



improvements thereon, in favor of Bank, which note is payable with interest upon the terms and conditions described therein ("Loan"). Said deed of trust is to be recorded concurrently herewith, in the records of the County Recorder of El Dorado County, California. In making the Loan, Bank is relying in part upon the statements, acknowledgments, representations and agreements set forth in this Agreement. The deed of trust and assignment of rents and leases and promissory notes, described in this paragraph shall hereinafter be referred to collectively as the "Deed of Trust" and "Note," respectively; and

**WHEREAS**, as a condition of making the Loan secured by the Deed of Trust, Bank requires that all leasehold interest held by Tenant with respect to said Property, be subordinate to the lien of the Deed of Trust securing the Note from Landlord to Bank; and

**WHEREAS**, for valuable consideration received by Tenant from Landlord, the receipt of which Tenant hereby confirms, Tenant has agreed that Landlord has the right to place liens and encumbrances on and against the Premises and all improvements located thereon, including Tenant's leasehold interest, and excepting those improvements owned by Tenant and/or subject to removal by Tenant upon expiration or termination of the Lease, as provided by the Lease, and that such liens and encumbrances shall be superior in all respects to Tenant's leasehold interest and estate; and that Tenant shall, upon Landlord's request, execute such documents as Landlord or Bank may require to evidence the subordination of the Lease and Tenant's interest therein to any such lien or encumbrance.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Subordination of the Lease: Tenant hereby declares and agrees that Tenant's leasehold interest in the entire estate created thereby is, and shall be, subordinate, subject to and inferior to the indebtedness of Landlord to Bank as evidenced by the Note and further evidenced by the Deed of Trust given by Landlord to Bank as security therefor, and such subordination shall extend to and include all renewals, modifications, consolidations, replacements and extension of said Deed of Trust to the full extent of the principal sums secured thereby, including any advances made by Bank to Landlord thereunder, together with interest thereon.
2. Notice to Bank: So long as the Deed of Trust shall remain a lien on the leased Premises, Tenant agrees simultaneously with the giving of any notice to Landlord, which is required to be given by the terms of the Lease, to give a duplicate copy of any such notice to Bank. Further, Tenant agrees that if Landlord defaults in the performance of Landlord's covenants under the Lease and if such default allows Tenant to cancel or surrender said Lease, Bank may cure said default with the same effect as if cured by Landlord, and if necessary, enter upon the Premises for the purpose of curing any such default. This right in no way obligates Bank to cure such default. The giving of any such notice to Landlord shall not be properly given under the terms of the Lease and shall be of no force and effect until a duplicate copy thereof shall also have been given to the Bank pursuant to the terms of this paragraph.

3. Non-Disturbance: Notwithstanding the foregoing, as long as Tenant is not in default in payment of rent or additional rent, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the leased Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option thereof in the Lease, shall not be diminished or interfered with by Bank, and Tenant's occupancy of the leased Premises shall not be disturbed by Bank for any reason whatsoever during the term of the Lease or any extensions or renewals thereof; provided that any options to purchase, rights of first refusal to purchase, or first rights of offer contained in the Lease and relating to any portion of the Premises or Property shall be of no further force or effect in the event the interest of Landlord shall be transferred to and owned by any person or entity (including but not limited to Bank) by reason of foreclosure, deed in lieu of foreclosure or other proceeding instituted or action taken under the Deed of Trust. If Tenant is not in default in the payment of rent or additional rent or in the performance of the terms, covenants and conditions of the Lease on Tenant's part to be performed, Bank will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease, except to terminate an option to purchase, if any, because of any default under the Deed of Trust.
4. Attornment: If the interest of Landlord shall be transferred to and owned by any person or entity (including but not limited to Bank) by reason of foreclosure, deed in lieu of foreclosure or other proceeding instituted or action taken under the Deed of Trust, Tenant shall be bound to such transferee and such transferee's successors and assigns (collectively, "Transferee") under all of the terms, covenants and conditions of the Lease for the period of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any options thereof in the Lease, with the same force and effect as if Transferee were the Landlord under the Lease, and Tenant does hereby attorn to Transferee as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto, immediately upon Transferee succeeding to the interests of the Landlord under the Lease. The respective rights and obligations of Tenant and Transferee upon such attornment to the extent of the then remaining balance of the term of the Lease, and any such extensions and renewals, shall be and are the same as now set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference, with the same force and effect as set forth herein. In the event that Transferee shall, in accordance with the foregoing, succeed to the interest of Landlord under the Lease, Transferee agrees to be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, from and after such event, have the same remedies against Transferee for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Transferee had not succeeded to the interest of Landlord; provided, however, that Transferee shall not be:
- (a) Liable for any act or omission of any prior landlord (including Landlord); or
  - (b) Liable for any failure of any prior landlord (including Landlord) to construct any improvements (including any tenant improvements at the Premises);
  - (c) Subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or

- (d) Bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
- (e) Bound by any material amendment or modification of the Lease made without Bank's consent; or
- (f) Personally liable under the Lease, Transferee's liability thereunder being limited to its interest in the Property and the income and proceeds therefrom.

Notwithstanding the foregoing, Tenant reserves its rights to any and all claims or causes of action against such prior landlord for prior losses or damages.

5. Assignment: Tenant has notice that the Lease and the rent and all other sums due thereunder have been or will be assigned to Bank as security for the Note and Tenant consents to that assignment in favor of Bank.
6. Modification, Termination and Cancellation: Tenant shall not consent to any modification, termination or cancellation of the Lease without Bank's prior written consent.
7. Advance Rents: Tenant shall make no payments or prepayments of rent more than one (1) month in advance of the time when the same became due under the terms of the Lease.
8. Notices: All communications and notices required or permitted hereunder, or pursuant to the Note, Deed of Trust or Lease, shall be dispatched by United States registered or certified mail, with return receipt requested, postage prepaid, addressed to the other parties as designated on page one hereof, or to such other addresses as any party may from time to time designate in writing to the other parties hereto.
9. Inconsistencies: This Agreement supersedes any inconsistent provisions under the terms of the Lease.
10. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and shall be governed and construed in accordance with the laws of the State of California; provided, however, that in the event of the assignment or transfer of Bank's interest, all obligations and liabilities shall be the responsibility of Bank's successor in interest; and provided further that Tenant's interest under this Agreement may not be assigned or transferred without Bank's prior written consent, which consent shall not be unreasonably withheld.
11. Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute and be construed as one and the same instrument.

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

LANDLORD: Durock Road LLC

By: \_\_\_\_\_  
Name: Nello Olivo  
Title: Managing Member

By: \_\_\_\_\_  
Name: Michael Southard  
Title: Managing Member

TENANT: County of El Dorado

By: \_\_\_\_\_  
Name: Ron Briggs, Chairman of the Board  
Board of Supervisors

BANK: MECHANICS BANK  
a California banking corporation

By: \_\_\_\_\_  
Name: Brian Siebold  
Title: Vice President

**EXHIBIT "A"**

*The Exhibit A legal description of the subject property located on Durock Road will be added by Mechanics Bank, prior to the recording of the loan documents and the Subordination Agreement.*

State of California

SS.

County of \_\_\_\_\_

On \_\_\_\_\_ before me \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ and \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity(ies), and that by 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.

(SEAL)

WITNESS my hand and official seal,

Signature

\_\_\_\_\_

State of California

SS.

County of \_\_\_\_\_

On \_\_\_\_\_ before me \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ and \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity(ies), and that by 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.

(SEAL)

WITNESS my hand and official seal,

Signature

\_\_\_\_\_

State of California

SS.

County of \_\_\_\_\_

On \_\_\_\_\_ before me  
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signature(s) on the instrument the person(s), or the entity upon  
behalf of which the person(s) acted, executed the instrument.

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correct.

(SEAL)

WITNESS my hand and official seal,

Signature

\_\_\_\_\_