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Karen A. Yarbrough RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/21/2013 11:21 AM Pg: 1 of 9

## CROSS-COLLATERALIZATION AGREEMENT

PREPARED BY: VICENT SANSONETTI

5521 N. CUMBERLAND SUITE 1109

CHICAGO, IL 60656

RETURN TO: FIRST NATIONS BANK

MELISSA SMITH

7757 W. DEVON AVENUE

CHICAGO, ILLINOIS 60631

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## CROSS-COLLATERALIZATION AGREEMENT

**THIS CROSS-COLLATERALIZATION AGREEMENT** (“Agreement”) is made as of the 15th day of February, 2013 by FIRST NATIONS BANK, an Illinois Banking Institution (“Lender”), and 2829 N NATOMA, LLC, an Illinois Limited Liability Company (“NATOMA”) and ZITELLA GROUP, LLC, an Illinois Limited Liability Company (“Z GROUP”), (collectively or individually, NATOMA, and Z GROUP referenced herein as (“Borrower”))

### RECITALS

**WHEREAS**, Lender has made a loan to NATOMA in the original principal amount of \$9,100,000.00 and \$500,000.00 (“Natoma Loan”). The Natoma Loan is secured by a **First Mortgage Lien and Assignment of Rents**, ( hereinafter sometimes referred to as MORTGAGE, CONSTRUCTION MORTGAGE or INSTRUMENT) recorded as document numbers 1303812008 and 1303812010 against the property commonly known as 2827-2853 N. Natoma and 6611-6621 W. George, Chicago, Illinois and shown as Exhibit “A” (“PROPERTY”); and

**WHEREAS**, Lender has approved a loan to Z GROUP in the principal amount of \$4,000,000.00 (“Z Group Loan”). The Z Group Loan will be secured by a **First Mortgage Lien and Assignment Of Rents**, dated February 15, 2013( hereinafter sometimes referred to as MORTGAGE, CONSTRUCTION MORTGAGE or INSTRUMENT) against the property commonly known as 6604-6620 W. Diversey, Chicago, Illinois and shown as Exhibit “B” (“PROPERTY”); and

**WHEREAS**, ZITELLA is the sole member and sole manager of NATOMA and Z GROUP and ZITELLA is the personal guarantor of the Z Group Loan and the Natoma Loan; and

**WHEREAS**, Borrower acknowledges that a condition precedent of Lender making the Z GROUP LOAN is that the mortgaged properties of NATOMA and Z GROUP serve as collateral for each of the related loans. Borrower is executing this Agreement to satisfy such condition and. Borrower further acknowledges the benefits derived by Borrower as a result of this Cross Collateralization Agreement; and

**1. Definitions.** For purposes of this Agreement, the following terms shall have the meanings indicated:

“**Event of Default**” shall have the meaning set forth in Section 4.

“**Foreclosure**” means a foreclosure of the Mortgage or any Related documents, a deed in lieu of such foreclosure or sale, a sale of any of the PROPERTY pursuant to lawful order of a court of competent jurisdiction in a bankruptcy case filed under Title 11 of the United States Code, or any other similar disposition of any of the PROPERTY.

“**Fraudulent Transfer Laws**” means Section 548 of Title 11 of the United States Code or any applicable provisions of comparable state law, including any provisions of the Uniform Fraudulent Conveyance Act or Uniform Fraudulent Transfer Act, as adopted under state law.

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**"Indebtedness"** means the "Indebtedness" as defined in the Mortgage documents of the NATOMA and Z GROUP LOAN, exclusive of any sums payable by Borrower solely by reason of this Agreement including but not limited to the Natoma Loan and or Z Group Loan.

**"Loans"** means the Natoma Loan and or Z Group Loan and any other Related Loans.

**"Related Borrowers"** means the original borrower under each of the Related Loans (which original borrower may be the Borrower named in this Agreement), and any successor to the interest of each such borrower in any of the Property who acquires such Property subject to, or who assumes the obligations under, a Related Instrument.

**"Related Indebtedness"** means the aggregate of the "Indebtedness" as defined in each of the Related Instruments including but not limited to the Natoma Loan and or Z Group Loan.

**"Related Loan Documents"** means the "Loan Documents" as defined in each of the Related Instruments including but not limited to the documents pertaining to the Natoma Loan and or the Z Group Loan.

**"Total Indebtedness"** means the aggregate of the Indebtedness.

**"Total Property"** means the aggregate of the Mortgaged Property.

Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Instrument.

## 2. Assumption and Integration of Related Indebtedness; Obligations Absolute.

Borrower hereby acknowledges that:

(a) Borrower shall pay not only the Indebtedness, but all of the Related Indebtedness in accordance with the Loan Documents. Borrower is jointly and severally liable for the payment of the Indebtedness. Lender at its option may treat the Loan and each of the Related Loans as separate and independent obligations of Borrower, or may treat some or all of the Loans, and all or any part of the Total Indebtedness, as a single, integrated indebtedness of Borrower.

(b) No invalidity, irregularity or unenforceability of all or any part of the Indebtedness shall affect, impair or be a defense to the recovery by Lender of the Indebtedness.

(c) It is the intention of Lender and Borrower that Borrower's obligations to pay the Indebtedness shall be independent, primary, and absolute, and shall be performed without demand by Lender and shall be unconditional irrespective of the genuineness, validity, regularity or enforceability of any of the Loan Documents, and without regard to any circumstance, other than payment in full of the Indebtedness, which might otherwise constitute a legal or equitable discharge of a borrower, a mortgagor, a surety, or a guarantor. Borrower waives, to the fullest extent permitted by law, all rights to require Lender to proceed against any Borrower or against any guarantor of any of the Indebtedness or to pursue any other right or remedy Lender may now or hereafter have against any Borrower or any collateral for any of the Indebtedness.

**3. Amendment of Instrument to Grant Additional Security.** The Instrument is hereby amended to provide that the Instrument secures the obligation of Borrower and the Related Borrowers to pay the Indebtedness as well as the obligation of Borrower and the Related Borrowers to pay the Indebtedness. Borrower hereby irrevocably grants, conveys and assigns to **Lender** the Mortgaged Property, to secure to Lender payment of the Indebtedness and performance of the covenants and agreements contained in the Loan Documents, as well as to

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secure to Lender payment of the Indebtedness and performance of the covenants and agreements contained in the Loan Documents.

**4. Events of Default.** Each of the following events shall constitute an "Event of Default" under this Agreement:

- (a) a default or breach by Borrower of any provision of this Agreement; and
- (b) any event or condition constituting an "Event of Default" under any of all the Loan Documents.

**5. Amendment of Instrument to Provide for Cross-Default.** The Instrument is hereby amended to provide that any Event of Default under this Agreement shall constitute an Event of Default under the Instrument.

**6. Remedies.**

(a) Upon the occurrence of an Event of Default, Lender, in its sole and absolute discretion, may exercise any or some or all of the following remedies, in such order and at such time or times as Lender shall elect:

- (i) declare immediately due and payable the entire Indebtedness or any portion thereof; and
  - (ii) exercise any or some or all of Lender's rights and remedies under this Agreement, any of the Loan Documents, or applicable law.
- (b) Lender may exercise such remedies in one or more proceedings, whether contemporaneous or consecutive or a combination of both, to be determined by Lender in Lender's sole discretion. Lender may enforce its rights against the Property, or any portions of the Property, in such order and manner as Lender may elect in Lender's sole discretion. The enforcement of the Instrument or any Related Instrument or any other of the Loan Documents shall not constitute an election of remedies, and shall not limit or preclude the enforcement of the Instrument or any other Related Instrument or any other of the Loan Documents, through one or more additional proceedings. Lender may bring any action or proceeding, including but not limited to foreclosure proceedings, without regard to the fact that one or more other proceedings may have been commenced elsewhere with respect to other of the Property or any portion thereof. Borrower, for itself and for any and all persons or entities now or in the future holding or claiming any lien on, security interest in, or other interest or right of any nature in or to any of the Property, hereby unconditionally and irrevocably waives any rights Borrower may have, now or in the future, whether at law or in equity, to require Lender to enforce or exercise any of Lender's rights or remedies under this Agreement, under the Instrument, or under any other of the Total Loan Document in any particular manner or order or in any particular state or county, or to apply the proceeds of any foreclosure in any particular manner or order.

**7. Lender's Rights.** At any time and from time to time and without the consent of, or notice to, Borrower, without incurring liability to Borrower, and without impairing or releasing Borrower's liability for the Related Indebtedness, Lender may:

- (a) change the manner, place or terms of payment, or change or extend the time of payment of, or renew, increase, accelerate or alter, any of the Indebtedness, any security for the Indebtedness, or any liability incurred directly or indirectly with respect to the Indebtedness;
- (b) take and hold security for the payment of any of the Indebtedness, and sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property pledged or mortgaged to secure any of the Indebtedness;

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(c) exercise or refrain from exercising any rights against Borrower or any Properties;

(d) release or substitute any one or more endorsers, guarantors, or other obligors with respect to any of the Indebtedness;

(e) settle or compromise any of the Indebtedness, or subordinate the payment of all or any part of the Indebtedness to the payment of any liability (whether due or not) of any Borrower to its creditors other than Lender; and

(f) consent to or waive any breach by Borrower of, or any act, omission or default by Borrower under, this Agreement or any of the Loan Documents.

**8. Notices.** All notices to Borrower under this Agreement shall be in writing and shall be given in the manner provided in the Instrument for notices to Borrower. All notices to Lender by Borrower under this Agreement shall be in writing and shall be given in the manner in the Instrument for notices to Lender.

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

**10. Captions, Cross References and Exhibits.** The captions assigned to provisions of this Agreement are for convenience only and shall be disregarded in construing this Agreement. Any reference in this Agreement to a "Section", a "Subsection" or an "Exhibit" shall, unless otherwise explicitly provided, be construed as referring to a section of this Agreement, to a subsection of the section of this Agreement in which the reference appears or to an Exhibit attached to this Agreement. All Exhibits referred to in this Agreement are hereby incorporated by reference.

**11. Number and Gender.** Use of the singular in this Agreement includes the plural, use of the plural includes the singular, and use of one gender includes all other genders, as the context may require.

**12. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors, and assigns.

**13. Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

**14. Waiver; No Remedy Exclusive.** Any forbearance by a party to this Agreement in exercising any right or remedy given under this Agreement or existing at law or in equity shall not constitute a waiver of or preclude the exercise of that or any other right or remedy. Unless otherwise explicitly provided, no remedy under this Agreement is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity.

**15. Third Party Beneficiaries.** Neither any creditor of any party to this Agreement, nor any other person, is intended to be a third party beneficiary of this Agreement.

**16. No Party Deemed Drafter.** No party shall be deemed the drafter of this Agreement, and this Agreement shall not be construed against either party as the drafter of the Agreement.

**17. WAIVER OF TRIAL BY JURY. BORROWER AND LENDER EACH (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT THAT IS TRIABLE OF**

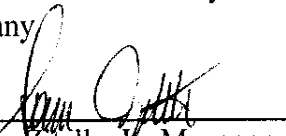
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**RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

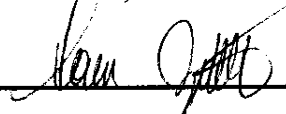
**2829 N Natoma, LLC, an  
Illinois Limited Liability  
Company**

By:   
Sam Zitella, Its Manager

**Zitella Group, LLC, an  
Illinois Limited Liability  
Company**

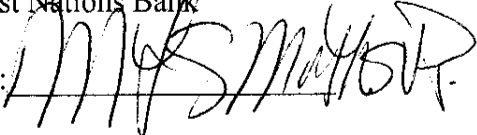
By:   
Sam Zitella, Its Manager

Sam Zitella, an Individual

  
\_\_\_\_\_

Accepted:

First Nations Bank

By: 

This document was prepared by Vincent Sansonetti and after recording mail to:

First Nations Bank  
Melissa Smith  
7757 W. Devon Avenue  
Chicago, Illinois 60631

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## EXHIBIT "A"

PARCEL 1: LOT 131 IN FIRST ADDITION TO MONTE CLARE GARDENS, A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 ( EXCEPT PART TAKEN FOR RAILROAD) AND ALSO THE VACATED ALLEY NORTH OF AND ADJOINING SAID LOT 131, IN SECTION 30, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 117 AND 118 IN FIRST ADDITION TO MONTE CLARE GARDENS, BEING A SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 (EXCEPT PART TAKEN FOR RAILROAD) OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

2827-2853 N NATOMA AND 6611-6620 W. GEORGE, CHICAGO, ILLINOIS

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EXHIBIT "B"

6600-6620 W. Diversey, Chicago, Illinois

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## CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1409 ST5138422 HNC  
STREET ADDRESS: 6604-6620 W. DIVERSEY  
CITY: CHICAGO COUNTY: COOK  
TAX NUMBER: 13-30-227-006-0000

### LEGAL DESCRIPTION:

#### PARCEL 1:

LOT 146 IN FIRST ADDITION TO MONT CLARE GARDENS, A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4, (EXCEPT THAT PART TAKEN FOR RAILROAD) IN SECTION 30, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE WEST 23.50 FEET OF THAT PART OF THE 50 FOOT WIDE RIGHT OF WAY OF THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD LYING NORTH OF THE NORTH LINE OF WEST DIVERSEY AVENUE, LYING SOUTH OF THE NORTH LINE OF LOT 146 EXTENDED EAST, LYING WEST OF AND ADJOINING LOT 109 IN THE SECOND ADDITION TO MONT CLARE GARDENS, BEING A SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 30 AND LYING EAST OF LOT 146, TAKEN AS ONE TRACT, IN THE FIRST ADDITION TO MONT CLARE GARDENS, BEING A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 (EXCEPT THAT PART TAKEN FOR RAILROAD) OF SECTION 30, ALL IN TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

LOT 145 (EXCEPT EAST 66.50 FEET THEREOF) IN FIRST ADDITION TO MOUNT CLARE GARDENS, BEING A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4, (EXCEPT THAT PART TAKEN FOR RAILROAD), OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

THE EAST 66.50 FEET OF LOT 145 IN FIRST ADDITION TO MOUNT CLARE GARDENS, BEING A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4, (EXCEPT THAT PART TAKEN FOR RAILROAD), OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.