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Doc#: 1217442089 Fee: \$62.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/22/2012 11:21 AM Pg: 1 of 13

**PREPARED BY:**

Julie L. Kaminski  
Wolin & Rosen, Ltd.  
55 West Monroe  
Suite 3600  
Chicago, Illinois 60603

**WHEN RECORDED, RETURN TO:**

Edward Fitzgerald  
The National Republic Bank of Chicago  
1201 West Harrison Street  
Chicago, Illinois 60607

**CROSS-GUARANTY, CROSS-DEFAULT,  
CROSS-COLLATERALIZATION AND CONTRIBUTION AGREEMENT**

Dated as of: June 7, 2012

County: Cook

Loan No.: 6216100

**Property Address:**

6055-59 South Ashland Avenue  
Chicago, Illinois

PIN: 20-17-308-046-0000  
20-17-308-047-0000

**Property Address:**

6900-6940 South Ashland Avenue  
Chicago, Illinois

PIN: 20-19-423-002-0000 and  
20-19-423-003-0000

1st AMERICAN TITLE order # 2282266

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THIS CROSS-GUARANTY, CROSS-DEFAULT, CROSS-COLLATERALIZATION AND CONTRIBUTION AGREEMENT (this "Agreement"), made as of June 7, 2012, by **DCR MANAGEMENT LLC**, an Illinois limited liability company, having a mailing address at 609 Rosedale Road, Roselle, Illinois 60712, **SUHAIL FAKHOURI** and **JOMANA FAKHOURI**, having an address at 609 Rosedale Road, Roselle, Illinois 60712 (collectively, "First Borrower") and **DCR MANAGEMENT LLC**, an Illinois limited liability company, having a mailing address at 609 Rosedale Road, Roselle, Illinois 60712 ("Second Borrower"; First Borrower and Second Borrower, collectively, the "Borrowers"), **SUHAIL FAKHOURI**, **JOMANA FAKHOURI**, **EL PATRON LIQUORS, INC.** and **ELPATRON SPORTS BAR, INC.** (collectively, "Indemntor"), for the benefit of **THE NATIONAL REPUBLIC BANK OF CHICAGO**, a national bank, and its successors and assigns ("Lender") having an address at 1201 West Harrison Street, Chicago, Illinois 60607.

## W I T N E S S E T H:

**WHEREAS**, concurrently with the execution of this Agreement, First Borrower has executed and delivered to Lender its Promissory Note in the original principal amount of ONE MILLION THREE HUNDRED SIXTY-FIVE THOUSAND AND 00/100 DOLLARS (\$1,365,000.00) (the "First Borrower Note"), in evidence of a loan in such amount (the "First Borrower Loan") being made by Lender to First Borrower;

**WHEREAS**, on or about December 12, 2007, Second Borrower executed and delivered to Lender its Promissory Note in the original principal amount of TEN MILLION AND 00/100 DOLLARS (\$10,000,000.00) (the "Second Borrower Note"; the First Borrower Note and the Second Borrower Note, each, a "Note" and collectively, the "Notes"), in evidence of a loan in such amount (the "Second Borrower Loan") being made by Lender to Second Borrower;

**WHEREAS**, the First Borrower Loan is secured by (i) a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "First Borrower Security Instrument"), encumbering the real properties located in Cook County, Illinois described on Exhibit A attached hereto and made a part hereof, together with all improvements thereon and certain other property described in the First Borrower Security Instrument; (the First Borrower Property"), and (ii) certain other documents and instruments (the First Borrower Note, the First Borrower Security Instrument and such other documents and instruments, as the same may, from time to time be amended, consolidated, extended, renewed, modified, restated or replaced, collectively, the "First Borrower Loan Documents");

**WHEREAS**, the Second Borrower Loan is secured by (i) a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Second Borrower Security Instrument"), encumbering the real property located in Cook County, Illinois and described on Exhibit B attached hereto and made a part hereof, together with all improvements thereon and certain other property described in the Second Borrower Security Instrument (collectively, the "Second Borrower Property"; the First Borrower Property and the Second Borrower Property, each a "Property" and collectively, the "Properties"); and (ii) certain other documents and instruments (the Second Borrower Note, the Second Borrower Security Instrument and such other documents and instruments, as the same may, from time to time be

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amended, consolidated, extended, renewed, modified, restated or replaced, collectively, the "Second Borrower Loan Documents"; the First Borrower Loan Documents and the Second Borrower Loan Documents, collectively, the "Loan Documents");

**WHEREAS**, First Borrower, Second Borrower and Indemnitator (collectively, the "Borrowing Parties") all are affiliates of each other, and each will derive substantial benefit from the Loans; and

**WHEREAS**, Lender has required that this Agreement be executed and delivered as a condition to making the Loans.

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

1. **Cross-Guaranties**. Effective as of the date hereof:

(a) First Borrower hereby irrevocably, absolutely and unconditionally guaranties to Lender (such guaranty, the "First Borrower Guaranty") the payment when due, by stated maturity, acceleration or otherwise, of the Second Borrower Note. The First Borrower Guaranty as set forth herein is a guaranty of payment and not of collection. Any indebtedness of Second Borrower to First Borrower now or hereafter existing, together with any interest thereon, shall be, and such indebtedness is hereby, deferred, postponed and subordinated to the First Borrower Guaranty; and

(b) Second Borrower hereby irrevocably, absolutely and unconditionally guaranties to Lender (such guaranty, the "Second Borrower Guaranty") the payment when due, by stated maturity, acceleration or otherwise, of the First Borrower Note. The Second Borrower Guaranty as set forth herein is a guaranty of payment and not of collection. Any indebtedness of First Borrower to Second Borrower now or hereafter existing, together with any interest thereon, shall be, and such indebtedness is hereby, deferred, postponed and subordinated to the Second Borrower Guaranty.

2. **Cross-Default and Cross-Collateralization**. The First Borrower Loan Documents and the Second Borrower Loan Documents are hereby amended and modified (such amendment and modification, a "Cross-Collateralization") as follows:

(a) an Event of Default under the First Borrower Note, the First Borrower Security Instrument or any of the First Borrower Loan Documents (as the term "Event of Default" is defined therein) shall constitute an Event of Default under the Second Borrower Note, the Second Borrower Security Instrument and the Second Borrower Loan Documents (as the term "Event of Default" is defined therein);

(b) an Event of Default under the Second Borrower Note, the Second Borrower Security Instrument or any of the Second Borrower Loan Documents (as the term "Event of Default" is defined therein) shall constitute an Event of Default under the First Borrower Note, the First Borrower Security Instrument and the First Borrower Loan Documents (as the term "Event of Default" is defined therein);

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(c) the First Borrower Security Instrument and all of the First Borrower Loan Documents securing or guaranteeing the First Borrower Note and the obligations of First Borrower under the First Borrower Loan Documents (collectively, the "First Borrower Security Documents") also shall secure and guaranty the First Borrower Guaranty;

(d) the Second Borrower Security Instrument and all of the Second Borrower Loan Documents securing or guaranteeing the Second Borrower Note and the obligations of Second Borrower under the Second Borrower Loan Documents (collectively, the "Second Borrower Security Documents") also shall secure and guaranty the Second Borrower Guaranty;

(e) the aggregate principal amount secured by each of the First Borrower Security Instrument, the First Borrower Security Documents, the Second Borrower Security Instrument and the Second Borrower Security Documents shall be ELEVEN MILLION THREE HUNDRED SIXTY-FIVE THOUSAND AND 00/100 DOLLARS (\$11,365,000.00).

### 3. Contribution.

(a) Each of the Borrowers hereby acknowledges and agrees that, due to the fact that the Loans are hereby cross-defaulted and cross-collateralized, each of the Borrowers has a direct and material interest in preventing the occurrence of an Event of Default under any of the Loan Documents (as the term "Event of Default" is defined therein). Accordingly, each of the Borrowers is willing to commit to make or receive loans (each an "Intra-Borrower Loan", and collectively, the "Intra-Borrower Loans") in order to provide for the payment of all amounts due under the Loan Documents and, in so doing, to avoid an Event of Default thereunder. In the event and to the extent that the proceeds from the Property of any Borrower (the "Creditor") are applied to any payments due with respect to the Property owned by another Borrower (the "Debtor"), then the Creditor shall be deemed to have made an Intra-Borrower Loan to the Debtor in the amount of such proceeds so applied (the "Intra-Borrower Loan Amount"). Such Intra-Borrower Loan shall be deemed to be made on a non-recourse basis and shall be repaid out of the future proceeds of the Property owned by the Debtor, together with interest thereon at a rate to be agreed upon from time to time among the Borrowers.

(b) All Intra-Borrower Loans deemed to be made under this Agreement shall be evidenced by this Agreement, shall be an obligation of the Debtor which owes such Intra-Borrower Loan solely by its execution of this Agreement and shall not be evidenced by any separate instrument. Each Borrower hereby waives presentment, notice of dishonor, protest and notice of non-payment or non-performance with respect to each Intra-Borrower Loan for which it is liable under this Agreement. Interest and principal on Intra-Borrower Loans shall be paid solely out of net proceeds from the Property owned by the Debtor and shall be subject in all cases to the terms and conditions of the Loan Documents, and the payments from such sources shall be the sole and exclusive remedy available to any Creditor. Each such payment of principal or interest on Intra-Borrower Loans shall be subordinate and subject to the prior payment of all amounts payable under the Loan Documents. To the extent such sources of payment are insufficient to pay interest and principal on any Intra-Borrower Loan, the Creditor owed such Intra-Borrower Loan shall not have any claim against the Debtor which owes such Intra-Borrower Loan for such amounts or lien on or security interest in any of the assets of such Debtor and no further or additional recourse shall be available against the Debtor. All payments

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pursuant to Intra-Borrower Loans shall be made on a net basis. All payments received on account of any Intra-Borrower Loan under this Agreement shall be credited first to interest, then to principal. Accrued but unpaid interest shall not be compounded.

4. **Documents to be Delivered to Lender.** On the date hereof, the Borrowing Parties shall cause to be delivered to Lender:

(a) endorsements to the title insurance policies issued at the closings of the Loans (the "Closings") insuring the liens of the First Borrower Security Instrument and the Second Borrower Security Instrument, which endorsements shall be in form and substance satisfactory to Lender and shall (i) provide for "tie-in" coverage under such policies up to the aggregate outstanding principal amount of the First Borrower Note and the Second Borrower Note, if available for title insurance policies issued in Illinois; and (ii) include "First Loss" and "Last Dollar" endorsements, if available for title insurance policies issued in Illinois; and

(b) such other documents and instruments as Lender may require.

5. **Release of Properties.** (a) Notwithstanding any provision contained in any of the Loan Documents to the contrary, each of the Borrowing Parties agrees that none of the Properties may be released from the liens of any of the Loan Documents or the liens created under this Agreement except in accordance with this Section. The Borrowing Parties may cause one or more of the Properties (each, a "Released Property") to be released from the liens created hereby and by the related Loan Documents, but only upon the satisfaction of all of the following conditions:

(i) Lender shall have received from the applicable Borrower at least thirty (30) days' prior written notice of the date proposed for such release (the "Release Date") and the identification of the Released Property;

(ii) no Event of Default under any of the Loan Documents shall have occurred and be continuing as of the date of such notice and the Release Date;

(iii) in no event would such release result in a decrease in the loan-to-value ratio of the remaining Notes to the remaining Properties;

(iv) Lender shall have received from the Borrowing Parties (A) statements of the cash flow and debt service compiled by a certified public accountant acceptable to Lender in accordance with generally accepted accounting principles consistently applied in form and substance acceptable to Lender; (B) statements of appraised value of the Properties; and (C) a certificate of the Chief Financial Officer of Borrower (or comparable individual) stating that such statements and calculations are true, correct and complete in all material respects and certifying that all conditions precedent to the release of the Released Property contained in this Section have been complied with;

(v) Borrower shall have paid all of Lender's costs and expenses, including, without limitation, reasonable attorneys' fees and expenses, in connection with the release of the Released Property.

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6. **Costs and Expenses.** The Borrowing Parties, jointly and severally, shall be responsible for and shall pay, all reasonable costs and expenses incurred by Lender in connection with a Cross-Collateralization and a release of any Property from a Cross-Collateralization, including, without limitation, reasonable attorneys' fees and expenses, title insurance search fees and premiums, filing and recording fees and taxes, if any.

7. **Default.** Any default by any of the Borrowing Parties in fulfilling any of its obligations hereunder shall constitute an Event of Default under each of the First Borrower Loan Documents, the Second Borrower Loan Documents, the Third Borrower Loan Documents, the Fourth Borrower Loan Documents and the Fifth Borrower Loan Documents (as the term "Event of Default" is defined therein).

8. **Further Assurances.** The Borrowing Parties agree to execute and deliver any further documents and instruments as Lender may require to effectuate the Cross-Collateralization contemplated hereby. The Borrowing Parties further acknowledge and agree that Lender may require that this Agreement be amended at any time and from time to time to remove any of the Properties from the Cross-Collateralization, and each agrees to execute and deliver such documents as Lender may require in connection therewith. Each of the Borrowing Parties hereby appoints Lender as its attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to execute and deliver any of such documents on its behalf.


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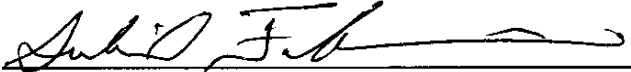
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**FIRST BORROWER:**

DCR MANAGEMENT LLC, an Illinois limited liability company


By:   
Name: Suhail Fakhouri  
Its: Sole Member

  
SUHAIL FAKHOURI


  
JOMANA FAKHOURI

**SECOND BORROWER:**

DCR MANAGEMENT LLC, an Illinois limited liability company

By:   
Name: Suhail Fakhouri  
Its: Sole Member

**INDEMNITORS:**

  
SUHAIL FAKHOURI

  
JOMANA FAKHOURI

[ADDITIONAL SIGNATURES TO FOLLOW]

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EL PATRON LIQUORS, INC, an Illinois corporation

By: Jomana Fakhouri  
Name: Jomana Fakhouri  
Its: President

ELPATRON SPORTS BAR, INC., an Illinois corporation

By: Jomana Fakhouri  
Name: Jomana Fakhouri  
Its: President

Property of Cook County Clerk's Office



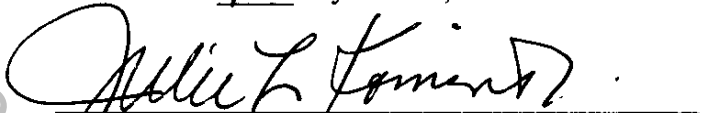
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## [ACKNOWLEDGMENTS]

STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF COOK     )

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that SUHAIL FAKHOURI, personally known to me to be the Sole Member of DCR MANAGEMENT LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 7<sup>th</sup> day of June, 2012.

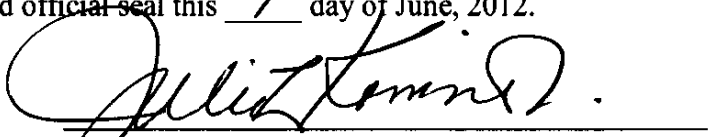
  
\_\_\_\_\_  
Notary Public



STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF COOK     )

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that SUHAIL FAKHOURI, personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and official seal this 7<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Notary Public



# UNOFFICIAL COPY

STATE OF ILLINOIS       )  
  ) SS.  
COUNTY OF COOK       )

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that **JOMANA FAKHOURI**, personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and official seal this 7<sup>th</sup> day of June, 2012.


  
\_\_\_\_\_  
Notary Public



STATE OF ILLINOIS       )  
  ) SS.  
COUNTY OF COOK       )

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that **JOMANA FAKHOURI**, personally known to me to be the President of **EL PATRON LIQUORS, INC.**, an Illinois corporation, and personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 7<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Notary Public

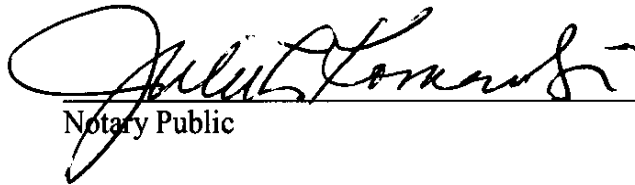


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STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that JOMANA FAKHOURI, personally known to me to be the President of **ELPATRON SPORTS BAR, INC.**, an Illinois corporation, and personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that she signed and delivered said instrument as her free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 12 day of June, 2012.

  
\_\_\_\_\_  
Notary Public



Property of Cook County Clerk's Office

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## EXHIBIT A

**Lots 25, 26 and 27, in Lane's Subdivision of the West half of the Southwest quarter of the Northwest quarter of the Southwest quarter of Section 17, Township 38 North, Range 14 East of the Third Principal Meridian, (except that part of the land taken for widening Ashland Avenue), in Cook County, Illinois.**

Common Address: 6055-59 South Ashland Avenue, Chicago, Illinois

PIN: 20-17-308-046-0000 and 20-17-308-047-0000

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## EXHIBIT B

### PARCEL 1:

THAT PORTION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF SOUTH MARSHFIELD AVENUE AND THE SOUTH RIGHT OF WAY LINE OF WEST 69TH STREET; THENCE NORTH 88 DEGREES, 30 MINUTES, 58 SECONDS EAST ALONG THE SOUTH RIGHT OF WAY LINE OF WEST 69TH STREET, A DISTANCE OF 249.52 FEET; THENCE SOUTH 20 DEGREES, 39 MINUTES, 09 SECONDS EAST, A DISTANCE OF 52.93 FEET TO THE WEST RIGHT OF WAY LINE OF ASHLAND AVENUE; THENCE SOUTH 01 DEGREE, 55 MINUTES, 13 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE OF ASHLAND AVENUE, A DISTANCE OF 257.17 FEET; THENCE SOUTH 88 DEGREES, 30 MINUTES, 58 SECONDS WEST, A DISTANCE OF 129.33 FEET; THENCE SOUTH 01 DEGREE, 57 MINUTES, 40 SECONDS EAST, A DISTANCE OF 246.75 FEET; THENCE SOUTH 88 DEGREES, 30 MINUTES, 58 SECONDS WEST, A DISTANCE OF 137.00 FEET TO THE EAST RIGHT OF WAY LINE OF MARSHFIELD AVENUE, THENCE NORTH 01 DEGREE, 57 MINUTES, 40 SECONDS WEST ALONG SAID EAST RIGHT OF WAY LINE OF SAID MARSHFIELD AVENUE, A DISTANCE OF 553.92 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

RECIPROCAL EASEMENT AGREEMENT RECORDED APRIL 19, 2005 AS DOCUMENT 0510933168 FOR THE BENEFIT OF PARCEL 1 FOR THE PURPOSE OF PARKING, PEDESTRIAN AND VEHICULAR PASSAGE, CONSTRUCTION, MAINTENANCE AND USE OF ALL APPARATUS NECESSARY TO PROVIDE UTILITY SERVICES OVER THE COMMON AREAS MORE PARTICULARLY DESCRIBED THEREIN.

Common Address: 6900-6940 South Ashland Avenue, Chicago, Illinois

PIN: 20-19-423-002-0000 and 20-19-423-003-0000