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Doc#: 0924626003 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/03/2009 08:06 AM Pg: 1 of 10

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

MELTZER PURTILL & STELLE LLC
300 S. Wacker Drive, Suite 3500
Chicago, Illinois 60606
Attn: William J. Mitchell, Esq.

Permanent Real Estate Tax No.:
See Exhibit A and Exhibit B

Property Address
See Exhibit A and Exhibit B

8370294

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CROSS-DEFAULT AND CROSS-COLLATERALIZATION AGREEMENT

THIS CROSS-DEFAULT AND CROSS-COLLATERALIZATION AGREEMENT ("Agreement") is made this 1st day of February, 2009, by and among TRC 945 CALIFORNIA, LLC, an Illinois limited liability company ("TRC California"), 946-950 W. CULLERTON, LLC, an Illinois limited liability company ("Cullerton") (TRC California and Cullerton are hereinafter collectively referred to as "Borrower"), and MIDWEST BANK AND TRUST COMPANY, its successors and assigns (the "Bank").

RECITALS:

A. Bank has heretofore made a loan ("California Loan") to TRC California in the principal amount of Eight Hundred Twenty-Five Thousand and 00/100 Dollars (\$825,000.00) pursuant to the terms of that certain Business Loan Agreement dated as of December 8, 2004 between TRC California and Bank (as amended from time to time, the "California Loan Agreement"), and as evidenced by a Promissory Note dated December 8, 2004, in the principal amount of the California Loan made payable by TRC California to the order of Bank (as amended from time to time, the "California Note"). The California Note is secured by, among other things, (i) that certain Mortgage recorded with the Cook County Recorder of Deeds (the "Recorder's Office") on January 10, 2005 as Document No. 0501002337 (the "California Mortgage") given by TRC California to and for the benefit of Bank which California Mortgage encumbers the real property more particularly described on **Exhibit A** attached hereto (the "California Premises"); (ii) that certain Assignment of Rents dated December 8, 2004 and recorded with the Recorder's Office on January 10, 2005 as Document No. 0501002338 (the "California Assignment of Rents") given by TRC California to and for the benefit of Bank which encumbers the rents, issues and profits from the California Premises and TRC California's interest in any leases on the California Premises; (iii) that certain Guaranty dated December 8, 2004 from Thomas Hayes to Bank (the "Hayes California Guaranty"); (iv) that certain Guaranty dated December 8, 2004 from Robert R. Last to Bank (the "Last California Guaranty"); (v) that certain Guaranty dated December 8, 2004 from Claudia Langman to Bank (the "Langman California Guaranty"); (vi) that certain Guaranty dated December 8, 2004 from TRC Holdings,

BOX 333-CT

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LLC to Bank (the "TRC Holdings California Guaranty") (the Hayes California Guaranty, Last California Guaranty, Langman California Guaranty and TRC Holdings California Guaranty are hereinafter collectively referred to as the "California Guaranty" or the "California Guaranties", as the context requires); and (vi) certain other loan documents.

B. Pursuant to the terms of that certain First Modification of Loan Documents of even date herewith between TRC California and Bank (the "California Modification"), TRC California and Bank have agreed to amend the California Loan in order to, among other things, (i) extend the Maturity Date from December 8, 2009 to January 15, 2011; (ii) reduce the amount of the California Loan; (iii) revise the Interest Rate (as defined in the California Modification); (iv) revise the amount due from TRC California to Bank each month in order to pay down the California Loan; and (v) cross-collateralize the California Loan with the Cullerton Loan (hereinafter defined) pursuant to the terms of this Agreement.

C. The California Loan Agreement, the California Note, the California Guaranties, the California Modification, the California Mortgage, the California Assignment of Rents and the other documents evidencing, securing and guarantying the California Loan, in their original form and as amended, are sometimes collectively referred to herein as the "California Loan Documents", and the collateral in which the liens and security interests are granted to the Bank under the California Mortgage, and California Assignment of Rents is hereinafter referred to as the "California Collateral".

D. Bank has also heretofore made a loan ("Cullerton Loan") to Cullerton in the principal amount of Two Million Sixty-Six Thousand Five Hundred Forty-Seven and 00/100 Dollars (\$2,066,547.00) pursuant to the terms and conditions of a Construction Loan Agreement dated as of February 12, 2007 between Cullerton and Bank (as amended from time to time, the "Cullerton Loan Agreement"), and as evidenced by as evidenced by a Promissory Note dated February 12, 2007, in the principal amount of the Cullerton Loan made payable by Cullerton to the order of Bank (as amended from time to time, the "Cullerton Note"). The Cullerton Note is secured by, among other things, (i) that certain Construction Mortgage dated February 12, 2007 and recorded with the Recorder's Office on March 22, 2007 as Document No. 0708133202 (the "Cullerton Mortgage") given by Cullerton to and for the benefit of Bank which Mortgage encumbers the real property more particularly described on **Exhibit B** attached hereto (the "Cullerton Premises"); (ii) that certain Assignment of Rents dated February 12, 2007 and recorded with the Recorder's Office on March 22, 2007 as Document No. 0708133203 (the "Assignment of Rents") given by Cullerton to and for the benefit of Bank which encumbers the rents, issues and profits from the Cullerton Premises and Cullerton's interest in any leases on the Cullerton Premises; (iii) that certain Guaranty dated February 12, 2007 from Thomas Hayes to Bank (the "Hayes Cullerton Guaranty"); (iv) that certain Guaranty dated February 12, 2007 from Last to Bank (the "Last Cullerton Guaranty"); (v) that certain Guaranty dated February 12, 2007 from Langman to Bank (the "Langman Cullerton Guaranty") (the Hayes Cullerton Guaranty, Last Cullerton Guaranty, and Langman Cullerton Guaranty are hereinafter collectively referred to as the "Guaranty" or the "Guaranties", as the context requires); (vi) that certain Guaranty dated February 12, 2007 from Richard W. Kedzior to Bank (the "Kedzior Guaranty"); and (vii) certain other loan documents.

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E. Pursuant to the terms of that certain First Modification of Loan Documents of even date herewith between Cullerton and Bank (the "Cullerton Modification"), Cullerton and Bank have agreed to amend the Cullerton Loan in order to, among other things, (i) extend the Maturity Date from February 10, 2009 to January 15, 2011; (ii) reduce the amount of the Cullerton Loan; (iii) revise the Interest Rate (as defined in the Cullerton Modification); (iv) require Tax Deposits (as defined in the Cullerton Modification) to be made with Bank; (v) revise the Release Price (as defined in the Cullerton Modification) due to Bank upon the sale of any Unit (as defined in the Cullerton Modification); (vi) terminate and release the Kedzior Guaranty and (vii) cross-collateralize the Cullerton Loan with the California Loan pursuant to the terms of this Agreement.

F. The Cullerton Loan Agreement, the Cullerton Note, the Cullerton Mortgage, the Cullerton Assignment of Rents, the Cullerton Guaranties, the Cullerton Modification and the other documents evidencing, securing and guarantying the Cullerton Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Cullerton Loan Documents", and the collateral in which the liens and security interests are granted to the Bank under the Cullerton Mortgage and the Cullerton Assignment of Rents is hereinafter referred to as the "Cullerton Collateral".

J. The Bank has required that as a condition precedent to its amending the California Loan and Cullerton Loan (collectively, the "Loans") and executing the California Modification and Cullerton Modification (collectively, the "Modifications"), the parties hereto enter into this Agreement so that the California Note and Cullerton Note are cross-collateralized and cross-defaulted, such that (i) an "Event of Default" under either the California Loan Documents or Cullerton Loan Documents will be and constitute such an event under any of the California Loan Documents or Cullerton Loan Documents, and (ii) each and every item of the California Collateral shall be pledged by TRC California as a part of the Cullerton Collateral and each and every item of the Cullerton Collateral shall be pledged by Cullerton as a part of the California Collateral.

K. In order to induce the Bank to amend the Loans and execute the Modifications, TRC California and Cullerton have agreed to enter into this Agreement to provide for the cross-collateralization and cross default of all obligations owing at any time from TRC California and Cullerton to the Bank.

ACCORDINGLY, and in consideration of the foregoing recitals, each of which is made a contractual part hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Cross Default.** An "Event of Default" under the California Loan Documents shall be and constitute an "Event of Default" under the Cullerton Documents, an "Event of Default" under the Cullerton Loan Documents shall be and constitute an "Event of Default" under the California Loan Documents, upon any of which events, the Bank may, in its sole and absolute discretion, elect to accelerate the California Note and/or Cullerton Note and elect to enforce such remedies as are available under the terms of the California Loan Documents and Cullerton Loan Documents.

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2. **Cross Collateralization.** (i) TRC California hereby grants a security interest in, hypothecate, mortgage, assign and pledge to Bank each and every item of the California Collateral as collateral security for the repayment of the Cullerton Note and the performance of the covenants and agreements under the Cullerton Loan Documents, and (ii) Cullerton hereby grants a security interest in, hypothecate, mortgage, assign and pledge to Bank each and every item of the Cullerton Collateral as collateral security for the repayment of the California Note and the performance of the covenants and agreements under the California Loan Documents. Such security interests, assignments and pledges shall permit Bank to exercise any and all rights of enforcement and remedies afforded under any or all of the California Loan Documents and/or Cullerton Loan Documents or otherwise as a "secured party" under the Illinois Uniform Commercial Code in effect from time to time and as a mortgagee under the Illinois Mortgage Foreclosure Act, together with any and all other rights and remedies otherwise provided and available to a secured party and/or mortgagee at law or in equity as of the date of this Agreement or the date of any such Event of Default. The Bank shall have the right to file, record and/or lodge with appropriate agencies of government or otherwise evidence of the security interests, assignment and pledge hereunder, including, without limitation, recording this Agreement in the real estate records of Cook County, Illinois, and TRC California and Cullerton agree to promptly execute and deliver financing statements and such other documents and instruments from time to time as Bank shall reasonably require to evidence and/or perfect such security interests, assignment and pledge given hereunder.

3. **Successors and Assigns.** This Agreement, and the terms, conditions and obligations hereunder, shall be binding upon, and inure to the benefit of, the successors and assigns of each of the parties hereto.

4. **Enforceability.** If any provision of this Agreement or any document evidencing and/or securing the loans described herein or the application thereof to any entity or circumstance is held invalid or unenforceable, the remainder of this Agreement, such documents and the application thereof to such entity or circumstance will not be affected thereby and the provisions of this Agreement, and such documents shall be severable in any such instance.

5. **Governing Law.** This Assignment shall be governed by and construed in accordance with the substantive laws of the State of Illinois.

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IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

946-950 W. CULLERTON, LLC, an Illinois limited liability company

TRC 945 CALIFORNIA, LLC, an Illinois limited liability company

By: C. Langman Development, Inc., its Manager

By: TRC Holdings, LLC, its Member

By: C. Langman Development
Name: Charles Langman Inc
Title: President/Manager

By: Thomas W. Hayes
Name: THOMAS W. HAYES
Title: Member

MIDWEST BANK AND TRUST COMPANY

By: _____
Name: _____
Its: _____

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IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

946-950 W. CULLERTON, LLC, an Illinois limited liability company

TRC 945 CALIFORNIA, LLC, an Illinois limited liability company

By: C. Langman Development, Inc., its Manager

By: TRC Holdings, LLC, its Member

By: C. Langman Development
Name: C. Langman Inc
Title: President/Manager

By: Thomas W. Hayes
Name: THOMAS W. HAYES
Title: Member

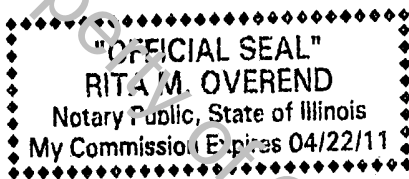
MIDWEST BANK AND TRUST COMPANY

By: Dan Stokes
Name: DAN STOKES
Its: Senior Vice President

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Claudia Langman C. Langman Development of C. Langman Development, Inc., the Manager of 946-950 W. CULLERTON, LLC, an Illinois limited liability company (the "Company"), 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 own free and voluntary act and the free and voluntary act of the Company for the uses and purposes therein set forth.



[Seal]

Rita M. Overend
Notary Public

My commission expires: _____

Dated: May 22, 2009

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that THOMAS W HAYES Member of TRC Holdings LLC, the Member of TRC 945 CALIFORNIA, LLC, an Illinois limited liability company (the "Company"), 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 own free and voluntary act and the free and voluntary act of the Company for the uses and purposes therein set forth.



[Seal]

Rita M. Overend
Notary Public

My commission expires: _____

Dated: May 22, 2009

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EXHIBIT A

CALIFORNIA PREMISES

LOTS 12, 13, 14, 15 AND 16 IN BLOCK 2 IN TAYLOR AND CANDAS SUBDIVISION OF THE WEST ½ OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

935-945 N. California
Chicago, IL

16-01-416-010

16-01-416-011

16-01-416-012

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EXHIBIT B

CULLERTON PREMISES

LOTS 36, 37 AND 38 IN BLOCK 13 IN WALSH AND MCMULLEN'S SUBDIVISION OF THE SOUTH $\frac{3}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

17-20-424-028

17-20-424-029

946-950 W. Cullerton
Chicago, IL