

ENVIRONMENTAL INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL INDEMNIFICATION AGREEMENT (this “**Agreement**”), dated as of May __, 2000, is made by _____, a California limited partnership (“**Borrower**”), and by _____, an individual, and _____, an individual (collectively the “**Indemnitors**”), jointly and severally in favor of _____, an Illinois corporation (“**Lender**”).

RECITALS.

A. Simultaneously herewith, Lender is extending to Borrower a loan of \$9,100,000 (the “**Loan**”) evidenced by that certain Mortgage Note of even date herewith from Borrower to Lender (as the same may hereafter be consolidated, extended, modified, amended and/or restated from time to time, the “**Note**”) and governed and/or secured by, among other things, a certain Loan Agreement of even date herewith between Borrower and Lender (as the same may hereafter be consolidated, extended, modified, amended and/or restated, the “**Loan Agreement**”) and a certain Deed of Trust and Security Agreement of even date herewith from Borrower to Lender (as the same may hereafter be consolidated, extended, modified, amended and/or restated, the “**Mortgage**”) encumbering certain real property located at _____, California and more particularly described in Schedule A annexed hereto and made a part hereof (the “**Property**”) which secures the Note.

B. Each Indemnitor acknowledges receipt and approval of copies of the Loan Documents..

C. Each Indemnitor (other than Borrower) acknowledges that it is a direct or indirect partner of Borrower and will receive substantial economic and other benefits from Lender making the Loan to Borrower.

D. To induce Lender to make the Loan, each of the Indemnitors has agreed to enter into this Agreement, each of the Indemnitors acknowledging that without this Agreement Lender would be unwilling to make the Loan.

NOW THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitors hereby agree as follows:

SECTION 1. Definitions. (a) As used in this Agreement, the terms set forth below shall have the following meanings:

“**Agreement**” shall mean this Environmental Indemnification Agreement, as the same may hereafter be consolidated, extended, modified, amended or supplemented from time to time.

“**Borrower**” shall have the meaning specified in the introductory paragraph hereof.

“Corrective Work” shall mean the removal, relocation, elimination, remediation, encapsulation or any other treatment of Hazardous Substances of or from all or any portion of (i) the Property or any other property owned and/or leased by Borrower (necessary to maintain or bring the Property into compliance with environmental laws) and (ii) surrounding areas of the Property and or any other property owned and/or leased by Borrower (necessary to maintain or bring the Property into compliance with environmental laws) and, to the extent thereby required, the reconstruction and rehabilitation of the Property or any other property owned and/or leased by Borrower performed by any person or entity, including, without limitation, Borrower, any other Indemnitor, Lender, any Indemnified Party, any of their respective agents, contractors, subcontractors, employees and any governmental entity for any reason, including, without limitation, pursuant to any Environmental Laws.

“Indemnified Losses” shall mean incurred and potential damages, losses, liabilities, costs and expenses of Corrective Work, any other clean-up or response costs (which, without limitation, shall include costs to cause the Property to come into compliance with Environmental Laws), investigation costs (including fees of consultants, counsel and other experts in connection with any environmental investigation, testing, audits or studies), and any other incurred or potential obligations, penalties, fines, impositions, fees, levies, lien removal or bonding costs, claims, litigation, demands, causes of action (including, without limitation, any common law cause of action), liabilities, losses (including, without limitation, any reduction in the value of the Property), damages (including any actual, punitive or consequential damages under any statutory or common law cause of action), defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind and nature whatsoever (including, without limitation, attorneys' and experts' or other consultants' fees and disbursements incurred in connection with any of the matters with respect to which Lender is indemnified hereunder or in connection with the enforcement of this Agreement), including interest thereon.

“Indemnitor” and **“Indemnitors”** shall have the meaning specified in the introductory paragraph hereof.

“Lender” shall have the meaning specified in the introductory paragraph hereof.

“Loan” shall have the meaning specified in the Recitals hereof.

“Loan Agreement” shall have the meaning specified in the Recitals hereof.

“Mortgage” shall have the meaning specified in the Recitals hereof.

“Non Borrower Indemnitor” shall have the meaning specified in Section 22(ii) hereof.

“Note” shall have the meaning specified in the Recitals hereof.

“Notices” shall have the meaning specified in Section 4 hereof.

“Property” shall have the meaning specified in the Recitals hereof.

(b) All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Loan Agreement.

SECTION 2. Agreement of Indemnity. (a) Indemnitors, at their sole cost and expense, hereby jointly and severally, irrevocably and unconditionally agree to defend, protect, indemnify and hold Lender and every other Indemnified Party harmless from and against any and all Indemnified Losses incurred by Lender or such other Indemnified Party relating to, resulting from or otherwise attributable to, directly or indirectly, (i) any Hazardous Substance present or alleged to be present in, upon, under, over or at, or emanating from or alleged to be emanating from (A) the Property or (B) any other property owned and/or leased by Borrower (including, without limitation, Hazardous Substances which are incorporated into any building or improvements located thereon), whether or not such Hazardous Substances were produced, stored, used or transported in compliance with applicable Environmental Laws and regardless of whether such Hazardous Substances are present (or are alleged to be present) at or emanating (or are alleged to be emanating) from the Property or such other property by reason of the acts or omissions of Borrower, any other Indemnitor or any Affiliate, employee, agent, lessee or invitee thereof, (ii) any activity (and the consequences thereof), including any release of Hazardous Substances, or claimed activity (and the consequences thereof) carried on or undertaken on or off the Property, whether by Borrower, any other Indemnitor, any predecessor in title, any Affiliate of any such Person, any employees, agents, contractors or subcontractors of the foregoing Persons, or any third persons at any time occupying or present on (A) the Property or (B) any other property owned and/or leased by Borrower (including, in either case, without limitation, Hazardous Substances which are incorporated into any building or improvements located thereon), in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Substances at any time located or present on, under or incorporated in, or used in connection with, the Property or any other property owned and/or leased by (or on behalf of) Borrower, (iii) the violation (and the consequences thereof) or claimed violation (and the consequences thereof) of any applicable Environmental Law affecting the Property or any other property owned and/or leased by Borrower, or affecting such property, (iv) the imposition or recording of a lien against the Property pursuant to any Environmental Law, (v) the nonperformance (and the consequences thereof) or delayed performance or the claimed non-performance (and the consequences thereof) or delay in performance (and the consequences thereof) of the Corrective Work, (vi) any place or location used for the disposal of Hazardous Substances by Borrower or its predecessors, whether for its own behalf or on behalf of others, (vii) any other Environmental Matter, and any action or inaction of Borrower or its predecessors in interest with respect thereto, (viii) any discharge, release or emission, or any alleged discharge, release or emission, of any Hazardous Substance upon or from the Property into the environment, (ix) any use of the Property, at any time, as or for a mine, a landfill, a dump or other disposal facility, or a gasoline service station, (x) the current existence of any underground storage tank on or in the Property, (xi) the failure, or alleged failure, to remove any underground storage tank previously located on or in the Property, in compliance with all applicable Environmental Laws, or the failure, or alleged failure, to complete any clean-up of the surrounding soil in connection therewith, (xii) the use of the Property at any time as a permanent or temporary treatment, storage or disposal site for any Hazardous Substance, or (xiii) Borrower transporting or arranging for the transportation of any Hazardous Substances to any location which is listed or proposed for listing under CERCLA or on any similar state list or which is the subject of federal, state or local enforcement actions or other investigations, whether the Indemnified Losses that occur in connection

with clauses (i) through (xiii) above arise before, during or after enforcement of the remedies and rights (including, without limitation, foreclosure) available to Lender under the Loan Documents; it being the intent of Indemnitors and Lender that Lender and the Indemnified Parties shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances by virtue of the interest of Lender and its successors and assigns in the Property or as the result of Lender exercising any of its rights or remedies with respect thereto under any of the Loan Documents, or otherwise at law or in equity, including but not limited to, becoming the owner thereof by foreclosure or conveyance in lieu of foreclosure.

(b) The foregoing indemnity shall not apply to any Indemnified Losses suffered or incurred by Lender or any Indemnified Party to the extent the same arise from the gross negligence or willful misconduct of Lender or such Indemnified Party.

SECTION 3. Payments. (a) Any payment by any Indemnitor hereunder shall be made within five (5) days after demand therefor by the Indemnified Party. If any Indemnitor fails to make payment of any amount required to be paid by such Indemnitor hereunder when payment is due, interest shall accrue on the amount of the payment from and after the due date until payment is paid to Lender at the Default Rate.

(b) The obligations of the Indemnitors hereunder shall specifically include the obligation to expend their own funds, to incur costs in their own names and to perform all actions as may be necessary to protect the Indemnified Parties from the necessity of expending their own funds, incurring costs or performing any actions in connection with the matters for which such Indemnified Parties are entitled to indemnification pursuant to this Indemnity, and, if any such Indemnified Party nonetheless expends its own funds or incurs any such cost or expense, to pay or reimburse such Indemnified Party therefor.

(c) All payments provided for hereunder shall be effectively made to Lender at its principal office in Chicago, Illinois (or as Lender shall otherwise direct) in lawful money of the United States of America (in immediately available funds), and without setoff or counterclaim of any nature.

SECTION 4. Notices. Any notice, report, demand or other instrument authorized or required to be given or furnished hereunder (“**Notices**”) shall be in writing and shall be given as follows: (i) by hand delivery; (ii) by deposit in the United States mail as first class certified mail, return receipt requested, postage paid; (iii) by overnight nationwide commercial courier service; or (iv) by telecopy transmission with a confirmation copy to be delivered by duplicate Notice in accordance with any of clauses (i) or (iii) above, in each case, to the party intended to receive such Notice at the following address(es):

Lender:

Chicago, Illinois
Attention:
Telecopier:

Borrower:

Attention:

Telecopier: () _____

Indemnitors:

Telecopier: () _____

Any party may change the address to which any such Notice is to be delivered, by furnishing ten (10) days written notice of such change to the other parties in accordance with the provisions of this Section 4. Notices shall be deemed to have been given on the date they are actually received; provided, however, that the inability to deliver Notices because of a changed address of which no Notice was given, or rejection or refusal to accept any Notice offered for delivery, shall be deemed to be receipt of the Notice as of the date of such inability to deliver or rejection or refusal to accept delivery. Notice for any party may be given by its respective counsel. Additionally, Notice from Lender may also be given by the Servicer.

SECTION 5. Survival. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, this Agreement shall (i) survive any conveyance of the Property made to Lender or its nominee, whether by foreclosure or deed-in-lieu of foreclosure or otherwise, or made to any other Person (subject to the further provisions of Section 18 hereof), and (ii) continue in full force and effect after full indefeasible payment of the Loan with respect to any Indemnified Losses arising from any of the matters covered by this Agreement, whether such Indemnified Losses shall have been incurred prior to or subsequent to the full indefeasible payment of the Loan and whether any of the acts, omissions, events or conditions resulting in such Indemnified Losses shall have occurred prior to or subsequent to the full indefeasible payment of the Loan. Notwithstanding anything to the contrary contained in this Agreement, the liabilities and obligations of Indemnitors hereunder shall not apply to the extent that Indemnitors can prove that such liabilities and obligations arose solely from Hazardous Substances that: (i) were not present on the Property prior to the date that Lender acquired title to the Property, whether by foreclosure, exercise by power of sale, acceptance of a deed-in-lieu of foreclosure or otherwise and (ii) were not the result of any act or negligence of Lender.

SECTION 6. Nature of Obligations. The obligations of each Indemnitor hereunder are direct, immediate and primary obligations and liabilities (and not secondary obligations and liabilities) and these obligations shall be absolute and unconditional, irrespective of (i) any illegality, invalidity or unenforceability of or defect in any provision of the Loan Documents, or of any obligation of Borrower or any other Obligated Party thereunder, (ii) the absence of any action to enforce the same, (iii) any inaccuracy of any representation or warranty made by Borrower under any Loan Document or by any other Indemnitor hereunder or under any other instrument, (iv) the recovery of any judgment against Borrower or any Indemnitor or any action to seek execution thereof (or the lack thereof), or (v) any other circumstance affecting any Indemnitor (including Borrower) (whether or

not within the control of any Indemnitor) which might otherwise constitute a defense available to, or discharge of, a guarantor or surety of any type. This Agreement is a continuing one and all liabilities that apply or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Without limiting the foregoing, no discharge, modification, impairment or limitation of the Loan Documents or Borrower's or any Indemnitor's obligations thereunder or hereunder or to its creditors generally under or in connection with any bankruptcy, insolvency or similar proceeding or arrangements with creditors or corporate reorganizations shall in any way affect or discharge any Indemnitor's obligations under this Agreement. Notwithstanding any provision of the Loan Agreement to the contrary, the obligations of each Indemnitor pursuant to this Agreement are exceptions to any non-recourse or exculpation provisions of the Loan Documents; each Indemnitor is fully and personally liable for its obligations hereunder, and its liability is not limited to the original or amortized principal balance of the Loan or the value of the Property. The liability of each of the Indemnitors is not conditional or contingent upon the pursuit of any remedies against Borrower, any other Indemnitor or any other Person, or against any collateral or liens held by Lender. Each Indemnitor waives any rights which it may have to require that (A) Lender first proceed against Borrower, either Indemnitor or any other Person with respect to the Indemnified Losses, or (B) Lender first proceed against any Collateral held by Lender.

SECTION 7. Independence of Obligations. This Agreement and the obligations of each Indemnitor hereunder are joint and several and independent of, and may be enforced in full irrespective of the existence of, the obligations (direct or contingent) of Borrower or any other Person (including, without limitation, each Indemnitor, Borrower or any other Indemnitor, guarantor or surety) under any other instrument or agreement in favor of Lender with respect to the obligations under the Loan Documents. No payment by any Indemnitor or any other person under any other agreement shall under any circumstance diminish, or constitute a defense to, the obligations hereunder until all of such Indemnitor's obligations hereunder and under the other Loan Documents have been indefeasibly paid in full. Lender may enforce the obligations of each Indemnitor hereunder without first resorting to or exhausting any security or collateral, without first demanding payment of or proceeding against any other Indemnitor (including Borrower) or any other Person and without first having recourse to the Property or any other collateral through foreclosure proceedings or otherwise, provided, however, that nothing contained herein shall inhibit or prevent Lender from suing on the Note, foreclosing or exercising any power of sale under the Mortgage, and/or the other Loan Documents or exercising any other rights and remedies thereunder or at law or in equity.

SECTION 8. Representations. Each Indemnitor hereby represents and warrants that (i) this Agreement is a legal, valid and binding obligation of such Indemnitor, enforceable in accordance with its terms, and (ii) the representations and warranties of Borrower contained in Section 3.21 of the Loan Agreement are true and correct.

SECTION 9. Liability Not Limited. The liability of each Indemnitor under this Agreement shall in no way be limited or impaired by (i) any amendment or modification of the Loan Documents, (ii) any extensions of time for performance required by any of the Loan Documents, (iii) any sale or assignment by Lender of its interest in the Loan, any sale or transfer of all or any part of the Property or any sale or other assignment by any Indemnitor of its direct or indirect ownership interests in the Borrower, (iv) the release of any other Indemnitor (including, if applicable, Borrower) or any other Person from performance or observance of any of the agreements, covenants, terms or

conditions contained in any of the Loan Documents or in this Agreement by operation of law, voluntary act or otherwise, (v) the release or substitution in whole or in part of any security for the Note, or other evidence of debt issued pursuant to the Loan Documents, (vi) the failure to record any of the Loan Documents (or the improper recording or filing of any thereof) or to otherwise perfect, protect, secure, insure, realize upon or otherwise deal with in any manner and in any order, any security interest or lien given as security for the Note, or other evidence of indebtedness under the Loan Documents, (vii) Lender exercising or refraining from exercising any rights against Borrower, any other Indemnitor or any other Person, (viii) Lender settling or compromising the liability of any Person (including those of any other Indemnitor) hereunder or under the Loan Agreement, (ix) Lender applying any sums by whomsoever paid or howsoever realized to any liability or liabilities of Borrower to Lender, as Lender may elect, including liabilities which are not Indemnified Losses, regardless of what liability or liabilities of Borrower remain unpaid, or (x) Lender making or failing to make any advance of loan proceeds, whether or not Lender is entitled to do so under the Loan Documents; and in any of these cases, whether with or without notice to any Indemnitor and with or without consideration.

SECTION 10. Waivers. Each Indemnitor hereby (i) waives and relinquishes all rights and remedies accorded by applicable law to indemnitors and guarantors and (ii) waives notice of acceptance of this Agreement and notice of any liability to which it may apply, and waives diligence, presentment, demand of payment, protest, notice of dishonor or nonpayment or notice of any kind in connection with this Agreement. Each Indemnitor further waives, to the maximum extent permitted by law, (a) any defense based upon an election of remedies (including, if available, an election to proceed by non-judicial foreclosure) by Lender, (b) any rights or defenses created by any anti-deficiency statutes applicable to the Loan, (c) any right to require Lender to marshal assets or proceed against or exhaust its recourse against Borrower, any other Indemnitor or other Obligated Party or any security for the Indemnified Losses or to pursue any other remedy before being entitled to payment from Indemnitors or before proceeding against any Indemnitor for payment and performance of the Indemnified Losses, (d) the defense of the statute of limitation in any action hereunder or for the collection or the performance of the Indemnified Losses, (e) any defense that may arise by reason of (i) the incapacity, lack of authority, death or disability of Borrower or any partner thereof, any Indemnitor, or any other Person, (ii) the revocation or repudiation hereof by any Indemnitor, or the revocation or repudiation of any of the Loan Documents by Borrower or any other Person, (iii) the failure of Lender to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any other Indemnitor or any other Person, (iv) the unenforceability in whole or in part of the Loan Documents, (v) Lender's election, in any proceeding instituted under the United States Bankruptcy Code, of the application of Section 1111(b)(2) of the United States Bankruptcy Code, or (vi) any borrowing or grant of a security interest under Section 364 of the United States Bankruptcy Code, (f) the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against or by Lender, and (g) all homestead exemption rights against the obligations hereunder; it being the intention hereof that each Indemnitor shall remain liable as principal, to the extent set forth herein, notwithstanding any act, omission or thing which might otherwise operate as a legal or equitable discharge of any Indemnitor.

SECTION 11. No Limitation of Remedies. Lender's rights under this Agreement shall be entirely independent of, and in addition to, any of its other rights and remedies against Borrower,

any other Indemnitor or any other Obligated Party under any other document or instrument now or hereafter executed by any such Person (or by which any such Person may be bound) or at law or in equity (including, without limitation, any right of cost recovery or contribution pursuant to CERCLA), and shall not in any way be deemed a waiver or release of any such rights or any obligation of Borrower, any other Indemnitor or any other Obligated Party to pay Indemnified Losses or other amounts to Lender or any other Indemnified Party under any Environmental Laws.

SECTION 12. Payment of Expenses, etc. Each Indemnitor agrees to pay for all out-of-pocket costs and expenses of Lender arising in connection with (i) defending against any of the Indemnified Losses, and (ii) the enforcement of this Agreement (including, without limitation, the fees and expenses of counsel for Lender), and all stamp taxes (including interest and penalties, if any) which may be payable in respect of this Agreement or of any modification of this Agreement. This Section 12 shall survive the repayment of the obligations under the Loan Documents and the termination of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the liabilities and obligations of Indemnitors hereunder shall not apply to the extent that Indemnitors can prove that such liabilities and obligations arose solely from Hazardous Substances that: (i) were not present on the Property prior to the date that Lender acquired title to the Property, whether by foreclosure, exercise by power of sale, acceptance of a deed-in-lieu of foreclosure or otherwise and (ii) were not the result of any act or negligence of Lender.

SECTION 13. Waivers, Extensions, Modifications and Amendments. Each Indemnitor recognizes that, in general, borrowers, guarantors or indemnitors who experience difficulties in honoring their loan obligations, in an effort to inhibit or impede lenders from exercising the rights and remedies available to lenders pursuant to mortgages, notes, loan agreements or other instruments evidencing or affecting loan transactions, frequently present in court the argument, often without merit, that some loan officer or administrator of the lender made an oral modification or made some statement which could be interpreted as an extension or modification or amendment to one or more debt instruments and that the borrower relied to its detriment upon the “oral modification of the loan document”. For that reason, and in order to protect Lender from these allegations in connection with the transaction contemplated by this Agreement, Indemnitors acknowledge that this Agreement can be extended, modified or amended only in writing executed by Lender, and that none of the rights or benefits of Lender can be waived permanently except in a written document executed by Lender.

SECTION 14. Governing Law. The place of negotiation, execution and delivery of this Agreement is the State of New York. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York. It is the intent of the parties hereto that the provisions of Section 5-1401 of the General Obligations Law of the State of New York shall apply to this Agreement.

SECTION 15. No Waiver. Lender's rights, powers, privileges and remedies under or in connection with this Agreement are cumulative and not exclusive and shall not be waived, precluded or limited by any failure or delay in the exercise thereof or by the parties exercise thereof or by any course of dealing between Indemnitors and/or Borrower and Lender. No notice to or demand on any Indemnitor in any case shall entitle such Indemnitor or any other Indemnitor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstances without notice or demand.

SECTION 16. Descriptive Headings, etc. The descriptive headings used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 17. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and the plural shall include the singular. Titles of Sections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Sections, Subsections, paragraphs, clauses or subclauses shall refer to the corresponding Section, Subsection, paragraph, clause or subclause of this Agreement, unless specific reference is made to the articles, sections or other subdivisions of another document or instrument.

SECTION 18. Benefit of Agreement. This Agreement shall be binding upon each Indemnitor and its successors and assigns, and shall inure to the benefit of Lender, the Indemnified Parties and their respective successors and/or assigns, except the rights and remedies of Lender and the Indemnified Parties under this Agreement shall not inure to the benefit of (i) any purchaser of the Property at a foreclosure sale, (ii) any Person taking title to the Property by deed in lieu of foreclosure or (iii) any successor or assign of any Person described in clauses (i) and (ii) above, except that Lender's and Indemnified Parties' rights shall inure to the benefit of the parties described in clauses (i), (ii) and (iii) hereof if such parties are Lender (including, for these purposes, its successors and assigns as holder of the Loan Documents), any beneficiaries of any Loan Pool, and any Participant's or any of Lender's (or such successors, assigns, beneficiaries or Participant's) Affiliates or nominees.

SECTION 19. Waiver of Jury Trial. EACH INDEMNITOR AND BY ACCEPTANCE HEREOF LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHTS ANY SUCH PERSON MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF ANY OF THE INDEMNITORS OR LENDER RELATING TO THE LOAN AND/OR THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER ACCEPTING THIS AGREEMENT.

SECTION 20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and together shall constitute one and the same Agreement.

SECTION 21. Severability. In the event that any of the covenants, agreements, terms or provisions contained herein shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms and provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

SECTION 22. Subrogation.

(i) Each Indemnitor hereby agrees that, until the full indefeasible payment of the Loan, it shall not exercise any right or remedy arising by reason of any performance by it of

its indemnity hereof, whether by subrogation, contribution, indemnity, or otherwise, against any person or entity obligated to pay or perform any of the Indemnified Losses, or against any security for any of the Indemnified Losses.

(ii) Each Indemnitor except Borrower (each, a “**Non Borrower Indemnitor**”) hereby agrees that, until the full indefeasible payment of the Loan, it irrevocably waives any claim or other rights which it may now or hereafter acquire against Borrower that arise from the existence, payment, performance or enforcement of the obligations of such Non Borrower Indemnitor under this Agreement or any other Loan Document, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, any right to participate in any claim or remedy of Lender against Borrower or any Collateral which Lender now has or hereafter acquires, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including without limitation, the right to take or receive from Borrower, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Non Borrower Indemnitor in violation of the preceding sentence and this Agreement shall not have terminated, such amount shall be deemed to have been paid to such Non Borrower Indemnitor for the benefit of, and held in trust for the benefit of, Lender, and shall forthwith be paid to Lender to be credited and applied upon the Indemnified Losses, whether matured or unmatured. The Non Borrower Indemnitors acknowledge that they will receive direct and indirect benefits from the financing arrangements contemplated by the Loan Documents, and that the waiver set forth in this Section 22 is knowingly made in contemplation of such benefits.

SECTION 23. Further Assurances. At any time, and from time to time, upon Lender's request, each Indemnitor shall make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled, at such time and in such offices and places as shall be deemed desirable by Lender as Lender may consider necessary or desirable in order to effectuate, or to continue and preserve the obligations of Indemnitors under this Agreement, such documents and/or instruments as Lender may request. Upon any failure by any Indemnitor to do so, Lender may make, execute, record, file, re-record or refile any and all such documents and/or instruments for and in the name of such Indemnitor, and such Indemnitor hereby irrevocably appoints (which appointment is coupled with an interest with full power of substitution) Lender the agent and attorney-in-fact of such Indemnitor to do so; and such Indemnitor shall reimburse Lender, on demand, for all costs and expenses (including attorneys' fees and expenses) incurred by Lender in connection therewith.

SECTION 24. Amendment. Subject to the terms of Section 15 hereof, neither this Agreement nor any provision hereof may be changed, waived, discharged, modified or terminated orally, but only by an instrument in writing signed by the party against whom enforcement is sought. Nothing contained in this Agreement shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Loan Agreement or any of the other Loan Documents.

SECTION 25. Jurisdiction, Venue, Service of Process. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT, AT LENDER'S OPTION, IN THE COURTS OF THE STATE OF NEW YORK, NEW YORK

COUNTY OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK. EACH OF THE INDEMNITORS HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE INDEMNITORS IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THEM AT THEIR RESPECTIVE ADDRESSES AS SET FORTH ABOVE. EACH OF THE INDEMNITORS HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHT OF LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY OF THE INDEMNITORS IN ANY OTHER JURISDICTION.

SECTION 26. Appointment of Agent for Service of Process. Each of the Indemnitors hereby designates (“**Designee**”) as its agent and attorney-in-fact to accept service of process in any action or proceeding arising under or in connection with this Agreement, the Mortgage, and the other Loan Documents. The foregoing designation is irrevocable and coupled with an interest. If Designee is not available, process may be served upon Designee by United States registered or certified mail, which service will be effective upon five (5) days after mailing, to the address of Designee set forth below:

, California

IN WITNESS WHEREOF, each of the Indemnitors has executed and delivered this Agreement or has caused the same to be executed and delivered by its duly authorized representative as of the date first above written.

, a California limited partnership

By: _____
Name:
General Partner

By: _____
Name:
General Partner

By: _____

By: _____

SCHEDULE A

Description of Property