of any experts or agents, which Senior Lender may incur in connection with the (i) exercise or enforcement of any of the rights of Senior Lender against Subordinate Lender hereunder to the extent that Senior Lender is the prevailing party in any dispute with respect thereto or (ii) failure by Subordinate Lender to perform or observe any of the provisions hereof.

11.6.2 To the extent not paid by Borrower out of or from any collateral securing the Subordinate Loan which is realized by Subordinate Lender, Senior Lender agrees upon demand to pay to Subordinate Lender the amount of any and all reasonable expenses, including, without limitation, the reasonable fees and expenses of its counsel and of any experts or agents, which Subordinate Lender may incur in connection with the (i) exercise or enforcement of any of the rights of Subordinate Lender against Senior Lender hereunder to the extent that Subordinate Lender is the prevailing party in any dispute with respect thereto or (ii) failure by Senior Lender to perform or observe any of the provisions hereof.

11.7. Consents.

11.7.1 If the Subordinate Loan Documents contain any provision or requirement that Subordinate Lender's consent or approval be obtained for any

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act or determination by Borrower in connection with the Property, the Project, or the Collateral, Subordinate Lender hereby agrees that it shall advise Senior Lender of whether Subordinate Lender objects to the requested consent or approval within three (3) Business Days after its receipt of (i) a written request for a consent or approval from Borrower and (ii) delivery of all materials reasonably requested by Subordinate Lender and reasonably required to make a decision on such request. Provided that Senior Lender receives a notice of objection along with its suggestions for changes from Subordinate Lender prior to the date, if any, upon which Senior Lender is obligated to respond to Borrower with respect to such request for consent or approval, Senior Lender shall consult with Subordinate Lender with respect to any such consent or approval right of Subordinate Lender but Subordinate Lender shall have no right to approve or disapprove any decision of Senior Lender with respect to such request for consent or approval. Subordinate Lender shall not unreasonably withhold, delay or condition its consent to such act or determination if Senior Lender approves such request, act or determination and such approval shall be binding on the Subordinate Lender and Borrower.

11.8 Estoppel Certificate

11.8.1 Subordinate Lender shall, within ten (10) days following a request from Senior Lender, provide Senior Lender with a written statement setting forth the then current outstanding principal balance of the Subordinate Loan, the aggregate accrued and unpaid interest under the Subordinate Loan, and stating whether to Subordinate Lender's knowledge any default or Event of Default exists under the Subordinate Loan.

11.8.2 Senior Lender shall, within ten (10) days following a request from Subordinate Lender, provide Subordinate Lender with a written statement setting forth the then current outstanding principal balance of the Senior Loan, the aggregate accrued and unpaid interest under the Senior Loan, and stating whether to Senior Lender's knowledge any default or Event of Default exists under the Senior Loan.

11.9 So long as all or any portion of the Senior Loan and the Subordinate Loan remains unpaid and the Senior Mortgage encumbers the Property, Subordinate Lender and Senior Lender will each execute, acknowledge and deliver in recordable form and upon demand of the other, any other instruments or agreements reasonably required in order to carry out the provisions of this Agreement or to effectuate the intent and purposes hereof.

11.10 The parties hereto do not intend the benefits of this Agreement to inure to Borrower or any other Person. This Agreement may not be changed or terminated orally, but only by an agreement in writing signed by the party against whom enforcement of any change is sought. Without limiting the foregoing, if the Subordinate

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Mortgage shall be satisfied, released or otherwise relinquished by Subordinate Lender, the provisions herein related to the Subordinate Mortgage shall not be affected.

11.11 Senior Lender and Subordinate Lender each acknowledge (and waive any defense based on a claim) that monetary damages are not an adequate remedy to redress a breach by the other hereunder and that a breach by either Senior Lender or Subordinate Lender hereunder would cause irreparable harm to the other. Accordingly, Senior Lender and Subordinate Lender agree that upon a breach of this Agreement by the other, the remedies of injunction, declaratory judgment and specific performance shall be available to such nonbreaching party.

11.12 This Agreement may be signed in multiple counterparts with the same effect as if all signatories had executed the same instrument. If counterpart originals are deposited into escrow for recording, the escrow agent may insert and substitute signature and notary pages, as needed, to create a single recordable original agreement, which shall be delivered to the Senior Lender after recording, with a copy to the Borrower and Subordinate Lender.

11.13 Mutual Disclaimer

11.13.1 Each of Senior Lender and Subordinate Lender are sophisticated lenders and/or investors in real estate and their respective decision to enter into the Senior Loan and the Subordinate Loan is based upon their own independent expert evaluation of the terms, covenants, conditions and provisions of, respectively, the Senior Loan Documents and the Subordinate Loan Documents and such other matters, materials and market conditions and criteria which each of Senior Lender and Subordinate Lender deem relevant. Each of Senior Lender and Subordinate Lender has not relied in entering into this Agreement, and respectively, the Senior Loan, the Senior Loan Documents, the Subordinate Loan or the Subordinate Loan Documents, upon any oral or written information, representation, warranty or covenant from the other, or any of the other's representatives, employees, affiliates or agents other than the representations and warranties of the other contained herein. Each of Senior Lender and Subordinate Lender further acknowledges that no employee, agent or representative of the other has been authorized to make, and that each of Senior Lender and Subordinate Lender have not relied upon, any statements, representations, warranties or covenants other than those specifically contained in this Agreement. Without limiting the foregoing, each of Senior Lender and Subordinate Lender acknowledges that the other has made no representations or warranties as to the Senior Loan or the Subordinate Loan or the Property (including, without limitation, the cash flow of the Property, the value, marketability, condition or future performance thereof, the existence, status, adequacy or sufficiency of the leases, the tenancies or occupancies of the Property, or the sufficiency of the cash flow of the Property, to pay all amounts which may become due from time to time pursuant to the Senior Loan or the Subordinate Loan).

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11.13.2 Each of Senior Lender and Subordinate Lender acknowledges that the Senior Loan and the Subordinate Loan are distinct, separate transactions and loans, separate and apart from each other.

12. **Waiver of Trial by Jury.** BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF ANY OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY EACH OF SENIOR LENDER AND SUBORDINATE LENDER IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

13. **Governing Law.** HIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS IS LOCATED (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY COURT OF COMPETENT JURISDICTION LOCATED IN THE STATE OF ILLINOIS IN CONNECTION WITH ANY PROCEEDING OUT OF OR RELATING TO THIS AGREEMENT.

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EXECUTED as of the date set forth above.

Subordinate Lender: THE NERI TRAFALGAR SQUARE LIMITED PARTNERSHIP, an Illinois limited partnership

By: PCHT Home Investors, Inc., an Illinois corporation,
Its: General Manager

By _____
Name _____
Its _____

Senior Lender: COLE TAYLOR BANK,
an Illinois banking corporation

By: [Signature]
Its: Assistant Vice President

Borrower: TRAFALGAR SQUARE CONDOMINIUM, LLC,
an Illinois limited liability company

By: TSCM, INC., an Illinois corporation
Its: Manager

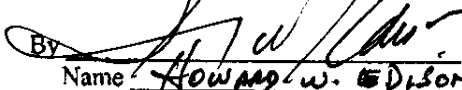
By: [Signature]
Name: Guido P. Liari
Its: PRESIDENT

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EXECUTED as of the date set forth above.

Subordinate Lender: THE NERI TRAFALGAR SQUARE LIMITED PARTNERSHIP, an Illinois limited partnership

By: PCHT Home Investors, Inc., an Illinois corporation,
Its: General Manager

By: 
Name: HOWARD W. EDISON
Its: Vice President

Senior Lender: COLE TAYLOR BANK,
an Illinois banking corporation

By: _____
Its: _____

Borrower: TRAFALGAR SQUARE CONDOMINIUM, LLC,
an Illinois limited liability company

By: TSCM, INC., an Illinois corporation
Its: Manager

By: _____
Name: _____
Its: _____

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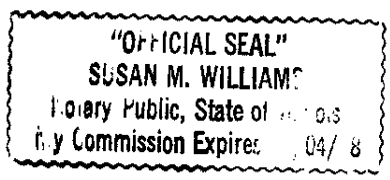
STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for and residing in said County and State, do hereby certify that HEWALA W. EDISON, the Vice President of PCHT HOME INVESTORS, INC., an Illinois corporation, the General Partner of THE NERI TRAFALGAR SQUARE LIMITED PARTNERSHIP, an Illinois limited partnership ("Subordinate Lender") who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said General Partner, on behalf of Subordinate Lender for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28 day of July, 2005.

Susan M. Williams
Notary Public

My Commission Expires: 08/24/08



Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for and residing in said County and State, KTP do hereby certify that Renee Meulner, the KTP of COLE TAYLOR BANK, an Illinois banking corporation, ("Senior Lender") who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said Senior Lender for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27 day of July, 2005.

Cheryl Travis
Notary Public

My Commission Expires: _____



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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for and residing in said County and State, do hereby certify that Guido C. Neri, the President of TSCM, Inc., an Illinois corporation, the Manager of TRAFALGAR SQUARE CONDOMINIUM, LLC, an Illinois limited liability company, ("**Borrower**"), who is personally known to me to be same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said Manager, on behalf of Borrower, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28 day of July, 2005.



 Notary Public

My Commission Expires: _____



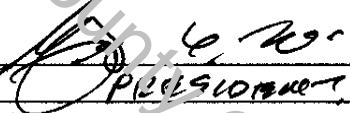
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JOINDER OF BORROWER AND GUARANTOR.

The undersigned TRAFALGAR CONDOMINIUM, LLC, an Illinois limited liability company (being the Borrower as defined in the foregoing Agreement), and GUIDO C. NERI (being the Guarantor as defined in the Senior Loan Documents), hereby join in the foregoing Agreement, consent to the provisions thereof, agree not to make any payment, or cause or permit any act to occur, that is inconsistent with the provisions of said Agreement, agree that until such time as the Subordinate Loan has been fully paid and performed, in the event of any conflict between said Agreement and the Senior Loan Documents, said Agreement shall control, and agree that until such time as Senior Loan Payoff has occurred, as between the undersigned and the Subordinate Lender, in the event of any conflict between said Agreement and the Subordinate Loan Documents, said Agreement shall control.

TRAFALGAR SQUARE CONDOMINIUM, LLC,
an Illinois limited liability company

By: TSCM, Inc., an Illinois corporation
Its: Manager

By: 
Its: PROXYHOLDER

GUARANTOR:

 4. 15

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOT 25 IN TRAFALGAR SQUARE, BEING A RESUBDIVISION OF PARTS OF SECTION 20, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 25, 2005 AS DOCUMENT NUMBER 0520644060, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE PERPETUAL EASEMENT IN FAVOR OF PARCEL NOTED ABOVE AS CREATED BY DECLARATION OF EASEMENTS FOR TRAFALGAR SQUARE OF MORTON GROVE DATED JUNE 1, 2005 AND RECORDED JUNE 30, 2005 AS DOCUMENT NUMBER 052102246 MADE BY AND BETWEEN NORTHERN TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 28, 1992 AND KNOWN AS TRUST NUMBER 9051, SEVEN M'S LIMITED PARTNERSHIP-II, AN ILLINOIS LIMITED PARTNERSHIP, LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 12, 1987 AND KNOWN AS TRUST NUMBER 6306 AND SEVEN M'S LIMITED PARTNERSHIP, AN ILLINOIS LIMITED PARTNERSHIP, FOR ACCESS, INGRESS AND EGRESS, OVER AND ACROSS THE "AUSTIN AVENUE EASEMENT AREA", AS LEGALLY DESCRIBED ON EXHIBIT D THERETO.

Commonly known as: 6245 N. Lincoln Ave., Morton Grove, IL 60053
Permanent Index No.: 10-20-121-021; 10-20-121-022; 10-20-121-023; 10-20-121-024;
10-20-121-026; 10-20-121-027; 10-20-121-029.