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Doc#: 0929931002 Fee: \$48.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 10/26/2009 01:16 PM Pg: 1 of 7

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Property of Cook County  
Covenants, Conditions + Restrictions  
Prepared by + Return to:  
Amalgamated Bank of Chicago  
One W. Monroe  
Chicago, IL 60603  
Recorder's Office

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## COVENANT AND CONDITIONS AGREEMENT

Dated as of **October 15, 2009**

This Covenant and Conditions Agreement (as modified from time to time, the "Agreement") has been executed by **GREENLOT LLC**, an Illinois limited liability company ("Borrower"), and **DAVID CRAWFORD**, a natural person and the sole member of Borrower ("Guarantor"), each with an address c/o D2 Realty Services, Inc., 701 South Wells Street, Apt. 904, Chicago, Illinois 60607, in favor of **AMALGAMATED BANK OF CHICAGO**, an Illinois banking corporation (together with any successor, assign or subsequent holder, "Lender"), with a banking office at One West Monroe Street, Chicago, Illinois 60603. If more than one person or entity executes this Agreement, their obligations hereunder shall be joint and several.

### RECITALS:

A. Royal Savings Bank ("Royal Savings") made a loan to BRIC/Springfield LLC ("BRIC") evidenced by (i) a certain Business Loan Agreement dated as of November 29, 2007 (the "BRIC Loan Agreement") between BRIC and Royal Savings, and (ii) a certain Promissory Note dated as of November 29, 2007 (the "BRIC Note") made by BRIC in favor of Royal Savings in the original principal amount of \$2,755,000, and secured by (iii) a certain Mortgage dated November 29, 2007 (the "Green Street Mortgage") made by BRIC in favor of Royal Savings mortgaging certain real property located at 308-20 South Green Street, Chicago, Illinois (the "Green Street Property"), (iv) a certain Assignment of Rents dated as of November 29, 2007 (the "Green Street Assignment of Rents") made by BRIC in favor of Royal Savings, (v) a certain Mortgage dated November 29, 2007 (the "Layton Mortgage") made by Layton Square II L.P. a/k/a Layton Square II Limited Partnership ("Layton") in favor of Royal Savings mortgaging certain real property located in Milwaukee County, Wisconsin (the "Layton Property"), and (vi) a certain Assignment of Rents dated November 29, 2007 (the "Layton Assignment of Rents") made by Layton in favor of Royal Savings (the BRIC Loan Agreement, BRIC Note, Green Street Mortgage, Green Street Assignment of Rents, Layton Mortgage and Layton Assignment of Rents, together with the Guaranties described below and all instruments and documents executed or delivered by BRIC in connection therewith, are collectively referred to as the "BRIC Loan Documents").

B. The payment of BRIC's obligations to Royal Savings were guaranteed by David Heyes and Paula Heyes (collectively the "BRIC Guarantors") pursuant to certain Commercial Guaranties dated as of November 29, 2007, respectively (the "Guaranties").

C. On or about January 9, 2009, the BRIC Guarantors filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code") with the United States Bankruptcy Court of the Western District of Wisconsin (the "Bankruptcy Court").

D. On or about June 8, 2009, BRIC filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the Bankruptcy Court.

E. The Green Street Property is further subject to (i) a certain Mortgage recorded on January 30, 2007 (as amended from time to time, the "National Bank Mortgage") made by BRIC in favor of The National Bank ("National Bank") securing indebtedness in the original stated amount of \$1,850,000, and (ii) a certain Mortgage recorded on June 25, 2008 (the "Crawford Mortgage") made by BRIC in favor of Guarantor securing indebtedness in the original stated amount of \$400,000.

F. Borrower has entered into an Assignment of Note, Mortgage and Obligations dated as of September 29, 2009 (the "Assignment Agreement") with Royal Savings pursuant to which Borrower has

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agreed to acquire, and Royal Savings has agreed to assign to Borrower all of Royal Savings' right, title and interest in and to the BRIC Loan Documents for the sum of \$1,800,000 (the "Purchase Price").

G. Upon acquiring the BRIC Loan Documents, Borrower intends to use its best efforts to acquire the Green Street Property pursuant to a sale under Section 363 of the Bankruptcy Code (the "363 Sale") in which Borrower will credit bid an amount up to the amount of the indebtedness under the BRIC Loan Documents.

H. Borrower has requested that Lender lend to Borrower the sum of \$1,110,000 to finance the acquisition of the BRIC Loan Documents, and Lender's willingness to finance such acquisition is subject to various terms, conditions and provisions set forth herein.

In consideration of Lender's extension of new financial accommodations or continuation of existing financial accommodations to Borrower, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Obligors agree as follows:

## 1. DEFINITIONS, DURATION OF AGREEMENT.

(a) Terms used and not otherwise defined in this Agreement have the meanings set forth in the Promissory Note dated the date of this Agreement executed by Borrower in favor of Lender, as amended, restated, renewed or replaced from time to time (individually and collectively, the "Note").

(b) As used in this Agreement, unless otherwise specified: the terms "Obligor" and "Obligors" means Borrower and/or Guarantor;" the term "days" means "calendar days"; and terms such as "herein," "hereof" and words of similar import refer to this Agreement as a whole. References herein to members of a limited liability company mean persons or entities owning or holding membership interests in such limited liability company. Unless otherwise defined herein, all terms (including those not capitalized) that are defined in the Uniform Commercial Code of Illinois shall have the same meanings herein as in such Code, as such Code may be amended from time to time. Unless the context requires otherwise, wherever used herein the singular shall include the plural and vice versa, and the use of one gender shall also denote the others. Captions herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof; references herein to sections or provisions without reference to the document in which they are contained are references to this Agreement.

(c) This Agreement shall remain in effect until all obligations under the Note executed by Borrower in favor of Lender, as amended, restated renewed or replaced from time to time, are paid and fulfilled in full and until there is no longer in effect any commitment or other credit facility of any kind extended by Lender to or for the benefit of Borrower.

## 2. CONDITIONS TO LOANS.

(a) Without limiting any term, condition or provision set forth in the Note or any Loan Document, the obligation of the Lender to make the Loan evidenced by the Note is subject to the satisfaction of the following conditions:

(i) At the time of the Loan, Lender shall have received [A] counterparts, duly executed by Borrower, of the Note, a Commercial Pledge Agreement, collaterally assigning the BRIC Loan Documents to Lender, in form and substance satisfactory to Lender, each other Loan Document and such certificates, resolutions and other deliveries the Lender may reasonably request, and [B] a Guaranty, duly executed by Guarantor, in form and substance satisfactory to Lender.

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(ii) Lender shall have received all fees, expenses and other amounts for which invoices have been presented on or prior to such date.

(iii) Borrower shall simultaneously acquire from Royal Savings all of Royal's right, title and interest in the BRIC Loan Documents pursuant to and in accordance with the terms of the Assignment Agreement.

(iv) There shall have been filed with Bankruptcy Court on or before October 9, 2009 a motion and a draft order, in form and substance acceptable to Lender, to approve the sale of the Green Street Property, free and clear of liens, claims and encumbrances, to Borrower under Section 363 of the Bankruptcy Code, based on a credit bid by Borrower;

(v) With respect to the Green Street Property, Lender shall have received [A] an appraisal satisfactory to Lender in its sole discretion, by a firm or appraiser approved by Lender, [B] a copy of a phase I environmental report, which report is satisfactory to Lender, [C] a mortgage title insurance commitment from a title insurance company satisfactory to Lender, which shall disclose no liens on the Green Street Property other than the liens referred to in the recitals or otherwise approved by Lender, and [D] an ALTA survey.

(vi) With respect to a condominium owned by Guarantor at 701 South Wells Street, Apt. 904, Chicago, Illinois (the "Condominium Property"), (a) Lender may require an updated appraisal satisfactory to Lender in its sole discretion, by a firm or appraiser approved by Lender, and [B] Lender shall have received a mortgage title insurance commitment from a title insurance company satisfactory to Lender, which shall disclose only a first mortgage lien on the Condominium Property securing indebtedness in an amount not exceeding \$650,000.

(vii) With respect to the National Bank Mortgage on the Green Street Property, Lender shall have reviewed evidence, satisfactory to Lender, that National Bank has executed and delivered into escrow a release of the National Bank Mortgage on the Green Street Property simultaneously with Borrower's execution and delivery into escrow of a release by Borrower of the Layton Mortgage and Layton Assignment of Rents.

(viii) Lender shall have received a certificate of the [Manager/sole Member] of Borrower, dated the closing date, attaching Borrower's articles of organization, a true and complete copy of its operating agreement, and a certificate of good standing from the Secretary of State of the jurisdiction of its organization.

(ix) Lender shall have received results of a search of the UCC (or equivalent) filings made and tax and judgment lien searches with respect to Borrower and Guarantor, with results satisfactory to Lender.

(x) There shall be no lease of the Green Street Property with Jackson Green LLC or any other third party in existence or in effect, and no party currently parking at the Green Street Property shall have any right to park thereon that is not terminable upon 30 days' written notice, unless approved by Lender in its sole discretion.

(b) In addition to the satisfaction of the conditions set forth in Section 2(a) above, the obligation of Lender to make the Loan evidenced by the Note is subject to the satisfaction of the following additional conditions:

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(i) At the time of such borrowing, no Event of Default or default shall have occurred and be continuing;

(ii) The representations and warranties of Borrower set forth in the Note and the Loan Documents shall be true and correct in all material respects on and as of such date.

**3. COVENANTS.** Until all obligations of Borrower under the Note and the Loan Documents are paid in full:

(a) Borrower will use its best efforts (and Guarantor will cause Borrower to use its best efforts) to acquire the Green Street Property by making a credit bid in the 363 Sale conducted pursuant to the motion approved by Lender.

(b) If Borrower is the purchaser of the Green Street Property following entry of an order of the Bankruptcy Court that has become final and nonappealable pursuant to the 363 Sale, (i) Borrower will immediately execute and deliver to Lender a first mortgage on the Green Street Property and a first assignment of all leases and rents in connection therewith, each in form and substance satisfactory to Lender, and will deliver an ALTA extended coverage mortgage title insurance policy (with standard exceptions deleted and endorsements satisfactory to Lender) from a title insurance company acceptable to Lender, which policy shall be in such amount as Lender may require and (ii) Borrower will collaterally assign to Lender all of Borrower's right, title and interest in and to any lease of the Green Street Property entered into between Borrower and third party approved by Lender (provided that Borrower shall not enter into any such lease without the prior written approval of Lender).

(c) If Borrower is not the successful bidder in the 363 Sale, Borrower will immediately remit to Lender, or direct BRIC, in its capacity as debtor-in-possession, to remit directly to Lender, the net proceeds of the 363 Sale otherwise payable to Borrower as assignee of the BRIC Loan Documents.

(d) Borrower agrees not to incur, permit to remain outstanding, assume or in any way become committed for indebtedness in respect of borrowed money, except (i) indebtedness incurred under the Loan Documents to Lender, and (ii) unsecured accounts payable arising in the ordinary course of Borrower's business.

(e) Borrower agrees not to create, suffer or permit to exist any lien or encumbrance of any kind or nature upon any of its assets now or hereafter owned or acquired, but this section shall not be deemed to apply to: (i) tax liens or other similar liens or charges arising out of Borrower's business activities, provided that tax liens are removed before related taxes become delinquent and other liens are promptly removed, in either case unless contested in good faith and by appropriate proceedings, and as to which adequate reserves shall have been established and no foreclosure, sale or similar proceedings have commenced; and (ii) liens in favor of Lender.

**4. FAILURE TO COMPLY WITH THIS AGREEMENT.** Any failure to comply with this Agreement shall be and be deemed an Event of Default under or as defined in the Note and any other document or instrument evidencing or securing any loan extended by Lender to Borrower, subject to any applicable notice, grace or cure period.

**5. NOTICES.** All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made five business days after a record has been deposited in the mail, postage prepaid, or one business day after a record has been deposited with a recognized overnight courier, charges prepaid or to be billed to the sender, or on the day of delivery if delivered by email (with the sending party receiving an electronic delivery receipt or written acknowledgement from the recipient

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or recipient's agent) manually with receipt acknowledged, in each case addressed or delivered if to Lender to its banking office indicated above (Attention: \_\_\_\_\_) and if to either Obligor to its or his address set forth above, or to such other address as may be hereafter designated in writing by the respective parties hereto by a notice in accordance with this Section.

**6. MISCELLANEOUS.** This Agreement, the Loan Documents, and any document or instrument executed in connection herewith or therewith, unless in each case otherwise specifically provided therein: (i) shall be governed by and construed in accordance with the internal law of the State of Illinois, except to the extent if any that the Uniform Commercial Code of the State of Illinois provides for the application of the law of a different State; and (ii) shall be deemed to have been executed in the State of Illinois. This Agreement shall bind each Obligor, its or his heirs, trustees (including successor and replacement trustees), executors, personal representatives, successors and assigns, and shall inure to the benefit of Lender, its successors and assigns, except that no Obligor may transfer or assign any rights or obligations hereunder without the prior written consent of Lender. Borrower agrees to pay upon demand all expenses (including attorneys' fees, legal costs and expenses, and time charges of attorneys who may be employees of Lender, in each case whether in or out of court, in original or appellate proceedings or in bankruptcy) incurred or paid by Lender or any holder hereof in connection with the enforcement or preservation of its rights hereunder, under any Loan Document or under any document or instrument executed in connection herewith or therewith. If there shall be more than one person or entity executing this Agreement, each of them shall be primarily, jointly and severally liable for all obligations hereunder. This Agreement may be executed in two or more counterparts, and (if there is more than one party) by each party on separate counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

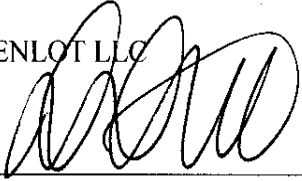
**7. WAIVERS.** Lender may, by written notice to Obligors, at any time and from time to time, waive any Event of Default or default, which shall be for such period and subject to such conditions as shall be specified in any such notice. In the case of any such waiver, Lender and Obligors shall be restored to their former position and rights hereunder, and any Event of Default or default so waived shall be deemed to be cured and not continuing; but no such waiver shall extend to or impair any subsequent or other Event of Default or default. No failure to exercise, and no delay in exercising, on the part of Lender of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of Lender herein provided are cumulative and not exclusive of any rights or remedies provided by law.

**8. WAIVER OF JURY TRIAL, ETC. EACH OBLIGOR AND (BY ITS ACCEPTANCE HEREOF AS PROVIDED BELOW) LENDER HEREBY IRREVOCABLY AGREE THAT ALL SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT TO, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY RELATED DOCUMENT SHALL BE SUBJECT TO LITIGATION IN COURTS HAVING SITUS WITHIN OR JURISDICTION OVER THE STATE OF ILLINOIS AND THE COUNTY IN SUCH STATE WHERE THE ABOVE-INDICATED OFFICE OF LENDER IS LOCATED. EACH OBLIGOR AND (BY ITS ACCEPTANCE HEREOF AS PROVIDED BELOW) LENDER HEREBY CONSENT AND SUBMIT TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED IN OR HAVING JURISDICTION OVER SUCH COUNTY AND STATE, AND HEREBY IRREVOCABLY WAIVE ANY RIGHT THEY OR ANY OF THEM MAY HAVE TO REQUEST OR DEMAND TRIAL BY JURY, TO TRANSFER OR CHANGE THE VENUE OF ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION, OR TO CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.**

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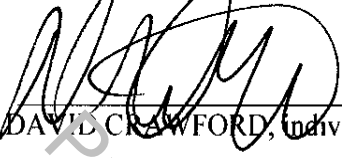
**BORROWER:**

GREENLOT LLC

By: 

Name: David Crawford

Title: SOLE MEMBER/MANAGER

  
DAVID CRAWFORD, individually

**ACCEPTED:**

AMALGAMATED BANK OF CHICAGO

By: 

Name: Paul Mueller, Sr.

Title: VICE PRESIDENT

[Signature page to Covenant and Conditions Agreement]