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ENVIRONMENTAL INDEMNITY AGREEMENT

THIS ENVIRONMENTAL INDEMNITY AGREEMENT (this “**Indemnity**”) is entered into as of [DATE OF AGREEMENT] (the “**Effective Date**”), by [COMPLETE LEGAL NAME OF BORROWER] (“**Indemnitor**”), [and [COMPLETE LEGAL NAME OF

GUARANTOR] (“**Guarantor**”), jointly and severally,¹ to and for the benefit of [COMPLETE LEGAL NAME OF LENDER] (“**Lender**”), and, to the extent not otherwise referenced, the Indemnified Parties (as hereinafter defined).

WITNESSETH:

A. Lender has agreed to make a loan in the aggregate principal amount of [AMOUNT Dollars (\$_____)] (the “**Loan**”) to Indemnitor, as borrower, pursuant to that certain Loan Agreement effective as of [DATE OF LOAN AGREEMENT] made between Indemnitor and Lender (the “**Loan Agreement**”), which Loan is evidenced by that certain Promissory Note dated as of the Effective Date made by Indemnitor in favor of Lender (the “**Note**”). The Loan is secured by a Deed of Trust with Fixture Filing, Assignment of Leases and Rents and Security Agreement dated as of [DATE OF DEED OF TRUST] executed by Indemnitor, as trustor, in favor of Lender, as beneficiary (the “**Deed of Trust**”), which Deed of Trust encumbers the real property described in Exhibit A attached hereto (the “**Real Property**”), and the improvements constructed thereon (which improvements, together with the Real Property, shall hereinafter be referred to as the “**Property**”). The Loan Agreement, the Note, the Deed of Trust and all other documents executed in connection with the Loan are collectively referred to as the “**Loan Documents**.”

B. It is a condition of Lender’s extending credit that this Indemnity be executed and delivered by Indemnitor and Lender is making the Loan in reliance on this Indemnity.

C. The obligations of Indemnitor under this Indemnity are unsecured obligations of Indemnitor to the extent permitted by applicable law.

NOW, THEREFORE, in consideration of the foregoing and of Lender making the Loan and other valuable consideration, the receipt of which is hereby acknowledged, Indemnitor covenants and agrees to and for the benefit of Lender as follows:

ARTICLE I

DEFINITIONS

Section 1.1 “**Claims**” means any and all actual out-of-pocket costs (including, without limitation, attorneys’ fees and expenses, which fees and expenses shall include, without limitation, fees and expenses of both outside and staff counsel, other expenses and costs of investigation incurred in appellate proceedings or in enforcing any judgment, costs incurred in establishing the right to indemnification or incurred in any action or participation in, or in connection with, any case or proceeding under Chapter 7, 11 or 13 of the Bankruptcy Code, 11 United States Code Sections 101, *et seq.*, or any successor statutes thereto), expenses, losses, claims, damages, liabilities, fines, penalties, charges, injury to person, property or natural resources, administrative and judicial proceedings and orders, injunctive relief, judgments, remedial action requirements and enforcement actions of any kind, arising directly or indirectly, in whole or in part, out of or attributable to: (i) any inaccuracy or incompleteness in any representation set forth in Section 3.1 hereof or any breach or default by Indemnitor in the

¹ ADD THIS IF THERE IS AN ADDITIONAL GUARANTOR.

performance of any of Indemnitor's obligations under Sections 3.2 – 3.7 hereof; or (ii) any Release (as hereinafter defined) or threatened Release, whether foreseeable or unforeseeable and whether arising prior to or following any release, reconveyance or foreclosure of the Deed of Trust, or conveyance in lieu of foreclosure; and in each instance, regardless of when such Release, inaccuracy or breach is discovered and regardless of whether or not caused by or in the control of Indemnitor, any employees, agents, contractors or subcontractors of Indemnitor or any third persons. Without limiting the generality of the foregoing and for purposes of clarification only, claims also include: (i) actual out-of-pocket costs incurred by an Indemnified Party in connection with determining whether the Property is in compliance with all applicable Hazardous Substances Laws (as hereinafter defined), taking any necessary precautions to protect against any Release or threatened Release, or any removal, remediation of any kind and disposal of any Hazardous Substances (as hereinafter defined) and (ii) any repair of any damage to the Property or any other property caused by any such precautions, removal, remediation or disposal. The rights of the Indemnified Parties under this Indemnity shall not be limited by any investigation or the scope of any investigation undertaken by or on behalf of Lender in connection with the Property prior to the Effective Date.

Section 1.2 **“Hazardous Substances”** means and includes any flammable explosives, radioactive materials or hazardous, toxic or dangerous wastes, substances or related materials or any other chemicals, materials or substances, exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Property or of property adjacent to the Property, including, but not limited to, asbestos, PCBs, petroleum products and by-products (including, but not limited to, crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel, or any mixture thereof), substances defined or listed as “hazardous substances”, “hazardous materials”, “hazardous wastes” or “toxic substances” or similarly identified in, pursuant to or for purposes of state law; the Comprehensive Environmental Response, Compensation, and Liability Act, as now or hereafter amended (42 U.S.C. Sections 9601, *et seq.*); the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S.C. Sections 5101-5127); the Resource Conservation and Recovery Act of 1976, as now or hereafter amended (42 U.S.C. Sections 6901, *et seq.*); any so-called “Superfund” or “Superlien” law; or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material; or any substances or mixture regulated under the Toxic Substance Control Act, as now or hereafter amended (15 U.S.C. Sections 2601, *et seq.*); and any “toxic pollutant” under the Clean Water Act, as now or hereafter amended (33 U.S.C. Sections 1251 *et seq.*); and any hazardous air pollutant under the Clean Air Act, as now or hereafter amended (42 U.S.C. Sections 7401, *et seq.*).

Section 1.3 **“Hazardous Substances Laws”** means all federal, state and local environmental, health or safety laws, ordinances, regulations, rules of common law or policies regulating Hazardous Substances, including, without limitation, those governing the generation, use, refinement, handling, treatment, removal, storage, production, manufacture, transportation or disposal of Hazardous Substances, as such laws, ordinances, regulations, rules and policies may be in effect from time to time and be applicable to the Property.

Section 1.4 “**Indemnified Parties**” means any of Lender, and the directors, officers, shareholders, agents, employees, attorneys, representatives, successors and assigns of Lender, including any purchasers of all or any portion of the Property at any foreclosure sale or other purchasers or transferees of the Property.

Section 1.5 “**Release**” means any presence, use, generating, storing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Substances into the environment, or about, on, from, under, within or affecting the Property, or transported to or from the Property, including continuing migration of Hazardous Substances into or through soil, surface water or groundwater.

ARTICLE II

ENVIRONMENTAL INDEMNIFICATION BY INDEMNITOR

Section 2.1 Defend against Claims. Indemnitor hereby agrees to defend (with counsel reasonably approved by Lender), indemnify and hold the Indemnified Parties harmless from and against, and shall reimburse the Indemnified Parties for, any and all Claims. Indemnitor hereby expressly waives, with respect to any Claims, any immunity to which Indemnitor may otherwise be entitled under any laws.

Section 2.2 Independent Counsel. Lender shall have the right to employ independent counsel to represent it in any action or proceeding to which this Indemnity is applicable if and to the extent that Lender determines in good faith that its rights and interests may be compromised or not fully and adequately represented by legal counsel acting for Indemnitor, whether on account of any potential defenses that Indemnitor may have to its obligations under this Indemnity or otherwise, and in such event the reasonable fees and expenses of Lender’s independent counsel shall be paid by Indemnitor.

Section 2.3 Effect of Notice of Disclosure. Indemnitor’s obligations under this Indemnity shall not be diminished or affected in any respect as a result of any notice or disclosure, if any, to, or other knowledge, if any, by, any Indemnified Party of any Release or threatened Release, or as a result of any other matter related to Indemnitor’s obligations under this Indemnity , nor shall any Indemnified Party be deemed to have permitted or acquiesced in any Release or any breach of Indemnitor’s other obligations under this Indemnity , or otherwise, solely because any Indemnified Party had notice, disclosure or knowledge thereof, whether at the time this Indemnity is delivered or at any time thereafter.

Section 2.4 Not Limited by Representation, Warranty or Indemnity of Indemnitor. This Indemnity shall not be limited by any representation, warranty or indemnity of Indemnitor made herein or in connection with any indebtedness secured by the Deed of Trust, irrespective of whether Indemnitor has knowledge of the matters to which such representation, warranty or indemnity relates.

ARTICLE III

ENVIRONMENTAL REPRESENTATIONS AND COVENANTS

Section 3.1 Indemnitor Representations and Warranties. Indemnitor represents and warrants that:

3.1.1 It has not, and, to the best of its knowledge, no predecessor in title nor any third person at any time occupying or present on the Property has, at any time prior to the Effective Date or during the term of the Deed of Trust, caused or permitted any Release, nor is it aware of the existence of any Hazardous Substances on, from, under or affecting the Property, except as permitted under Section 3.1.2 below;

3.1.2 It has obtained or has caused any lessee to obtain, all certificates, permits, licenses, approvals and authorizations required by any federal, state, county, regional or local authority whose jurisdiction includes, in whole or in part, environmental protection or regulation of Hazardous Substances, for the lawful use or operation of the Property in accordance with all applicable Hazardous Substance Laws;

3.1.3 It has received no notice of any investigations or proceedings or inquiry before or by any governmental authority with respect to the presence of any Hazardous Substances or Releases on the Property or the migration thereof from or to other property (hereinafter, "**Proceedings**"); and

3.1.4 No claims, litigation, investigation, administrative enforcement actions or proceedings have been made or threatened by any third party against it, or any other person (hereinafter, "**Pending Claims**"), nor have any settlements been reached by or with any party or parties, public or private, alleging any Release or threatened Release.

Section 3.2 Compliance with Hazardous Substances Laws. Indemnitor shall keep and maintain the Property in compliance with any Hazardous Substances Laws, and shall not cause or permit a Release in violation of any Hazardous Substances Laws.

Section 3.3 Authorized Release. Indemnitor shall not, nor shall Indemnitor permit any tenants or other occupants of the Property to, at any time in the future, cause or permit any Release except as permitted in Section 3.1.2 above.

Section 3.4 Notice of Pending Claims or Proceedings. Indemnitor shall give prompt written notice to Lender of any Pending Claims or Proceedings.

Section 3.5 Notice of Discovery of Occurrence or Condition. Indemnitor shall give prompt written notice to Lender of Indemnitor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could adversely affect or impact the Property or cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Substances Laws.

Section 3.6 Lender's Right to Participate in Legal Proceedings. Lender shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Substances Laws and Indemnitor shall pay Lender's reasonable attorneys' fees and expenses in connection therewith, including, without limitation, fees and expenses of both outside and staff counsel.

Section 3.7 Remedial Work. In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, precautionary actions or other remedial work of any kind or nature (the “**Remedial Work**”) is required under any applicable Hazardous Substances Law as a result of, or in connection with, any Release, suspected Release, or threatened Release, Indemnitor shall within thirty (30) days after receipt of information that such Remedial Work is or may be required (or such shorter period of time as may be required under applicable law, regulation, order or agreement), commence the performance of, or cause to be commenced, and thereafter diligently prosecute to completion, the performance of all such Remedial Work. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by Lender, and under the supervision of a consulting engineer approved in advance in writing by Lender, which consent shall not be unreasonably withheld. All costs and expenses of such Remedial Work shall be paid by Indemnitor, including, without limitation, the charges of such contractor(s) and/or the consulting engineer, and Lender’s reasonable attorneys’ fees and costs, including, without limitation, fees and costs of both outside and staff counsel incurred in connection with monitoring or review of such Remedial Work. In the event Indemnitor shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, the performance of such Remedial Work, Lender may, but shall not be required to, cause such Remedial Work to be performed and all reasonable costs and expenses thereof, or incurred in connection therewith, shall be deemed Claims under this Indemnity.

ARTICLE IV

INDEMNIFICATION INDEPENDENT OF OTHER OBLIGATIONS

Section 4.1 Indemnification Independent of Other Obligations. This Indemnity is given solely to protect Indemnified Parties against Claims. This Indemnity shall be independent of and shall survive the discharge of the principal obligation, the release of the lien created under the Deed of Trust and the discharge of all obligations under the other Loan Documents. The obligations of Indemnitor under this Indemnity are independent of, and shall not be measured or affected by: (i) any amounts at any time owing under the Loan or the Note, or secured by the Deed of Trust or additional security documents, (ii) the sufficiency or insufficiency of any collateral (including, without limitation, the Property) given to Lender to secure repayment of the Loan, (iii) the consideration given by Indemnitor or any other party in order to acquire the Property, or any portion thereof, (iv) the modification, expiration or termination of the Note or any other document or instrument relating thereto, or (v) the discharge or repayment in full of the Loan (including, without limitation, by amounts paid or a credit bid at a foreclosure sale or by discharge in connection with a deed in lieu of foreclosure). Notwithstanding the provisions of any document or instrument, none of the obligations of Indemnitor under this Indemnity shall be in any way secured by the liens of the Deed of Trust, additional security documents, or any other document or instrument securing the Loan or the Note.

Section 4.2 Not Obligations of Surety/Guarantor; No Limitations. The obligations of Indemnitor under this Indemnity are not intended to be the obligations of a surety or guarantor. The liability of Indemnitor under this Indemnity shall in no way be limited or impaired by (i) any extensions of time for performance required by any document or instrument now or hereafter executed in connection with the Loan Documents; (ii) the accuracy or inaccuracy of any representations and warranties made by Indemnitor in any of the Loan Documents; or (iii) the

release of any person or entity from performance or observance of any of the agreements, covenants, terms, or conditions contained in any of the Loan Documents by operation of law or otherwise.

Section 4.3 Liability of Indemnitor. The obligations of Indemnitor under this Indemnity are not intended to be the obligations of a surety or guarantor. The liability of Indemnitor under this Indemnity shall in no way be limited or impaired by:

4.3.1 Any extensions of time for performance required by any document or instrument now or hereafter executed in connection with the Loan Documents;

4.3.2 The accuracy or inaccuracy of any representations and warranties made by Indemnitor in any of the Loan Documents; or

4.3.3 The release of any person or entity from performance or observance of any of the agreements, covenants, terms, or conditions contained in any of the Loan Documents by operation of law or otherwise.

Section 4.4 Rights and Remedies of Indemnified Parties. The rights and remedies of the Indemnified Parties under this Indemnity:

4.4.1 Shall be in addition to any other rights and remedies of such Indemnified Parties under any Loan Document or at law or in equity; and

4.4.2 May be enforced by any of the Indemnified Parties, to the maximum extent permitted by law, without regard to or affecting any rights and remedies that such Indemnified Party may have under any Loan Document or at law or in equity, and without regard to any limitations on such Indemnified Party's recourse for recovery of the Loan as may be provided in any Loan Document.

ARTICLE V

SITE VISITS, OBSERVATION AND TESTING

Lender and any of the other Indemnified Parties and their respective agents and representatives shall have the right at any reasonable time to enter and visit the Property to make such inspections, tests (including, without limitation, taking and removing soil or groundwater samples) and inquiries as they shall deem appropriate, for violations of any of the terms of this Indemnity and for determining the existence, nature and magnitude of any past or present Release or threatened Release. Neither Lender nor any of the other Indemnified Parties have any duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Lender or any other Indemnified Party shall impose any liability on Lender or such other Indemnified Party. In no event shall any site visit, observation or testing by Lender or any other Indemnified Party be a representation that Hazardous Substances are or are not present in, on or under the Property, or that there has been or shall be compliance with any Hazardous Substances Laws or any other applicable governmental law. Neither Indemnitor nor any other party is entitled to rely on any site visit, observation or testing by Lender or any other Indemnified Party. Neither Lender nor any of the other Indemnified Parties owe any duty of care

to protect Indemnitor or any other party against, or to inform Indemnitor or any other party of, any Hazardous Substances or any other adverse condition affecting the Property. Lender and any other Indemnified Party shall give Indemnitor reasonable notice before entering the Property, and shall make reasonable efforts to avoid interfering with Indemnitor's use of the Property in exercising any rights provided in this Article V.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Interest Accrued. Any amount claimed under this Indemnity by an Indemnified Party not paid within thirty (30) days after written demand from such Indemnified Party with an explanation of the amounts claimed shall bear interest at a rate per annum equal to the Default Rate (as defined in the Note).

Section 6.2 Subrogation of Indemnity Rights. If Indemnitor fails to fully perform its obligations under this Indemnity, any Indemnified Party shall be entitled to pursue any rights or claims that Indemnitor may have against any present, future or former owners, tenants or other occupants or users of the Property, any portion thereof or any adjacent or proximate properties, relating to any Claim or the performance of Remedial Work, and Indemnitor hereby assigns all of such rights and claims to the Indemnified Parties under such circumstances and shall take all actions required by such Indemnified Parties in enforcing such rights and claims under such circumstances.

Section 6.3 Reliance. Indemnitor acknowledges that it is making and giving the indemnities and representations and covenants contained in this Indemnity with the knowledge that Lender is relying on such indemnities and representations and covenants in making the Loan to Indemnitor.

Section 6.4 Successors and Assigns. This Indemnity shall inure to the benefit of each Indemnified Party's successors and assigns, and shall be binding upon the heirs, successors and assigns of Indemnitor. Indemnitor shall not assign any rights or obligations under this Indemnity without first obtaining the written consent of Lender, which may be given or withheld in the sole and absolute discretion of Lender. Notwithstanding any other provision of this Indemnity to the contrary, Indemnitor shall not be released from its obligations under this Indemnity without obtaining the written consent of Lender, which consent may be given or withheld in the sole discretion of Lender. Upon the written request of Lender, Indemnitor shall use commercially reasonable efforts to cause any successor fee owner of the Property or any part thereof, or any heir, successor or assignee of the rights and obligations under this Indemnity, to execute and deliver to Lender a written agreement, in form and substance reasonably acceptable to Lender, evidencing such person's agreement to assume and be bound by the obligations of Indemnitor set forth in this Indemnity. Nothing herein shall be deemed to be a consent to the transfer of the Property which transfer would be otherwise prohibited by any Loan Document.

Section 6.5 Joint and Several Liability. If this Indemnity is executed by more than one person or entity, the liability of the undersigned under this Indemnity shall be joint and several. Separate and successive actions may be brought under this Indemnity to enforce any of the

provisions hereof at any time and from time to time. No action under this Indemnity shall preclude any subsequent action, and Indemnitor hereby waives and covenants not to assert any defense in the nature of splitting of causes of action or merger of judgments. In no event shall any provision of this Indemnity be deemed to be a waiver of or to be in lieu of any right or claim, including without limitation any right of contribution or other right of recovery, that any party to this Indemnity might otherwise have against any other party to this Indemnity under any Hazardous Substances Laws.

Section 6.6 No Waiver by Lender. No failure on the part of Lender to exercise, and no delay in exercising, any right, power or remedy under this Indemnity shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by Lender preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies under this Indemnity are cumulative and are not exclusive of any other remedies provided by law.

Section 6.7 Notices. All notices or other communications required or permitted by this Indemnity (for purposes of this Section referred to collectively as “**Notices**”), to be effective, shall be in writing, properly addressed to the following address specified below, and shall be given: (i) by personal delivery, facsimile or email with a hard copy to follow; or (ii) by established overnight commercial courier with delivery charges prepaid or duly charged.

-- To Lender:

Attn: _____

With Copies to:

Attn: _____

-- To Indemnitor:

Attn: _____

Notices delivered by personal delivery, facsimile or email, shall be deemed to have been given upon tender to a natural person at the address shown. Notices delivered by established overnight commercial courier shall be deemed to have been given one business day after sent by established overnight commercial courier. Each party may change its address for notices by giving notice in accordance with this Section.

Section 6.8 Governing Law. This Indemnity shall be governed by and construed in accordance with the laws of California, without giving effect to conflict of laws. In the event of a dispute with respect to the interpretation of this Indemnity, Indemnitor agrees that, the courts located in Orange County, California shall have exclusive jurisdiction and be the exclusive venue for resolution of any dispute resolution or legal proceeding arising from this Indemnity.

Section 6.9 Modification of Indemnity. No modification, amendment or waiver of any provision of this Indemnity shall be effective unless the same shall be in writing and executed by Lender, and then such waiver or consent shall be effective only in the specific instance and for the sole purpose for which given.

Section 6.10 Headings; Gender. Section headings used herein are for convenience only and are not to affect the construction of, or to be taken into consideration in interpreting, this Indemnity. In this Indemnity, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural, and vice versa.

Section 6.11 Severability of Provisions. Any provision or term of this Indemnity which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions and terms hereof or affecting the validity or enforceability of such provision or term in any other jurisdiction.

Section 6.12 Ambiguities Not to be Construed Against Drafting Party. The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties hereto with respect to this Indemnity.

Section 6.13 Execution of Indemnity. This Indemnity was executed voluntarily without any duress or undue influence on the part of or on behalf of the parties hereto. Indemnitor acknowledges it has read and understood this Indemnity, its legal effect and its tax ramifications. Indemnitor acknowledges that it has had a reasonable opportunity to obtain independent legal counsel for advice and representation in connection with this Indemnity. Indemnitor further acknowledges that it is not relying on the legal counsel employed by Lender.

Section 6.14 Local Law Provisions; Principles of Construction. To the extent any of the provisions of this Section 6.14 conflict with any of the other provisions of this Indemnity, the terms and provisions of this Section 6.14 shall control. Notwithstanding the foregoing, nothing in this Section 6.14 shall be deemed to contradict or supersede the terms and provisions of Section 6.8 hereof with respect to the governing law applicable to this Indemnity.

6.14.1 Additional Waivers.

(i) Indemnitor waives, and agrees that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of, any and all appraisal, valuation, stay, extension, marshaling of assets or redemption laws, or right of homestead or exemption, whether now or at any time hereafter in force, which may delay, prevent or otherwise affect the performance by Indemnitor of its/his/her obligations under, or the enforcement by

Lender of, this Indemnity. Indemnitor hereby waives diligence, presentment and demand, notice of any other fact which might increase Indemnitor's risk under this Indemnity, notice of presentment for payment, demand, protest and notice thereof as to any instrument, and notice of default, with respect to any of the Loan, and all other demands whatsoever and waives the benefit of all provisions of law which are or might be in conflict with the terms of this Indemnity. Indemnitor represents, warrants and agrees that, as of the date of this Indemnity, its/his/her obligations under this Indemnity are not subject to any counterclaims, offsets or defenses against Lender of any kind.

(ii) Indemnitor agrees that nothing contained herein shall prevent Lender from foreclosing on the lien of the Deed of Trust, or from exercising any rights available to it thereunder, including, but not limited to, any waiver of the security for the Loan described in the Deed of Trust, and that the exercise of any of the aforesaid rights shall not constitute a legal or equitable discharge of Indemnitor. Indemnitor expressly waives any and all suretyship defenses that may be available to Indemnitor, such as defenses in its favor based upon an election of remedies by Lender that destroys, diminishes, or affects Indemnitor's right to proceed against any other party for reimbursement, contribution, indemnity or otherwise, including, without limitation, any election by Lender to conduct a nonjudicial foreclosure sale under the Deed of Trust, and further including, without limitation, any and all defenses, rights, or estoppels that might otherwise arise under or in connection with California Code of Civil Procedure Sections 580b, 580d, 580a, 726.5 or 726 as a result of any such election, or otherwise, including, without limitation, any right to cause a fair value hearing to be held. Indemnitor understands and agrees that the preceding sentence is a knowing waiver of any defense that may arise in the future to enforcement of this indemnity under California Code of Civil Procedure Sections 580b, 580d, 580a or 726 (or any other statute limiting a lender's right to a deficiency or the amount of a deficiency following a non-judicial or judicial sale) based on Lender's election to conduct a private, nonjudicial foreclosure sale following a default by Indemnitor even though such an election destroyed, diminished or otherwise affected Indemnitor's rights of subrogation or the right of contribution, reimbursement or indemnity from any part, with the result that Indemnitor's liability under this Indemnity became nonreimbursable in whole or in part. Nevertheless, Indemnitor hereby authorizes and empowers Lender to exercise, in its sole discretion, any rights and remedies, or any combination thereof, which may then be available, since it is the intent and purpose of Indemnitor that the obligations under this Indemnity shall be absolute, independent and unconditional under any and all circumstances. Without limiting the generality of the foregoing, Indemnitor hereby expressly waives any and all benefits under California Civil Code Section 2809, 2810, 2815, 2819, 2822, 2839, 2845, 2846, 2847, 2848, 2849, 2850, 2899, 3433 and California Code of Civil Procedure Sections 580b, 580a, 580d and 726. Notwithstanding any foreclosure of the lien of the Deed of Trust or security agreement with respect to any or all of any real or personal property secured thereby, whether by the exercise of the power of sale contained therein, by an action for judicial foreclosure or by an

acceptance of a deed in lieu of foreclosure, Indemnitor shall remain bound under this Indemnity. Nothing shall discharge or satisfy the liability of Indemnitor under this Indemnity except the full performance hereof by Indemnitor. Further, Indemnitor consents and agrees that Lender shall be under no obligation to marshal any assets in favor of Indemnitor.

(iii) WITHOUT LIMITING THE FOREGOING, INDEMNITOR WAIVES ALL RIGHTS AND DEFENSES THAT INDEMNITOR MAY HAVE IF THIS INDEMNITY IS DEEMED OR BECOMES SECURED BY REAL PROPERTY. THIS MEANS, AMONG OTHER THINGS:

(A) THE LENDER MAY COLLECT FROM INDEMNITOR WITHOUT FIRST FORECLOSING ON ANY REAL OR PERSONAL PROPERTY COLLATERAL PLEDGED BY INDEMNITOR OR ANY OTHER INDEMNITOR; AND

(B) IF THE LENDER FORECLOSURES ON ANY REAL PROPERTY COLLATERAL PLEDGED BY INDEMNITOR OR ANY OTHER INDEMNITOR:

(1) THE AMOUNT OF LENDER'S CLAIM UNDER THIS INDEMNITY MAY BE REDUCED ONLY BY THE PRICE FOR WHICH THAT COLLATERAL IS SOLD AT THE FORECLOSURE SALE, EVEN IF THE COLLATERAL IS WORTH MORE THAN THE SALE PRICE; AND

(2) THE LENDER MAY COLLECT FROM INDEMNITOR EVEN IF THE LENDER, BY FORECLOSING ON THE REAL PROPERTY COLLATERAL, HAS DESTROYED ANY RIGHT INDEMNITOR MAY HAVE TO COLLECT FROM INDEMNITOR.

THIS IS AN UNCONDITIONAL AND IRREVOCABLE WAIVER OF ANY RIGHTS AND DEFENSES THAT INDEMNITOR MAY HAVE IF THIS INDEMNITY IS DEEMED OR BECOMES SECURED BY REAL PROPERTY. THESE RIGHTS AND DEFENSES INCLUDE, BUT ARE NOT LIMITED TO, ANY RIGHTS OR DEFENSES BASED UPON CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 580a, 580b, 580d, OR 726.

6.14.2 Representations and Warranties. Except as previously disclosed to Lender in writing, the Property has not been and is not now being used in violation of any applicable Environmental Law and the Property has not been designated as "hazardous waste property" or "border zone property" pursuant to Section 25220, et seq., of the California Health and Safety Code.

6.14.3 Environmental Compliance.

(i) With or without notice, and without releasing Indemnitor from any obligation under this Indemnity, Lender shall have the right, but shall not be obligated, to cure any default of Indemnitor under this Indemnity and, in connection therewith, Lender or its agents, acting by themselves or through a court-appointed receiver, may enter upon the Property or any part thereof and perform such acts and things as Lender deems necessary or desirable to inspect and investigate, including, without limitation, the right to: (i) obtain a court order to enforce Lender's rights to enter and inspect the Property under California Civil Code Section 2929.5, to which the decision of Lender as to whether there exists a release or threatened release of Hazardous Substances in or onto the Property shall be deemed reasonable and conclusive as between the parties hereto; and (ii) have a receiver appointed under California Code of Civil Procedure Section 564 to enforce Lender's right to enter and inspect the Property for Hazardous Substances. All fees, costs and expenses reasonably incurred by Lender with respect to the audits, tests, inspections, and examinations which Lender or its agents or employees may conduct, including the fees, costs and expenses of the engineers, laboratories, contractor, consultants, and attorneys, pursuant to California Civil Code Section 2929.5 or otherwise to enforce this Indemnity shall be paid by Indemnitor. All such fees, costs and expenses incurred by Lender pursuant to this subparagraph (including, without limitation, court costs, consultant fees and attorney fees, whether incurred in litigation or otherwise and whether before or after judgment) shall bear interest at the Default Rate from the date such costs and expenses are incurred until said sums have been fully paid. This provision is separate and several, and shall survive the merger of these provisions into any judgment.

(ii) At Lender's option, Lender shall be entitled to seek a judgment that Indemnitor has breached its covenants, representations and/or warranties with respect to the environmental matters set forth in this Indemnity by commencing and maintaining an action or actions in any court of competent jurisdiction for breach of contract pursuant to California Code of Civil Procedure Section 736, whether commenced prior to foreclosure of the Property or otherwise, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred or advanced by Lender relating to the cleanup, remediation or other response action, required by applicable law or to which Lender believes necessary to protect the Property (collectively, the "**Environmental Costs**") (excluding, however, any Environmental Costs not permitted to be recovered pursuant to Section 736 of the California Code of Civil Procedure), it being conclusively presumed between Lender and Indemnitor that all such Environmental Costs incurred or advanced by Lender relating to the cleanup, remediation, or other response action of or to the Property were made by Lender in good faith. All Environmental Costs under this subparagraph (including, without limitation, court costs, consultant fees and attorneys' fees, whether incurred in litigation or otherwise and whether before or after judgment) shall bear interest at the Default Rate from the date of such costs and expenses have been incurred until said sums have been fully paid.

(iii) At Lender's option, Lender shall be entitled to waive its lien against the Property or any portion thereof, whether fixtures or personal property, to the extent such property is found to be environmentally impaired in accordance with California Code of Civil Procedure Section 726.5 and to exercise any and all rights and remedies of an unsecured creditor against Indemnitor and all of Indemnitor's respective assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order under California Code of Civil Procedure Section 483.010. As between Lender and Indemnitor, for purposes of California Code of Civil Procedure Section 726.5, Indemnitor shall have the burden of proving that Indemnitor or any related party (or any affiliate or agent of Indemnitor or any related party) was not in any way negligent in permitting the release or threatened release of Hazardous Substances.

(iv) Indemnitor acknowledges and agrees that, notwithstanding any term or provision contained herein or in any of the Loan Documents, Environmental Costs shall be exceptions to any nonrecourse or exculpatory provisions of the Loan Documents. Indemnitor shall be fully and personally liable for the Environmental Costs under this Indemnity, and such liability shall not be limited to the original principal amount of the obligation secured by the Deed of Trust. Indemnitor's obligations for Environmental Costs shall survive a foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or the Deed of Trust. For the purposes of any action brought under subparagraphs (ii) and (iii) of this Section 6.14.3, Indemnitor hereby waives the defense of laches and any applicable statute of limitations.

Signature Page to Follow.

IN WITNESS HEREOF, this Indemnity is executed as of the day and year above written.

INDEMNITOR:

[*COMPLETE LEGAL NAME OF INDEMNITOR*]

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

LEGAL DESCRIPTION

[INSERT LEGAL DESCRIPTION]