

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:		NEW ASSIGNMENT	
NATURE OF CONVEYANCE:		SECURITY INTEREST	
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Anaheim GW II, LLC		01/31/2007	LIMITED LIABILITY COMPANY: DELAWARE
RECEIVING PARTY DATA			
Name:	Citigroup Global Markets Realty Corp.		
Street Address:	388 Greenwich St., 19th Floor		
City:	New York		
State/Country:	NEW YORK		
Postal Code:	10013		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3533273	ANAHEIM GARDENWALK	
CORRESPONDENCE DATA			
Fax Number:	(303)313-2827		
Phone:	3032985901		
Email:	ptodenver@gibsondunn.com		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Correspondent Name:	Peter F. Weinberg		
Address Line 1:	1801 California St., Suite 4200		
Address Line 4:	Denver, COLORADO 80202		
NAME OF SUBMITTER:		Peter F. Weinberg	
Signature:		/pfw/	
Date:		10/10/2011	

OP \$40.00 3533273

Total Attachments: 39

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LandAmerica Commercial Services

Recording Requested By
And When Recorded Mail To:
DLA Piper US LLP
153 Townsend Street, Suite 800
San Francisco, California 94107
Attention: Laurie Scola

Tom Daly, Clerk-Recorder



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**CONSTRUCTION FEE AND LEASEHOLD DEED OF TRUST,
Assignment of Leases and Rents, Security Agreement,
And Fixture Filing**

THIS CONSTRUCTION FEE AND LEASEHOLD DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "Security Instrument") is made as of January 31, 2007, by ANAHEIM GW II, LLC, a Delaware limited liability company, having its principal place of business at c/o Pacific Coast Capital Partners, LLC, 222 North Sepulveda Boulevard, Suite 2222, El Segundo, CA 90245, as trustor ("Borrower"), to Lawyers Title Company, a California corporation (Trustee) c/o LandAmerica, having an address at 1920 Main Street, 12th floor, Irvine, CA. 92614, as trustee ("Trustee"), for the benefit of CITIGROUP GLOBAL MARKETS REALTY CORP., a New York corporation, having its place of business at 388 Greenwich Street, 19th Floor, New York, NY 10013, as beneficiary ("Lender"), together with each successors or its assigns and/or assigns.

21-88291026

RECITALS:

This Security Instrument is given to secure a loan (the "Loan") in the principal sum of up to TWO HUNDRED TEN MILLION AND 00/100 DOLLARS (\$210,000,000.00) made pursuant to that certain Loan Agreement, dated as of the date hereof, between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") and evidenced by that certain Promissory Note, dated the date hereof, made by Borrower in favor of Lender (such Promissory Note, together with all extensions, renewals, replacements, restatements, amendments, supplements, severances or modifications thereof being hereinafter referred to as the "Note").

Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement) and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined), excluding any Loan Document that is expressly stated to be unsecured and, including, without limitation, all future advances and other obligations that Borrower, or any successor in interest to Borrower and/or any other obligor (if different than Borrower), or any successor in ownership to all or part of the Property, may agree to pay and/or perform (whether as principal, surety, or guarantor) for the benefit of Lender, when a writing evidences the parties' agreement that such advance or obligation be secured by this Security Instrument (collectively, the "Obligations").

This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan

Documents (excluding the Environmental Indemnity and any other Loan Document that specifically states it shall not be secured by this Security Instrument) are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and that certain Assignment of Leases and Rents dated the date hereof made by Borrower in favor of Lender delivered in connection with this Security Instrument (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Assignment of Leases"), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to and grant a security interest to Lender and Trustee and its their respective successors and assigns in, the following property, rights, interests and estates now owned, or hereafter acquired by Borrower, in each case excluding the rights of tenants of the land and improvements described below (collectively, the "Property"):

(a) Land and Ground Lease. The real property described in Exhibit A-1 attached hereto and made a part hereof (the "Fee Land"), and its interest in that certain Lease Agreement dated January 1, 2001 between Zaby's Rip Van Winkle, Inc., a California corporation, as lessor (together with any future owner(s) of the lessor's interest in the Ground Lease, "Fee Owner") and Excel Pointe Anaheim, LLC, a Delaware as lessee ("Original Lessee"), as amended by that certain First Amendment to Lease Agreement dated April 1, 2003 by and between Fee Owner and Anaheim Garden Walk, LLC, a Delaware limited liability company as successor lessee to Original Lessee, ("Successor Lessee") as further amended by that certain Second Amendment to Lease Agreement dated December 8, 2004 by and between Fee Owner and Successor Lessee, as further amended by that certain Third Amendment to Lease Agreement dated February 16, 2005 by and between Fee Owner and Successor Lessee, as assigned to Borrower pursuant to that certain Assignment of Lease dated as of January 24, 2007, by and between Successor Lessee and Borrower, (the "Ground Lease"), and the leasehold estate created thereby (the "Leasehold Estate") in the real property described therein and set forth in Exhibit A-2 attached hereto (the "Ground Lease Land," and, together with the Fee Land, collectively, the "Land"), including all assignments, modifications, extensions and renewals of the Ground Lease and all credits, deposits, options, proceeds, privileges and rights of Borrower as tenant under the Ground Lease, including, but not limited to, the right, if any, to renew or extend the Ground Lease for a succeeding term or terms, and also including all the right, title, claim or demand whatsoever of Borrower either in law or in equity, in possession or expectancy, of, in and to Borrower's right, as tenant under the Ground Lease, to elect under Section 365(h)(1) of Title 11 U.S.C.A. § 101 *et seq.* and the regulations adopted and promulgated thereto (as the same may be amended from time to time, the "Bankruptcy Code") to terminate or treat the Ground Lease as terminated or to consent to the transfer of the Fee Owner's interest in the Ground Lease Land and the Improvements located on the Ground Lease Land free and clear of the Ground Lease under Section 363 of the Bankruptcy Code in the event of (i) the bankruptcy, reorganization or insolvency of the Fee Owner, and (ii) (A) the rejection of the Ground Lease by such Fee Owner.

as debtor in possession, or by a trustee for such Fee Owner, pursuant to Section 365 of the Bankruptcy Code or (B) any attempt by such Fee Owner, as debtor in possession, or by a trustee for such Fee Owner, to transfer such Fee Owner's interest in the Ground Lease Land and the Improvements located on the Ground Lease Land under Section 363 of the Bankruptcy Code.

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant) and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, including, without limitation, all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and any other commercially valuable substances, and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures, inventory and goods, and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the "Personal Property"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State or States where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases, rental agreements, and other agreements, whether or not in writing, affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and

modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any guaranties of the lessees' obligations thereunder, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, payments in connection with any termination, cancellation or surrender of any Lease, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and/or the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases (the "Rents") and the right to receive and apply the Rents to the payment of the Debt;

(g) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(h) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(i) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(m) Intangibles. All trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records, tenant or guest lists, advertising materials, telephone exchange

numbers identified in such materials and all other general intangibles relating to or used in connection with the operation of the Property;

(n) Accounts. All Accounts, Account Collateral, reserves, escrows and deposit accounts maintained by Borrower with respect to the Property including, without limitation, the Lockbox Account, the Property Account, and the Construction Account and all complete securities, investments, property and financial assets held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(o) Causes of Action. All causes of action and claims (including, without limitation, all causes of action or claims arising in tort, by contract, by fraud or by concealment of material fact) against any Person for damages or injury to the Property or in connection with any transactions financed in whole or in part by the proceeds of the Loan ("Cause of Action");

(p) Interest Rate Cap Agreement. All right, title, interest and claim of Borrower in, to, under or pursuant to the Hedge Agreement (as defined in that certain Collateral Assignment of Hedge Agreement dated as of the date hereof by and between Borrower and Lender) (together with any amendments, additions or supplements thereto being hereinafter collectively referred to as the "Cap Agreement"), all claims of Borrower for breach by Counterparty of any covenant, agreement, representation or warranty contained in the Cap Agreement;

(q) All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in Exhibit A or not, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements;

(r) All rights to the name, signs, and trade names used to operate the Land and Improvements;

(s) All goods, materials, supplies, chattels, furniture, fixtures, machinery, apparatus, fittings, equipment, and articles of personal property of every kind and nature whatsoever, including consumable goods, now or hereafter located in or upon the Property or any part thereof, or to be attached to or placed in or on, or used or useable in connection with any present or future use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including by way of description but without limiting the generality of the foregoing, all embedded software, pumps or pumping plants, tanks, motors, conduits, engines, pipes, ditches and flumes, and also all gas and electrical apparatus (including, but not limited to, all electrical transformers, switches, switch boxes, and equipment boxes), cooking, heating, cooling, air conditioning, lighting, power equipment, refrigeration and plumbing apparatus, fixtures and equipment, screens, storm doors and windows, stoves, wall beds, refrigerators, attached cabinets, partitions, ovens, ranges, disposals, dishwashers, carpeting, plants and shrubbery, ground maintenance equipment, ducts and compressors; together with all building materials, goods and personal property on or off the Property intended to be affixed to or incorporated in the Property but not yet affixed to or incorporated in the Property, all which shall be considered to the fullest extent of the law to be real property for purposes of this Security Instrument;

(t) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements;

(u) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds of real property and personal property taxes and other refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Borrower with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, Project Agreements (defined in the Loan Agreement), chattel paper, instruments, documents, notes, drafts and letters of credit (other than letters of credit in favor of Beneficiary), which arise from or relate to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally;

(v) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, the Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to, or defect in, the Land, the Improvements, or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, misrepresentation, or concealment of a material fact;

(w) All books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, and the qualification of such tenants, and all certificates, vouchers, and other documents in any way related thereto, and all records relating to the application and allocation of any federal, state, and local tax credits or benefits, including computer-readable memory and any computer hardware or software necessary to access and process such memory; and

(x) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above, including all proceeds of any voluntary or involuntary disposition or claim respecting any such property (arising out of any judgment, condemnation or award, or otherwise arising) and all goods, documents, general intangibles, chattel paper and accounts, wherever located, acquired with cash proceeds of any of the foregoing or its proceeds.

(y) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (x) above.

Section 1.2 ASSIGNMENT OF LEASES AND RENTS. Borrower hereby absolutely and unconditionally assigns to Lender and Trustee Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that **THIS ASSIGNMENT**

CONSTITUTES A PRESENT, ABSOLUTE ASSIGNMENT AND NOT AN ASSIGNMENT FOR ADDITIONAL SECURITY ONLY. Nevertheless, subject to the terms of this Section 1.2, Section 9.1(h) and the Loan Agreement, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums. Notwithstanding anything herein to the contrary, Borrower shall at all times have the right to enter into, terminate, amend and otherwise modify any Lease as and to the extent set forth in Section 5.1.17 of the Loan Agreement.

Section 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender and Trustee, as security for the Obligations, (as herein defined) a security interest in the Personal Property, the Accounts, and the Account Collateral to the full extent that the Personal Property, the Accounts and the Account Collateral may be subject to the Uniform Commercial Code.

Section 1.4 PLEDGE OF MONIES HELD. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited in the Reserve Funds, the Accounts, Net Proceeds and Awards, as additional security for the Obligations until expended or applied as provided in the Loan Agreement or this Security Instrument.

Section 1.5 FIXTURE FILING. This Security Instrument constitutes a financing statement filed as a fixture filing under Section 9502 of the California Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Land or Improvements.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and Trustee, and for their successors and assigns, forever;

IN TRUST, WITH POWER OF SALE, to secure payment to Lender of the Debt at the time and in the manner provided for its payment in the Note, the Loan Agreement, and in this Security Instrument

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, shall well and truly perform the Other Obligations (as herein defined) as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Note and in the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt, including without limitation,

(a) the payment of the indebtedness evidenced by the Note in lawful money of the United States of America;

(b) the payment of interest, default interest, if any, late payment charges, if any, and other sums, as provided in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(c) the payment of the Breakage Costs, if any, Prepayment Premium, if any, and Exit Fee, if any;

(d) the payment of all other moneys agreed or provided to be paid by Borrower in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(e) the payment of all sums advanced pursuant to the Loan Agreement or this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and

(f) the payment of all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any modification, amendment, renewal, extension, or change of or substitution for the Debt or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

Section 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "Other Obligations"):

(a) the performance of all other obligations of Borrower contained herein;

(b) the performance of each obligation of Borrower contained in any other agreement given by Borrower to Lender which is for the purpose of further securing the obligations secured hereby, and any renewals, extensions, substitutions, replacements, amendments, modifications and changes thereto; and

(c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively below as the "Obligations."

ARTICLE 3 - BORROWER COVENANTS

Borrower covenants and agrees that:

Section 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Note, the Loan Agreement and in this Security Instrument.

Section 3.2 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in the Loan Agreement, the Note and all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 INSURANCE. Borrower shall obtain and maintain, or cause to be maintained, insurance in full force and effect at all times when any amounts are outstanding under the Loan Documents with respect to Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.4 PAYMENT OF TAXES, ETC. Borrower shall pay all Taxes and Other Charges in accordance with the terms of the Loan Agreement.

Section 3.5 MAINTENANCE AND USE OF PROPERTY. Borrower shall cause the Property to be maintained in a good and safe condition and repair in accordance with the terms of the Loan Agreement. Subject to the terms of the Loan Agreement, the Improvements and the Personal Property shall not be removed, demolished or materially altered or expanded (except for normal replacement of the Personal Property) without the consent of Lender. Subject to the terms of the Loan Agreement, Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty, or become damaged, worn or dilapidated or which may be affected by any Condemnation and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Subject to the terms of the Loan Agreement, Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

Section 3.6 WASTE. Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.7 PAYMENT FOR LABOR AND MATERIALS. Borrower will pay, in accordance with the Loan Agreement, all bills and costs for labor, materials, and specifically fabricated

materials incurred in connection with the Property and in any event prior to the delinquency thereof and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Encumbrances. This Section 3.7 is subject to any right granted to Borrower in the Loan Agreement to contest in good faith claims and liens for labor done and materials and services furnished in connection with construction of the Improvements.

Section 3.8 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of the Loan Agreement, any other Loan Documents and any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing the Obligations and any amendments, modifications or changes thereto.

Section 3.9 CHANGE OF NAME, IDENTITY OR STRUCTURE. Except as may be permitted under the Loan Agreement, Borrower will not change Borrower's name, identity (including its trade name or names) or corporate, partnership or other structure without first obtaining the prior written consent of Lender. Borrower hereby authorizes Lender, prior to or contemporaneously with the effective date of any such change, to file any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

Section 3.10 PROPERTY USE. The Property shall be used only for the purposes set forth in Section 4.1.20 of the Loan Agreement.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

Section 4.1 WARRANTY OF TITLE. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses a fee simple absolute estate in the Fee Land and the Improvements and a leasehold interest in the Ground Lease Land and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for the Permitted Encumbrances. The Permitted Encumbrances do not and will not materially adversely affect or interfere with the ability of Borrower to repay the Note or any other amount owing under the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents or to perform its obligations thereunder in accordance with the terms of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with the Assignment of Leases and any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty

(including the Leases), all in accordance with the terms thereof, subject only to Permitted Encumbrances. The Assignment of Leases, when properly recorded in the appropriate records, creates a valid first priority assignment of, or a valid first priority security interest in, certain rights under the related Leases, subject only to a license granted to Borrower to exercise certain rights and to perform certain obligations of the lessor under such Leases, including the right to operate the Property. No Person other than Borrower owns any interest in any payments due under such Leases that is superior to or of equal priority with the Lender's interest therein. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender and/or Trustee against the claims of all persons whomsoever.

ARTICLE 5 - OBLIGATIONS AND RELIANCES

Section 5.1 RELATIONSHIP OF BORROWER AND LENDER. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 5.2 NO RELIANCE ON LENDER. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 5.3 NO LENDER OBLIGATIONS. (a) Notwithstanding the provisions of Section 1.1(f), (l) and (m) or Section 1.2 hereof, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 5.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, (i) Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 4 of the Loan Agreement and Articles 3 and 4 hereof without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; (ii) that such reliance existed on the part of Lender prior to the date hereof; (iii) that the warranties and representations are a material inducement to Lender in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents; and (iv) that Lender would

not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 4 of the Loan Agreement and Articles 3 and 4 hereof.

ARTICLE 6 - FURTHER ASSURANCES

Section 6.1 RECORDING OF SECURITY INSTRUMENT, ETC. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance reasonably requested by Lender to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Loan Agreement, this Security Instrument, the other Loan Documents, and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, the other Loan Documents, or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do, and except to the extent the same is a tax based on income of Lender.

Section 6.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender and Trustee the Property and rights hereby deeded, mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver and hereby authorizes Lender to file one or more financing statements or execute in the name of Borrower to the extent Lender may lawfully do so, one or more chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property or any Collateral. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 6.2; provided, however that Lender agrees to only act as such attorney in fact during the continuance of an Event of Default.

Section 6.3 CHANGES IN TAX, DEBT CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the

Property, Borrower will pay the tax, with interest and penalties thereon, if any. If the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option, exercisable by written notice of not less than ninety (90) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Loan Agreement, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

Section 6.4 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Documents, Borrower will issue, in lieu thereof, a replacement Note or other Loan Documents, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Documents in the same principal amount thereof and otherwise of like tenor.

Section 6.5 PERFORMANCE AT BORROWER'S EXPENSE. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification, amendment and termination of the Loan, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the Property, or (d) the review of any Lease or proposed Lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "Event"). Borrower further acknowledges and confirms that it shall be responsible for the payment of all costs of reappraisal of the Property or any part thereof, whether required by law, regulation, Lender or any governmental or quasi-governmental authority. Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional reasonable fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be limited to, all reasonable legal fees and disbursements of Lender, whether with respect to retained firms, the reimbursement for the reasonable expenses of in-house staff or otherwise.

Section 6.6 LEGAL FEES FOR ENFORCEMENT. (a) Borrower shall pay all reasonable legal fees incurred by Lender in connection with the preparation of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents and (b) Borrower shall pay to

Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property (including commencing any foreclosure action), whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

ARTICLE 7 - DUE ON SALE/ENCUMBRANCE

Section 7.1 LENDER RELIANCE. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should an Event of Default occur and continue to exist with respect to Borrower's repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 7.2 NO SALE/ENCUMBRANCE. Neither Borrower nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE 8 - PREPAYMENT

Section 8.1 PREPAYMENT. The Debt may not be prepaid in whole or in part except in accordance with the express terms and conditions of the Loan Agreement.

ARTICLE 9 - RIGHTS AND REMEDIES

Section 9.1 REMEDIES. Except as otherwise expressly set forth in the Loan Agreement or any other Loan Document, at any time during the continuance of an uncured Event of Default, Lender and Trustee shall be entitled to invoke any and all of the rights and remedies described below or permitted by applicable law. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) **Acceleration.** Lender may declare any or all of the Obligations to be due and payable immediately and may terminate any Loan Document in accordance with its terms.

(b) **Receiver.** Lender may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property. Such appointment may be made without regard to the solvency or insolvency of Borrower at the time of application for such receiver and without regard to the then value of the Property. Borrower hereby stipulates to the appointment of such receiver. Such receiver shall have power to collect the Rents during the pendency of a foreclosure, and during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Borrower, except for the

intervention of such receiver, would be entitled to collect such Rents, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of any period of redemption, including, to the extent not prohibited by law, the right to lease all or any portion of the Property for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease.

(c) **Entry.** Lender, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and in its own name or in the name of Borrower sue for or otherwise collect any and all Rents, including those that are past due, and may also do any and all other things in connection with those actions that Lender may in its sole and absolute discretion consider necessary and appropriate to protect the security of this Security Instrument. Such other things may include: taking and possessing all of Borrower's or the then owner's books and records; entering into, enforcing, modifying, or canceling leases on such terms and conditions as Lender may consider proper; obtaining and evicting tenants; fixing or modifying Rents (but not in excess of any applicable maximum low income rents for residential tenants); collecting and receiving any payment of money owing to Borrower; completing any unfinished construction; contracting for and making repairs and alterations; performing such acts of cultivation or irrigation as necessary to conserve the value of the Property; and/or, if applicable, preparing for harvest, harvesting and selling any crops that may be growing on the property. If Lender so requests, Borrower shall assemble all of the Property that has been removed from the Land and make all of it available to Lender at the site of the Land. Borrower hereby irrevocably constitutes and appoints Lender as Borrower's attorney-in-fact, with full power of substitution, to perform such acts and execute such documents as Lender in its sole and absolute discretion may consider to be appropriate in connection with taking these measures, including endorsement of Borrower's name on any instruments provided, however, that Lender agrees to only act as such attorney in fact during the continuance of an Event of Default. The appointment granted in this Section 9.1.3(c) shall be deemed to be a power coupled with an interest. Regardless of any provision of this Security Instrument, or any other Loan Document, Lender shall not be considered to have accepted any property other than cash or immediately available funds in satisfaction of any obligation of Borrower to Lender, unless Lender has given express written notice of Lender's election of that remedy in accordance with California Uniform Commercial Code Section 9620, as it may be amended or recodified from time to time. Borrower agrees to deliver to Lender all books and records pertaining to the Property, including computer-readable memory and any computer hardware or software necessary to access or process such memory, as may reasonably be requested by Lender in order to enable Lender to exercise its rights under this Section.

(d) **Cure; Protection of Security.** Either Lender or Trustee may cure any uncured Event of Default of Borrower, and if it chooses to do so in connection with any such cure, Lender or Trustee may also enter the Property and/or do any and all other things which it may in its sole and absolute discretion consider necessary and appropriate to protect the security of this Security Instrument. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Lender or Trustee under, this Security Instrument; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Lender's or Trustee's sole judgment is or may be senior in priority to this Security Instrument, such judgment of Lender or Trustee to be

conclusive as among the parties to this Security Instrument; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under the Loan Documents; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Lender or Trustee. Lender and Trustee may take any of the actions permitted under this Section 9.1.4(d) either with or without giving notice to any person.

(e) **Uniform Commercial Code Remedies.** Lender may exercise any or all of the remedies granted to a secured party under the California Uniform Commercial Code.

(f) **Judicial Action.** Lender may bring an action in any court of competent jurisdiction to foreclose this Security Instrument in the manner provided by law for the foreclosure of mortgages on real property and/or to obtain specific enforcement of any of the covenants or agreements of this Security Instrument. If Lender brings such an action, Trustor agrees to pay Lender's reasonable attorneys' fees (including the reasonable allocated costs of in-house counsel) and court costs as determined by the court (but not the jury).

(g) **Power of Sale.** Under the power of sale hereby granted, Lender shall have the discretionary right to cause some or all of the Property, including any Property which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) **Sales of Personal Property.**

(A) For purposes of this power of sale, Lender may elect to treat as personal property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Lender may dispose of any personal property separately from the sale of real property, in any manner permitted by Division 9 of the California Uniform Commercial Code, including any public or private sale, or in any manner permitted by any other applicable law. Any proceeds of any such disposition shall not cure any Event of Default or reinstate any Obligation for purposes of Section 2924c of the California Civil Code.

(B) In connection with any sale or other disposition of such personal property disposed of separately from the sale of the real property, Borrower agrees that the following procedures constitute a commercially reasonable sale. Lender shall mail written notice of the sale to Borrower not later than forty-five (45) days prior to such sale. Once per week during the four weeks immediately preceding such sale, Lender will publish notice of the sale in a local daily newspaper of general circulation. Upon receipt of any written request, Lender will make the personal property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding, Lender shall

be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equal the fair value of the personal property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable.

(ii) **Trustee's Sales of Real Property or Mixed Collateral.**

(A) Lender may choose to dispose of some or all of the Property which consists solely of real property in any manner then permitted by applicable law. In its sole and absolute discretion, Lender may also or alternatively choose to dispose of some or all of the Property, in any combination consisting of both real and personal property, together in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by the California Uniform Commercial Code. Borrower agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the personal property. For purposes of this power of sale, either a sale of real property alone, or a sale of both real and personal property together in accordance with California Uniform Commercial Code, will sometimes be referred to as a "Trustee's Sale."

(B) Before any Trustee's Sale, Lender or Trustee shall give such notice of default and election to sell as may then be required by law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor Lender shall have any obligation to make demand on Borrower before any Trustee's Sale. From time to time in accordance with then applicable law, Trustee may, and in any event at Lender's request shall, postpone any Trustee's Sale by public announcement at the time and place noticed for that sale.

(C) At any Trustee's Sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any Trustee's Sale, shall be conclusive proof of their truthfulness, absent manifest error. Absent manifest error, any such deed shall be (1) conclusive against all persons as to the facts recited in it; and (2) conclusive evidence in favor of purchasers and encumbrancers for value and

without actual notice, that all requirements of this Security Instrument and all requirements of law were met relating to the exercise of the power of sale and the Trustee's Sale of the Property conveyed by such deed. Knowledge of the Trustee shall not be imputed to the Lender.

(h) **Attorney-in-Fact.** Borrower hereby irrevocably constitutes and appoints Lender as Borrower's attorney-in-fact to perform such acts and execute such documents as Lender in its sole and absolute discretion may consider to be appropriate (1) to effect the purpose of this Security Instrument; and (2) in connection with taking the measures described in this Section, including endorsement of Borrower's name on any instruments.

(i) **Single or Multiple Foreclosure Sales.** Lender may elect to dispose of the Property, or any portion thereof, including but not limited to lots, parcels, and/or items through a single consolidated sale or disposition to be held or made under the power of sale granted in Section 9.1.7 above, or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner Lender may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale;" any two or more, "Foreclosure Sales"). If the Property consists of more than one lot, parcel or item of property, Lender may designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition. If Lender chooses to have more than one Foreclosure Sale, Lender at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Lender may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the lien of this Security Instrument on any part of the Property which has not been sold, until all of the Secured Obligations have been paid and performed in full.

(j) **Credit Bids.** At any Foreclosure Sale, any person, including Borrower, Trustee, or Lender, may bid for and acquire the Property or any part of it to the extent not expressly prohibited by then applicable law. Instead of paying cash for such property, Lender may settle for the purchase price by crediting the sales price of the property against the following obligations:

(i) First, the portion of the Obligations attributable to the expenses of sale, costs of any action, and any other sums for which Trustor is obligated to pay or reimburse Lender or Trustee under this Security Instrument or the other Loan Documents; and

(ii) Second, all other Obligations in any order and proportions as Lender in its sole and absolute discretion may choose.

(k) **Application of Foreclosure Sale Proceeds.** Lender and Trustee shall apply the proceeds of any Foreclosure Sale in the following manner:

(i) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, including all costs and expenses of exercising the

power of sale and other costs of sale, including, but not limited to, trustee's fees and reasonable attorneys' fees, the costs of any action, and any other sums for which Trustor is obligated to reimburse Lender or Trustee under this Security Instrument or the other Loan Documents; and

(ii) Second, to pay the portion of the Obligations attributable to any sums expended or advanced by Lender or Trustee under the terms of this Security Instrument or the other Loan Documents which then remain unpaid; and

(iii) Third, to pay all other Obligations, to the extent not expressly prohibited by applicable law, in any order and proportions as Lender in its sole and absolute discretion may choose; and

(iv) Fourth, to remit the remainder, if any, to the person or persons entitled to it, or, if permitted or required by applicable law, to the clerk of the Superior Court of the county in which the Trustee's Sale took place.

If the Obligations include more than one loan or line of credit, by cross-collateralization or otherwise, it is specifically agreed that the proceeds of any Trustee's Sale or other foreclosure action shall not be applied pro-rata unless such application is directed by Lender, but instead shall be applied to all such Obligations in any order, proportions and manner as Lender in its sole and absolute discretion may choose.

(l) Application of Rents and Other Sums. Lender shall apply any and all Rents collected by it, and any and all sums, other than proceeds of a Foreclosure Sale which Lender may receive or collect under this Section 9.1 (l), in the following manner:

(i) First, to pay the portion of the Obligations attributable to the costs and expenses of operation of the Property and collection of Rents and other sums that may be incurred by Trustee, Lender, and/or any receiver, including but not limited to reasonable attorneys' fees and any and all expenses of leasing, operating, maintaining, and managing the Property, and all other costs and charges incident to the Property; and

(ii) Second, to pay all other Obligations in any order and proportions as Lender in its sole and absolute discretion may choose; and

(iii) Third, to remit the remainder, if any, to the person or persons entitled to it. Lender shall have no liability for any funds which it does not actually receive.

(m) Environmental Default And Remedies. In the event that any portion of the Property is determined to be "environmentally impaired" (as "environmentally impaired" is defined in Section 726.5(e)(3) of the California Code of Civil Procedure) or to be an "affected parcel" (as "affected parcel" is defined in Section 726.5(e)(1) of the California Code of Civil Procedure), then, without otherwise limiting or in any way affecting Beneficiary's or Trustee's right and remedies under this Security Instrument, Beneficiary may elect to exercise its

right under Section 726.5(a) of the California Code of Civil Procedure to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (i) the rights and remedies of an unsecured creditor, including reduction of its claim against Borrower to judgment, and (ii) any other rights and remedies permitted by law. For purposes of determining Beneficiary's right to proceed as an unsecured creditor under Section 726.5(a) of the California Code of Civil Procedure, Borrower shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of Section 726.5(d)(1) of the California Code of Civil Procedure, if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant or user of any portion of the Property and Borrower knew or should have known of the activity by such lessee, occupant or user which caused or contributed to the release or threatened release. All costs and expenses, including, but not limited to, attorneys' fees, incurred by Beneficiary in connection with any action commenced under this Security Instrument, including any action required by Section 726.5(b) of the California Code of Civil Procedure to determine the degree to which the Property is environmentally impaired, plus interest thereon at the rate specified in the Note until paid, shall be added to the indebtedness secured by this Security Instrument and shall be due and payable to Beneficiary upon its demand.

Section 9.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 9.3 RIGHT TO CURE DEFAULTS. During the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender or Trustee is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable attorneys' fees to the extent permitted by law), with interest as provided below, shall constitute a portion of the Debt and shall be due and payable to Lender or Trustee upon demand. All such costs and expenses incurred by Lender in remedying such Default or Event of Default shall bear interest at the Default Rate for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender and shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

Section 9.4 ACTIONS AND PROCEEDINGS. Lender or Trustee has the right to appear in and defend any action or proceeding brought with respect to the Property and, after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 9.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt

as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender or Trustee thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Borrower existing at the time such earlier action was commenced.

Section 9.6 OTHER RIGHTS, ETC. (a) The failure of Lender or Trustee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender or Trustee to comply with any request of Borrower or any Guarantor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender or Trustee extending the time of payment or otherwise modifying or supplementing the terms of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and neither Lender nor Trustee shall have any liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender or Trustee shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to the Property or any other Collateral not in Lender's or Trustee's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender or Trustee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender or Trustee thereafter to foreclose this Security Instrument. The rights of Lender and Trustee under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender or Trustee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Neither Lender nor Trustee shall be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 9.7 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require (including, without limitation, a release in accordance with Article 16 of the Loan Agreement) without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 9.8 VIOLATION OF LAWS. If the Property is not in compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 9.9 RIGHT OF ENTRY. Subject to the terms of the Loan Agreement, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 9.10 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, and the performance and discharge of the Obligations.

ARTICLE 10 - INDEMNIFICATIONS

Section 10.1 GENERAL INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (f) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan evidenced by the Note and secured by this Security Instrument. Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of any Indemnified Party. Any amounts payable to Lender by reason of the application of this Section 10.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid.

Section 10.2 MORTGAGE AND/OR INTANGIBLE TAX. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Loan Agreement, the Note or any other Loan Document.

Section 10.3 ENVIRONMENTAL INDEMNITY. Simultaneously with this Security Instrument, Borrower and Guarantor have executed and delivered the Environmental Indemnity.

ARTICLE 11 - WAIVERS

Section 11.1 WAIVER OF COUNTERCLAIM. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, the Loan Agreement, any of the other Loan Documents, or the Obligations.

Section 11.2 MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisement, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Legal Requirements.

Section 11.3 WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender or Trustee except (a) with respect to matters for which this Security Instrument, the Loan Agreement or any other Loan Document, specifically and expressly provides for the giving of notice by Lender or Trustee to Borrower, and (b) with respect to matters for which Lender or Trustee is required by any Applicable Law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender or Trustee with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender or Trustee to Borrower.

Section 11.4 WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 11.5 DISCRETION OF LENDER. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the reasonable discretion of Lender, except as may be otherwise expressly and specifically provided herein or in any of the other Loan Documents.

ARTICLE 12 - EXCULPATION

Section 12.1 EXCULPATION. Notwithstanding anything to the contrary contained in this Security Instrument, the liability of Borrower to pay the Debt and for the performance of the other agreements, covenants and obligations contained herein and in the Note, the Loan Agreement and the other Loan Documents, including, without limitation, the Assignment of Leases and Rents, the Assignment of Contracts, the Pledge and the Assignment of Interest Rate Cap Agreement, shall be limited as set forth in Section 9.4 of the Loan Agreement.

ARTICLE 13 - SUBMISSION TO JURISDICTION

Section 13.1 SUBMISSION TO JURISDICTION. With respect to any claim or action arising hereunder or under the Note or the other Loan Documents, Borrower (a) irrevocably submits to the nonexclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York, New York, and appellate courts from any thereof, and (b) irrevocably waives any objection which it may have at any time to the laying on venue of any suit, action or proceeding arising out of or relating to this Security Instrument brought in any such court, irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing in this Security Instrument will be deemed to preclude Lender from bringing an action or proceeding with respect hereto in any other jurisdiction.

ARTICLE 14 - APPLICABLE LAW

Section 14.1 GOVERNING LAW. THIS SECURITY INSTRUMENT SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF NEW YORK AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, PROVIDED HOWEVER, THAT WITH RESPECT TO THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIEN OF THIS SECURITY INSTRUMENT, AND THE DETERMINATION OF DEFICIENCY JUDGMENTS, THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED SHALL APPLY, WITHOUT LIMITING THE GENERALLY OF FOREGOING, NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE NEW YORK LIEN LAWS AND ALL OTHER NEW YORK LAWS RESPECTING THE FORM SUBSTANCE AND FILING OF BUILDING CONTRACTS SHALL NOT APPLY. QUESTIONS CONCERNING THE AVAILABILITY OF A POST-FORECLOSURE DEFICIENCY, ANY REQUIREMENT TO EXHAUST SECURITY, THE AVAILABILITY OF PERSONAL JUDGMENTS AGAINST AND RECOURSE TO THE BORROWER AND GUARANTOR, THE ORDER IN WHICH A CREDITOR EXERCISES ITS REMEDIES AND THE EFFECT OF EXERCISING REMEDIES ARE NOT QUESTIONS CONCERNING THE CREATION, PERFECTION OR PRIORITY OF, OR PROCEDURES FOR ENFORCING THE LIEN ON, REAL PROPERTY AND SHALL BE GOVERNED BY THE LAWS OF NEW YORK.

Section 14.2 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Legal Requirements.

ARTICLE 15 - DEFINITIONS

Section 15.1 GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean

"each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Trustee" shall mean "Trustee and any substitute Trustee of the estates, properties, powers, trusts and rights conferred upon Trustee pursuant to this Security Instrument," the word "Note," shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "legal fees", "attorneys' fees" and "counsel fees" shall include any and all reasonable attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

Section 15.2 HEADINGS, ETC. The headings and captions of various Articles and Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

Section 16.1 NO ORAL CHANGE. This Security Instrument and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 16.2 LIABILITY. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 16.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of this Security Instrument or any other Loan Document, is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument or the other Loan Documents, as the case may be, shall be construed without such provision.

Section 16.4 DUPLICATE ORIGINALS; COUNTERPARTS. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 16.5 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 16.6 NOTICES. All notices required or permitted under this Security Instrument shall be given and be effective in accordance with Section 10.6 of the Loan Agreement.

Section 16.7 INCONSISTENCY OR CONFLICT OR WITH LOAN AGREEMENT. In the event of a conflict or inconsistency between the terms of this Security Instrument and the Loan Agreement, the terms and provisions of the Loan Agreement shall govern.

ARTICLE 17 - INTENTIONALLY OMITTED

ARTICLE 18 - INTENTIONALLY OMITTED

ARTICLE 19 - GROUND LEASE PROVISIONS

Section 19.1 NO MERGER OF FEE AND LEASEHOLD ESTATES; RELEASES. So long as any portion of the Debt shall remain unpaid, unless Lender shall otherwise consent, the fee title to the Ground Lease Land and the Leasehold Estate shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Borrower, Fee Owner, or in any other Person by purchase, operation of law or otherwise. Lender reserves the right, at any time, to release portions of the Property, including, but not limited to, the Leasehold Estate, with or without consideration, at Lender's election, without waiving or affecting any of its rights hereunder or under the Note or the other Loan Documents and any such release shall not affect Lender's rights in connection with the portion of the Property not so released.

Section 19.2 BORROWER'S ACQUISITION OF FEE ESTATE. In the event that Borrower, so long as any portion of the Debt remains unpaid, shall be the owner and holder of the fee title to the Ground Lease Land, the lien of this Security Instrument shall be spread to cover Borrower's fee title to the Ground Lease Land and said fee title shall be deemed to be included in the Property. Borrower agrees, at its sole cost and expense, including without limitation, Lender's reasonable attorney's fees, to (i) execute any and all documents or instruments necessary to subject its fee title to the Ground Lease Land to the lien of this Security Instrument; and (ii) provide a title insurance policy which shall insure that the lien of this Security Instrument is a first lien on Borrower's fee title to the Ground Lease Land.

Section 19.3 BANKRUPTCY.

(a) Subject to the terms of the Loan Agreement, Borrower shall not, in any event, including the bankruptcy, reorganization or insolvency of Borrower or Fee Owner, (i) surrender its leasehold estate, or any portion thereof, nor terminate, cancel or acquiesce in the rejection of the Ground Lease; (ii) consent or fail to object to any attempt by Fee Owner to sell or transfer its interest in the Ground Lease Land and the Improvements located on the Ground Lease Land free and clear of the Ground Lease; or (iii) modify, change, supplement, alter or amend the Ground Lease in any respect, either orally or in writing. Subject to the terms of the Loan Agreement, Borrower does hereby expressly release, assign, relinquish and surrender unto Lender all its right, power and authority to terminate, cancel, acquiesce in the rejection of, consent or object to any attempted transfer Fee Owner's interest in the Ground Lease Land and the Improvements located on the Ground Lease Land free and clear of the Ground Lease, or modify, change, supplement, alter or amend the Ground Lease in any respect, either orally or in writing, at any time, including in the event of the bankruptcy, reorganization or insolvency of Borrower or Fee Owner under the Ground Lease, and any attempt on the part of Borrower to exercise any such right without the consent of Lender shall be null and void. Notwithstanding the foregoing, in the

event of a threatened termination of the Ground Lease due to the bankruptcy, reorganization or insolvency of Borrower, Borrower shall, at Lender's election, absolutely assign to Lender, in lieu of such termination, all of Borrower's right, title and interest in and to the Ground Lease.

(b) In the event the Ground Lease is rejected by Fee Owner, as debtor in possession, or by a trustee for Fee Owner, pursuant to Section 365 of the Bankruptcy Code, Borrower shall not exercise its right to elect under Section 365(h)(1) of the Bankruptcy Code to terminate or treat the Ground Lease as terminated. Any such election made shall be null and void. In any event, Borrower hereby waives, for the benefit of Lender, its successors and assigns only, and not enforceable by anyone else, the provisions of Section 365 of the Bankruptcy Code, or of any statute or rule of law now or hereafter in effect which gives or purports to give Borrower any right of election to terminate the Ground Lease, to acquiesce in the termination of the Ground Lease or to surrender possession of the Property in the event of the bankruptcy, reorganization or insolvency of Borrower or any other party including, without limitation, Fee Owner.

(c) In the event Fee Owner, as debtor in possession, or by a trustee for Fee Owner, attempts to transfer its interest in the Ground Lease Land and the Improvements located on the Ground Lease Land free and clear of the Ground Lease pursuant to Section 363 of the Bankruptcy Code, Borrower shall not consent, acquiesce or fail to object to such attempted transfer. Any such consent, acquiescence or failure to object made shall be null and void. In any event, Borrower hereby waives, for the benefit of Lender, its successors and assigns only, and not enforceable by anyone else, the provisions of Section 363 of the Bankruptcy Code, or of any statute or rule of law now or hereafter in effect which gives or purports to give Borrower any right to consent to or acquiesce in the transfer of the Fee Owner's interest in the Ground Lease Land and the Improvements located on the Ground Lease Land free and clear of the Ground Lease, to acquiesce in the termination of the Ground Lease or to surrender possession of the Property in the event of the bankruptcy, reorganization or insolvency of Fee Owner or any other party.

ARTICLE 20 - SECURITY INSTRUMENT PROVISIONS

Section 20.1 CONCERNING THE TRUSTEE. Trustee shall be under no duty to take any action hereunder except as expressly required hereunder or by law, or to perform any act which would involve Trustee in any expense or liability or to institute or defend any suit in respect hereof, unless properly indemnified to Trustee's reasonable satisfaction. Trustee, by acceptance of this Security Instrument, covenants to perform and fulfill the trusts herein created, being liable, however, only for gross negligence or willful misconduct, and hereby waives any statutory fee and agrees to accept reasonable compensation, in lieu thereof, for any services rendered by Trustee in accordance with the terms hereof. Trustee may resign at any time upon giving thirty (30) days' notice to Borrower and to Lender. Lender may remove Trustee at any time or from time to time and select a successor trustee. In the event of the death, removal, resignation, refusal to act, or inability to act of Trustee, or in its sole discretion for any reason whatsoever Lender may, without notice and without specifying any reason therefor and without applying to any court, select and appoint a successor trustee, by an instrument recorded wherever this Security Instrument is recorded and all powers, rights, duties and authority of Trustee, as aforesaid, shall thereupon become vested in such successor. Such substitute trustee shall not be required to give bond for the faithful performance of the duties of Trustee hereunder unless

required by Lender. The procedure provided for in this Section 20.1 for substitution of Trustee shall be in addition to and not in exclusion of any other provisions for substitution, by law or otherwise.

Section 20.2 TRUSTEE'S FEES. Borrower shall pay all reasonable costs, fees and expenses incurred by Trustee and Trustee's agents and counsel in connection with the performance by Trustee of Trustee's duties hereunder and all such costs, fees and expenses shall be secured by this Security Instrument.

Section 20.3 CERTAIN RIGHTS. With the approval of Lender, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Lender) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Note, this Security Instrument or the other Loan Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his/her agents or attorneys, (iii) to select and employ, in and about the execution of his/her duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or willful misconduct, and (iv) any and all other lawful action as Lender may instruct Trustee to take to protect or enforce Lender's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Property for debts contracted for or liability or damages incurred in the management or operation of the Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting an action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered.

Section 20.4 RETENTION OF MONEY. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by Applicable Law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

Section 20.5 PERFECTION OF APPOINTMENT. Should any deed, conveyance, or instrument of any nature be required from Borrower by any Trustee or substitute trustee to more fully and certainly vest in and confirm to the Trustee or substitute trustee such estates, rights, powers, and duties, then, upon request by the Trustee or substitute trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Borrower.

Section 20.6 SUCCESSION INSTRUMENTS. Any substitute trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his/her predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Lender or of the substitute trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute trustee so appointed in the Trustee's place.

Section 20.7 JURY TRIAL WAIVER; VENUE. **WITH RESPECT TO ANY CLAIM OR ACTION ARISING HEREUNDER OR UNDER THE OTHER LOAN DOCUMENTS, BORROWER (A) IRREVOCABLY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF CALIFORNIA IN THE COUNTY OF ORANGE, IN THE STATE OF NEW YORK IN THE BOROUGH OF MANHATTAN IN NEW YORK AND THE UNITED STATES DISTRICT COURT LOCATED IN SANTA ANA, CALIFORNIA AND IN THE BOROUGH OF MANHATTAN IN NEW YORK, NEW YORK, AND APPELLATE COURTS FROM ANY THEREOF, IN EACH CASE AS SELECTED BY LENDER AND (B) IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING ON VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS BROUGHT IN ANY SUCH COURT, IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.**

TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, BORROWER AND LENDER, BY ITS ACCEPTANCE OF THIS SECURITY INSTRUMENT, EACH AGREES TO, AND DOES, WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE LOAN, ANY LOAN DOCUMENT OR ANY OTHER DOCUMENT OR INSTRUMENT BETWEEN THE PARTIES RELATING TO THE LOAN, THE LOAN DOCUMENTS, THE PROPERTY OR ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF ANY OF THE LOAN DOCUMENTS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES (EACH A "DISPUTE", AND COLLECTIVELY, ANY OR ALL, THE "DISPUTES") OF ANY KIND WHATSOEVER THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THE LOAN, ANY LOAN DOCUMENT OR ANY OTHER DOCUMENT OR INSTRUMENT BETWEEN THE PARTIES RELATING TO THE LOAN, THE LOAN DOCUMENTS, THE PROPERTY OR ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF ANY OF THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, ANTITRUST CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON-LAW OR STATUTORY

CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTERING INTO THIS SECURITY INSTRUMENT AND ALL OTHER AGREEMENTS AND INSTRUMENTS PROVIDED FOR HEREIN, AND THAT EACH WILL CONTINUE TO BE BOUND BY AND RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH LEGAL COUNSEL OF ITS OWN CHOOSING, OR HAS HAD AN OPPORTUNITY TO DO SO, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS HAVING HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS SECURITY INSTRUMENT OR ANY OTHER LOAN DOCUMENT OR DOCUMENT ENTERED INTO BETWEEN THE PARTIES IN CONNECTION WITH THIS SECURITY INSTRUMENT OR ANY LOAN DOCUMENT. IN THE EVENT OF LITIGATION, THIS SECURITY INSTRUMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT WITHOUT A JURY.

BORROWER'S INITIAL

If and to the extent that the paragraph immediately above is determined by a court of competent jurisdiction to be unenforceable or is otherwise not applied by any such court, Borrower and Lender, by its acceptance of this Security Instrument, each hereby consents and agrees that (a) any and all Disputes shall be heard by a referee in accordance with the general reference provisions of California Code of Civil Procedure Section 638, sitting without a jury in the County of Orange, California, (b) such referee shall hear and determine all of the issues in any Dispute (whether of fact or of law), including issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8, including without limitation, entering restraining orders, entering temporary restraining orders, issuing temporary and permanent injunctions and appointing receivers, and shall report a statement of decision, provided that, if during the course of any Dispute any party desires to seek such a "provisional remedy" but a referee has not been appointed, or is otherwise unavailable to hear the request for such provisional remedy, then such party may apply to the Los Angeles Superior Court for such provisional relief, and (c) pursuant to California Code of Civil Procedure Section 644, judgment may be entered upon the decision of such referee in the same manner as if the Dispute had been tried directly by a court. The parties shall use their respective commercially reasonable and good faith efforts to agree upon and select such referee, provided that such referee must be a retired California state or federal judge, and further provided that if the parties cannot agree upon a referee, the referee shall be appointed by the Presiding Judge of the Orange County Superior Court. Each party hereto acknowledges that this consent and agreement is a material inducement to enter into this Security Instrument, the Loan Documents and all other agreements and instruments provided for herein or therein, and that each will continue to be bound by and to rely on this consent and agreement in their related future dealings. The parties shall share the cost of the referee and reference proceedings equally; provided that, the referee may award attorneys' fees and reimbursement of the referee and reference proceeding fees and costs to the prevailing

CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTERING INTO THIS SECURITY INSTRUMENT AND ALL OTHER AGREEMENTS AND INSTRUMENTS PROVIDED FOR HEREIN, AND THAT EACH WILL CONTINUE TO BE BOUND BY AND RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH LEGAL COUNSEL OF ITS OWN CHOOSING, OR HAS HAD AN OPPORTUNITY TO DO SO, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS HAVING HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS SECURITY INSTRUMENT OR ANY OTHER LOAN DOCUMENT OR DOCUMENT ENTERED INTO BETWEEN THE PARTIES IN CONNECTION WITH THIS SECURITY INSTRUMENT OR ANY LOAN DOCUMENT. IN THE EVENT OF LITIGATION, THIS SECURITY INSTRUMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT WITHOUT A JURY.

BORROWER'S INITIAL 

If and to the extent that the paragraph immediately above is determined by a court of competent jurisdiction to be unenforceable or is otherwise not applied by any such court, Borrower and Lender, by its acceptance of this Security Instrument, each hereby consents and agrees that (a) any and all Disputes shall be heard by a referee in accordance with the general reference provisions of California Code of Civil Procedure Section 638, sitting without a jury in the County of Orange, California, (b) such referee shall hear and determine all of the issues in any Dispute (whether of fact or of law), including issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8, including without limitation, entering restraining orders, entering temporary restraining orders, issuing temporary and permanent injunctions and appointing receivers, and shall report a statement of decision, provided that, if during the course of any Dispute any party desires to seek such a "provisional remedy" but a referee has not been appointed, or is otherwise unavailable to hear the request for such provisional remedy, then such party may apply to the Los Angeles Superior Court for such provisional relief, and (c) pursuant to California Code of Civil Procedure Section 644, judgment may be entered upon the decision of such referee in the same manner as if the Dispute had been tried directly by a court. The parties shall use their respective commercially reasonable and good faith efforts to agree upon and select such referee, provided that such referee must be a retired California state or federal judge, and further provided that if the parties cannot agree upon a referee, the referee shall be appointed by the Presiding Judge of the Orange County Superior Court. Each party hereto acknowledges that this consent and agreement is a material inducement to enter into this Security Instrument, the Loan Documents and all other agreements and instruments provided for herein or therein, and that each will continue to be bound by and to rely on this consent and agreement in their related future dealings. The parties shall share the cost of the referee and reference proceedings equally; provided that, the referee may award attorneys' fees and reimbursement of the referee and reference proceeding fees and costs to the prevailing

CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTERING INTO THIS SECURITY INSTRUMENT AND ALL OTHER AGREEMENTS AND INSTRUMENTS PROVIDED FOR HEREIN, AND THAT EACH WILL CONTINUE TO BE BOUND BY AND RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH LEGAL COUNSEL OF ITS OWN CHOOSING, OR HAS HAD AN OPPORTUNITY TO DO SO, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS HAVING HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS SECURITY INSTRUMENT OR ANY OTHER LOAN DOCUMENT OR DOCUMENT ENTERED INTO BETWEEN THE PARTIES IN CONNECTION WITH THIS SECURITY INSTRUMENT OR ANY LOAN DOCUMENT. IN THE EVENT OF LITIGATION, THIS SECURITY INSTRUMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT WITHOUT A JURY.

BORROWER'S INITIAL: *W*

If and to the extent that the paragraph immediately above is determined by a court of competent jurisdiction to be unenforceable or is otherwise not applied by any such court, Borrower and Lender, by its acceptance of this Security Instrument, each hereby consents and agrees that (a) any and all Disputes shall be heard by a referee in accordance with the general reference provisions of California Code of Civil Procedure Section 638, sitting without a jury in the County of Orange, California, (b) such referee shall hear and determine all of the issues in any Dispute (whether of fact or of law), including issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8, including without limitation, entering restraining orders, entering temporary restraining orders, issuing temporary and permanent injunctions and appointing receivers, and shall report a statement of decision, provided that, if during the course of any Dispute any party desires to seek such a "provisional remedy" but a referee has not been appointed, or is otherwise unavailable to hear the request for such provisional remedy, then such party may apply to the Los Angeles Superior Court for such provisional relief, and (c) pursuant to California Code of Civil Procedure Section 644, judgment may be entered upon the decision of such referee in the same manner as if the Dispute had been tried directly by a court. The parties shall use their respective commercially reasonable and good faith efforts to agree upon and select such referee, provided that such referee must be a retired California state or federal judge, and further provided that if the parties cannot agree upon a referee, the referee shall be appointed by the Presiding Judge of the Orange County Superior Court. Each party hereto acknowledges that this consent and agreement is a material inducement to enter into this Security Instrument, the Loan Documents and all other agreements and instruments provided for herein or therein, and that each will continue to be bound by and to rely on this consent and agreement in their related future dealings. The parties shall share the cost of the referee and reference proceedings equally; provided that, the referee may award attorneys' fees and reimbursement of the referee and reference proceeding fees and costs to the prevailing

party, whereupon all referee and reference proceeding fees and charges will be payable by the non-prevailing party (as so determined by the referee). Each party hereto further warrants and represents that it has reviewed this consent and agreement with legal counsel of its own choosing, or has had an opportunity to do so, and that it knowingly and voluntarily gives this consent and enters into this agreement having had the opportunity to consult with legal counsel. This consent and agreement is irrevocable, meaning that it may not be modified either orally or in writing, and this consent and agreement shall apply to any subsequent amendments, renewals, supplements, or modifications to this Security Instrument or any other agreement or document entered into between the parties in connection with this Security Instrument. In the event of litigation, this Security Instrument may be filed as evidence of either or both parties' consent and agreement to have any and all Disputes heard and determined by a referee under California Code of Civil Procedure Section 638. Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that this provision shall have no application to any non-judicial foreclosure of all or any portion of the Property whether pursuant to the provisions of the Loan Documents or applicable law. Notwithstanding anything to the contrary contained in this Section, the parties hereto understand, acknowledge and agree that (i) the provisions of the consent to judicial reference set forth in this paragraph above shall have no application to any non-judicial foreclosure and/or private (i.e., non-judicial) sale under the California Commercial Code as to all or any portion of the Property whether pursuant to the provisions of the Loan Documents or applicable law; provided, however, in the event Borrower contests the same, then the provisions of the consent to judicial reference set forth in this paragraph above shall apply to any Dispute arising therefrom (but not the non-judicial foreclosure proceeding, which may remain pending), and (ii) the provisions of the consent to judicial reference set forth in this paragraph above shall not be deemed to be a waiver by, or a limitation upon, the rights of Lender to proceed with a non-judicial foreclosure or private sale under said Commercial Code as a permitted remedy hereunder or under applicable law.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, THIS SECURITY INSTRUMENT has been executed by Borrower the day and year first above written.

ANAHEIM GW II, LLC,
a Delaware limited liability company

By: [Signature]
Name: William R. Lindsay
Title: Authorized Signatory

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On the 31st day of JANUARY in the year 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM R. LINDSAY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Notary Public

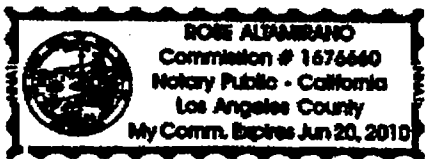


EXHIBIT A-1

LEGAL DESCRIPTION OF THE FEE LAND

All that certain real property situated in the County of Orange, State of California, described as follows:

Parcel A:

Parcels 4, 5, 6 and 7 of Parcel Map No. 2002-205, in the City of Anaheim, County of Orange, State of California, as shown on a map thereof filed in Book 349, Pages 43 to 50 inclusive of Parcel Maps in the Office of the County Recorder of said County.

Parcel B:

Non-exclusive easements for access, ingress, egress, structural support, common walls, ceilings and floors, utilities, encroachments and incidental purposes, all as more particularly set forth in that certain " Anaheim Gardenwalk Construction, Operation and Reciprocal Easement Agreement" recorded July 6, 2006 as Instrument No. 2006000452379 of Official Records.

Assessor's Parcel Number: ~~082-270-51~~ / ~~082-270-65~~ / ~~082-270-82~~
~~082-270-85~~ / ~~082-270-86~~ / ~~082-270-96~~ / ~~082-433-09~~ / ~~082-433-10~~

*Parcel C-1
C-2
C-3* *082 270 95*

EXHIBIT A-2

LEGAL DESCRIPTION OF THE GROUND LEASE LAND

All that certain real property situated in the County of Orange, State of California, described as follows:

Parcel C-1:

The Lessor and Lessee created by that certain unrecorded Lease Agreement, dated January 1, 2001, executed by Zaby's Rip Van Winkle, Inc., a California corporation, "Landlord" and Excel Pointe Anaheim, LLC, a Delaware limited liability company "Original Tenant", as amended by that certain First Amendment to Lease Agreement, dated April 1, 2003, and by that certain Second Amendment to Lease Agreement, dated December 8, 2004, and by that certain Third Amendment to Lease Agreement, dated February 16, 2005, collectively, "Ground Lease". Said Ground Lease was assigned to Anaheim GW, LLC, a Delaware limited liability company, in that certain Assignment of Lease, recorded March 4, 2005, Instrument No. 2005000165133. A Memorandum of said Ground Lease was recorded February 8, 2006, Instrument No. 2006000087603, which Ground Lease was further assigned to Anaheim GW II, a Delaware limited liability company, pursuant to that certain Assignment of Lease dated January 24, 2007, being recorded concurrently herewith in Official Records of Orange County, more particularly described as follows:

That certain parcel of land situated in the City of Anaheim, County of Orange, State of California, being that portion of Parcel 1 as described in Certificate of Compliance No. COC2004-00068, recorded February 8, 2005, as Instrument No. 2005000098085 of Official Records, in the Office of the County Recorder of said Orange County, described as follows:

Commencing at the Northwestern corner of said Parcel 1 of Certificate of Compliance No. COC2004-00068; thence along the Northerly line of said parcel South 89° 13' 08" East 73.72 feet to the True Point of beginning; thence South 00° 37' 39" West 285.84 feet; thence South 89° 13' 08" East 216.28 feet; thence North 00° 37' 39" East 213.66 feet to a point on a non-tangent curve concave Southerly and having a radius of 308.50 feet, a radial line of said curve from said point bears South 21° 35' 29" West; thence along said curve Westerly 31.57 feet through a central angle of 05° 51' 45"; thence non-tangent from said curve North 00° 37' 39" East 62.50 feet to said Northerly line; thence along said Northerly line North 89° 13' 08" West 186.28 feet to the True Point of Beginning.

Excepting therefrom all buildings and improvements now or hereafter situated thereon the above-described real property (Parcel C-2).

Said land is shown as Parcel 1 of Lot Line Adjustment No. LLA-0000588, recorded September 19, 2005, as Instrument No. 05-738052, Official Records.

Parcel C-2:

All buildings and improvements now or hereafter situated on the following described real property, as granted pursuant to the Ground Lease described in Parcel C-1 above:

That certain parcel of land situated in the City of Anaheim, County of Orange, State of California, together with all appurtenant easements thereto, being that portion of Parcel 1 as described in Certificate of Compliance No. COC2004-00068, recorded February 8, 2005, as Instrument No. 2005000098085 of Official Records, in the Office of the County Recorder of said Orange County, described as follows:

Commencing at the Northwesterly corner of said Parcel 1 of Certificate of Compliance No. COC2004-00068; thence along the Northerly line of said parcel South 89° 13' 08" East 73.72 feet to the True Point of beginning; thence South 00° 37' 39" West 285.84 feet; thence South 89° 13' 08" East 216.28 feet; thence North 00° 37' 39" East 213.66 feet to a point on a non-tangent curve concave Southerly and having a radius of 308.50 feet, a radial line of said curve from said point bears South 21° 35' 29" West; thence along said curve Westerly 31.57 feet through a central angle of 05° 51' 45"; thence non-tangent from said curve North 00° 37' 39" East 62.50 feet to said Northerly line; thence along said Northerly line North 89° 13' 08" West 186.28 feet to the True Point of Beginning.

Said land is shown as Parcel 1 of Lot Line Adjustment No. LLA-0000588, recorded September 19, 2005, as Instrument No. 05-738052, Official Records.

Parcel C-3:

All appurtenances, rights, rights of way and easements appurtenant or related to Parcel C-1 and Parcel C-2 above respecting:

That certain parcel of land situated in the City of Anaheim, County of Orange, State of California, together with all appurtenant easements thereto, being that portion of Parcel 1 as described in Certificate of Compliance No. COC2004-00068, recorded February 8, 2005, as Instrument No. 2005000098085 of Official Records, in the Office of the County Recorder of said Orange County, described as follows:

Commencing at the Northwesterly corner of said Parcel 1 of Certificate of Compliance No. COC2004-00068; thence along the Northerly line of said parcel South 89° 13' 08" East 73.72 feet to the True Point of beginning; thence South 00° 37' 39" West 285.84 feet; thence South 89° 13' 08" East 216.28 feet; thence North 00° 37' 39" East 213.66 feet to a point on a non-tangent curve concave Southerly and having a radius of 308.50 feet, a radial line of said curve from said point bears South 21° 35' 29" West; thence along said curve Westerly 31.57 feet through a central angle of 05° 51' 45"; thence non-tangent from said curve North 00° 37' 39" East 62.50 feet to said Northerly line; thence along said Northerly line North 89° 13' 08" West 186.28 feet to the True Point of Beginning.

Said land is shown as Parcel 1 of Lot Line Adjustment No. LLA-0000588, recorded September 19, 2005, as Instrument No. 05-738052, Official Records.

Assessor's Parcel Number: 082-270-95

PENALTY OF PERJURY AFFIDAVIT
(GOVERNMENT CODE 27361.7)

I certify under the penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of the Notary: Rose Altamirano

Date Commission expires: June 20, 2010

County Where Bond is Filed: Los Angeles.

Commission No.: 1676660 Manufacturer/Vendor No.: NNA1

Place of Execution: Irvine, Ca. Date: February 6, 2007

Signature: _____


LAWYERS TITLE COMPANY

I further certify under the penalty of perjury that the illegible portion of the document to which this statement is attached reads as follows (if applicable):

Date: February 6, 2007

Signature: _____

LAWYERS TITLE COMPANY

RECORDING REQUESTED BY



AND WHEN RECORDED MAIL TO:
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, Ca. 90071
Attn: Jess Sharf

ORDER NO.: 9301988-12
ESCROW NO.:

Tom Daly, Clerk-Recorder



27.00

2007000092565 04:26pm 02/09/07

117 92 A34 8

0.00 0.00 0.00 0.00 21.00 0.00 0.00 0.00

SPACE ABOVE THIS LINE FOR RECORDERS USE

ASSIGNMENT OF LEASE



DOCUMENTARY TRANSFER TAXES	<i>None *</i>
COMPUTED ON FULL VALUE OF PROPERTY CONVEYED	
OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE	
<i>UNDERSIGNED ASSIGNOR</i>	
<small>Signature of Grantor or Agent authorizing the Purchase</small>	

** TERM OF LEASE LESS THAN 99 YEARS*

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(ADDITIONAL RECORDING FEE APPLIES)