

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Trustee's Deed Upon Sale		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
First American Title Insurance Company, Foreclosure Trustee		04/08/2010	TRUSTEE:
RECEIVING PARTY DATA			
Name:	Katella Anaheim Retail, LLC		
Street Address:	388 Greenwich St., 19th Floor		
City:	New York		
State/Country:	NEW YORK		
Postal Code:	80202		
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		
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		

Total Attachments: 10
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900204271

**TRADEMARK
 REEL: 004639 FRAME: 0339**

OP \$40.00 3533273

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Tom Daly, Clerk-Recorder



33.00

WHEN RECORDED MAIL TO:

~~_____~~
~~_____~~
~~_____~~

2010000177353 01:38pm 04/15/10

106 402 T09 10

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RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
NATIONAL COMMERCIAL SERVICES
COMMERCIAL/INDUSTRIAL DIVISION
NCS-411488

MAIL TAX STATEMENTS TO:

Citicorp Global Markets Realty Corp.
Katella Anaheim Retail, LLC
388 Greenwich Street, 19th Floor
New York, New York 10013
Attn: Brian Davison

Space above this line for recorder's use only

Trustee Sale No. 411488

TRUSTEE'S DEED UPON SALE

APN See Exhibit "A" T.R.A. No. _____

The undersigned grantor declares:

- 1) The Grantee herein was the foreclosing beneficiary.
- 2) The amount of the unpaid debt together with costs was
\$195,577,569.09
- 3) The amount paid by the Grantee at the Trustee Sale was
\$70,000,000.00
- 4) The documentary transfer tax is.....\$0
- 5) Said property is in Anaheim, California and First American Title Insurance Company (herein called "Trustee"), as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to Katella Anaheim Retail, LLC, a Delaware limited liability company (herein called "Grantee"), all of its right, title and interest in and to that certain real and personal property, real property interests and fixtures situated in the County of Orange, State of California, described as follows:

See Exhibit "A" attached hereto and incorporated by reference herein for real property and real property interests; and

See Exhibit "B" attached hereto and incorporated by reference herein for personal property and fixtures.

RECITALS:

This conveyance is made (i) pursuant to the powers conferred upon Trustee by that certain Construction Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing (herein called "Deed of Trust") dated 01/31/07 and executed by Anaheim GW II, LLC, a Delaware limited liability company, as Borrower (herein called "Trustor"), and Recorded on February 9, 2007 as Instrument Number 2007000092566 of official records of Orange County, California (herein called "Official Records"), and that certain Substitution of Trustee dated January 22, 2010, recorded on January 27, 2010 in the Official Records as Instrument Number 2010000040429, and (ii) after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

A default occurred as set forth in a Notice of Default and Election to Sell under Deed of Trust (herein called "Notice of Default") which was recorded in the Official Records, and such default still existed at the time of sale.

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the posting and publication of copies of the applicable notice of trustee's sale (herein called "Notice of Trustee's Sale") have been complied with.

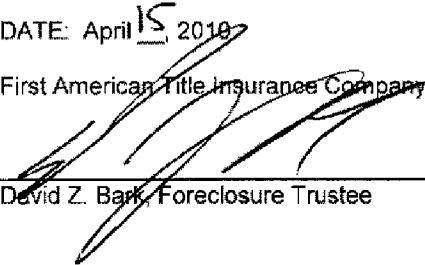
Not less than three (3) months elapsed between the recordation of the Notice of Default and election to sell and the posting and first publication of the Notices of Trustee's Sale.

WEST21930997.3

Trustee, in compliance with all applicable laws, said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public auction on 04/08/10 (herein called "Trustee's Sale"). Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid being \$70,000,000.00 in lawful money of the United States, or by credit bid if the Grantee was the beneficiary of said Deed of Trust at the time of said Trustee's Sale.

DATE: April 15, 2010

First American Title Insurance Company



David Z. Bark, Foreclosure Trustee

STATE OF
COUNTY OF

On _____ before me, , a Notary Public in and for said county, personally appeared David Z. Bark, Foreclosure Trustee personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said County and State

Exhibit "A"

PARCEL A:

PARCELS 4, 5 AND 6 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, AS AMENDED BY CERTIFICATE OF CORRECTION, RECORDED APRIL 12, 2007 AS INSTRUMENT NO. 2007000236251 OF OFFICIAL RECORDS.

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.

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, WHICH RECORDED FEBRUARY 9, 2007, INSTRUMENT NO. 2007000092565, 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 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.

EXCEPTING THEREFROM ALL BUILDINGS AND IMPROVEMENTS NOW OR HEREAFTER SITUATED THEREON THE ABOVE-DESCRIBED REAL PROPERTY (PARCEL C-2).

WEST21930997.3

3

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.

APNS: 082-551-04 (AFFECTS PARCEL 4 OF PARCEL A); 082-551-05 (AFFECTS PARCEL 5 OF

PARCEL A); 082-551-06 (AFFECTS PARCEL 6 OF PARCEL A); 082-551-11 (AFFECTS PARCEL C1, C2 AND C3)

ALL ADDITIONAL LANDS, ESTATES AND DEVELOPMENT RIGHTS ACQUIRED BY SAID TRUSTOR FOR USE IN CONNECTION WITH THE FEE AND LEASEHOLD INTERESTS DESCRIBED ABOVE AND THE DEVELOPMENT OF THE FEE AND LEASEHOLD INTERESTS DESCRIBED ABOVE.

Exhibit "B"

Capitalized terms set forth below but not otherwise defined below shall have the meaning ascribed to them in the applicable loan documents and any references to "Exhibit" or "Exhibits" below, whether or not also described as being "attached hereto," shall refer to the "Exhibit" or "Exhibits" attached to said Deed of Trust.

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.

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;

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

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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");

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;

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;

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

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;

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;

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;

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

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.

Any and all other rights of Borrower in and to the items set forth above.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF California)SS
COUNTY OF San Diego)

On April 15, 2010 before me, Lynn Graham, Notary Public, personally appeared David Z. Bark

who proved to me on the basis of satisfactory evidence to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



This area for official notarial seal.

**OPTIONAL SECTION
CAPACITY CLAIMED BY SIGNER**

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- INDIVIDUAL
- CORPORATE OFFICER(S) TITLE(S)
- PARTNER(S) LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: Trustees Deed upon Sale

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE none

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