

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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06/20/2019 03:55:31 PM
SUBAGREM 1/12

IHOP Leasing LLC
450 North Brand Boulevard, 7th Floor
Glendale, California 91203-4415
Attn: Legal Department

-----SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY-----

SUBORDINATION, ATTORNMENT, NON-DISTURBANCE AND WAIVER
AND PARTIAL RELEASE AGREEMENT

THIS SUBORDINATION, ATTORNMENT, NON-DISTURBANCE, WAIVER AND PARTIAL RELEASE AGREEMENT (the "Agreement") is made and entered into as of 10-31, 2018, by and between **IHOP LEASING LLC**, a Delaware limited liability company ("Tenant"), whose principal place of business is located at 450 N. Brand Boulevard, 7th Floor, Glendale, California 91203-2306, and **BANK OF HEMET** ("Lender"), whose principal place of business is located at 3715 SUNNYSIDE DR., RIVERSIDE, CA 92506, with reference to the following:

As security for a loan made or to be made by Lender, **THE SALVADORE S. SANCHEZ 2008 TRUST DATED AUGUST 27, 2008**, ("Landlord") has given or will give to Lender a deed of trust, assignment of leases and rents and security agreement, dated 1-4-19, which has been or will be recorded in the public records of the County of Shelby, State of Alabama (the "Security Instrument"), and once recorded, will constitute the first lien against the real property described on Exhibit "A" attached hereto (the "Premises").

Lender is the mortgagee/beneficiary under that certain Mortgage/Deed of Trust dated 1-4-19, made by Landlord as mortgagor, recorded on 1/25/19, in Book __, Page __, of the Official Records of Shelby County, State of Alabama, securing the obligations of Landlord under that certain Promissory Note of even date in the sum of four million forty two thousand four hundred sixty five Dollars (\$4,042,465.20) (the "Mortgage/Deed of Trust"). Lender is also the assignee under that certain Assignment of Rents and Leases dated 1/4/19, made by Landlord as assignor, recorded on 1/25/19, in Book __, Page __, of the aforesaid records (the "Assignment"), and the secured party under a security agreement evidenced by that certain Financing Statement, made by Landlord as debtor, dated N/A, recorded on N/A, as Instrument No. N/A of the aforesaid records (the "Financing Statement"), further securing the obligations of Landlord under the Promissory Note.

Tenant entered into that lease dated October 12, 2000 (as amended, the "Lease") with Landlord, or its predecessor in interest, pursuant to which Tenant occupies the land and Improvements (as defined in the Lease) located on the Premises.

Relying on the covenants, agreements, representations and warranties contained in this Agreement, Lender and Tenant have agreed to execute this Agreement to set forth the rights and obligations of each party in connection with the Security Instruments and the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Tenant hereby agree as follows:

1. Subordination. The Lease is and shall be subordinate to the Security Instrument and the lien thereon insofar as it affects the real property upon which the Improvements are located and to all renewals, modifications, replacements and extensions thereof. Notwithstanding the foregoing, Tenant's right, title and interest in and to the Trade Fixtures (as such term is defined in the Lease) shall not be subordinate to the Security Instrument and shall be superior to the rights of Lender under the Security Instrument.

2. Attornment. If, in the exercise of any rights under the Security Instrument, Lender or any other person becomes owner of the Premises and the Improvements, or Landlord's leasehold interest therein, Tenant shall attorn to and recognize Lender or such purchaser as Landlord under the Lease. In such event Lender or such purchaser shall have all the rights of Landlord under the Lease, including but not limited to the right to receive and collect rent from Tenant, and shall assume and perform all obligations of Landlord under the Lease. Lender agrees that it shall not join Tenant in any foreclosure proceedings but will give Tenant notice of the commencement of any foreclosure proceedings; provided, however, failure to give such notice to Tenant shall not invalidate any such foreclosure proceedings. Notwithstanding anything to the contrary contained herein, in no event shall Lender or such purchaser be: (a) liable for any act or omission of any previous Landlord; (b) subject to any offset or counterclaim which Tenant might be entitled to assert against any previous Landlord; (c) bound by any payment of rent or additional rent made by Tenant to any previous Landlord for more than one (1) month in advance or (d) bound by any amendment or modification of the Lease made without the consent of Lender.

3. Assignment. Tenant acknowledges that Landlord's rights and obligations under the Lease are subject to an assignment of lease and rents, from Landlord to Lender (the "Assignment"). Tenant agrees that, upon Tenant's receipt of written notice from Lender that Lender has exercised its rights pursuant to the Assignment to collect and receive rents, Tenant shall pay all rent and additional rent to Lender at the address set forth in the notice.

4. Non-Disturbance. So long as Tenant is not in default beyond any notice and cure period provided in the Lease in the payment of rent or additional rent, or in the performance of any other terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, including any extensions or renewals thereof, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any extensions or renewals thereof. Lender acknowledges that such rights of Tenant under the Lease include, without limitation, Tenant's

rights regarding (a) the management and application of insurance proceeds in the event of damage to or destruction of the Improvements, and (b) the allocation and application of any condemnation award in the event of a partial or total taking of the Premises.

5. Landlord's Default. Notwithstanding anything to the contrary in the Lease, Tenant agrees that it shall concurrently give Lender a copy of any written notice of default given to Landlord, and Lender shall have the right, but not the obligation, to cure any default asserted against Landlord within the time provided in the Lease, or if no such time is provided, within a reasonable period of time, before Tenant may take any action against Landlord and/or terminate the Lease by reason of such default.

6. Lender's Waiver. Lender acknowledges, consents and agrees that the Trade Fixtures shall be and at all times remain the property of Tenant (or an equipment landlord, as defined herein) and that the Trade Fixtures, excluding the heating, ventilating, and air conditioning systems and all electrical and mechanical components and systems that form an integral part of the Improvements, may be removed by Tenant (or such equipment landlord) at any time during the term of the Lease, whether or not such Trade Fixtures may be regarded as property of Landlord by operation of law or otherwise. Tenant may arrange financing for the Trade Fixtures under an equipment lease, conditional sale agreement, security agreement or other security device with an equipment landlord, vendor or lender (collectively referred to herein as "equipment landlord"). Lender hereby waives, disclaims, and releases unto such equipment landlord any rights Lender may have in or to the Trade Fixtures by reason of: (a) the manner or method in which the Trade Fixtures are attached or affixed to the Premises or the Improvements, or (b) any statute or rule of law of the state in which the Premises are located which would, but for this Agreement, permit Lender to distrain against the Trade Fixtures for the non-payment of rent, additional rent, or other charges coming due under the Lease. In the event of a default by Tenant under the equipment lease, conditional sale agreement, security agreement or other security device, Lender hereby grants permission to such equipment landlord to remove the Trade Fixtures provided it repairs any damage to the Premises resulting therefrom. Lender hereby grants permission to such equipment lessor to remove the Trade Fixtures in the event of a default by Tenant under the equipment lease, conditional sale agreement, security agreement or other security device, provided it repairs any damage to the Premises resulting therefrom. Such equipment lessor shall be deemed an intended direct beneficiary of the provisions of this Section 6 to the same extent and with the same force as if such equipment lessor were specifically and expressly named herein. If such equipment lessor requires the execution by Lender of a separate waiver which is not inconsistent with the foregoing, Lender agrees to execute and deliver such waiver, subject to Lender's reasonable approval as to form, within a reasonable period of time after receipt of a written request therefor.

7. Lender's Partial Release. Lender hereby releases its security interest, if any, in the Trade Fixtures arising under the Security Instrument, security agreement, and Financing Statement, each and all, and agrees that, if requested by Tenant, Lender shall execute and deliver to Tenant releases in the form appropriate for recording in the real estate records and filing under the Uniform Commercial Code, and such releases shall be recorded and/or filed by Tenant as required to give effect thereto.

8. Binding Effect. ~~4/12~~ This Agreement shall inure to and be binding upon the heirs, successors and assigns of the parties hereto and the equipment landlord referred to in Section 6 above.

9. Incorporation of Exhibits. The Lease and all exhibits attached to this Agreement are hereby incorporated herein as though set forth in full in this Agreement itself.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

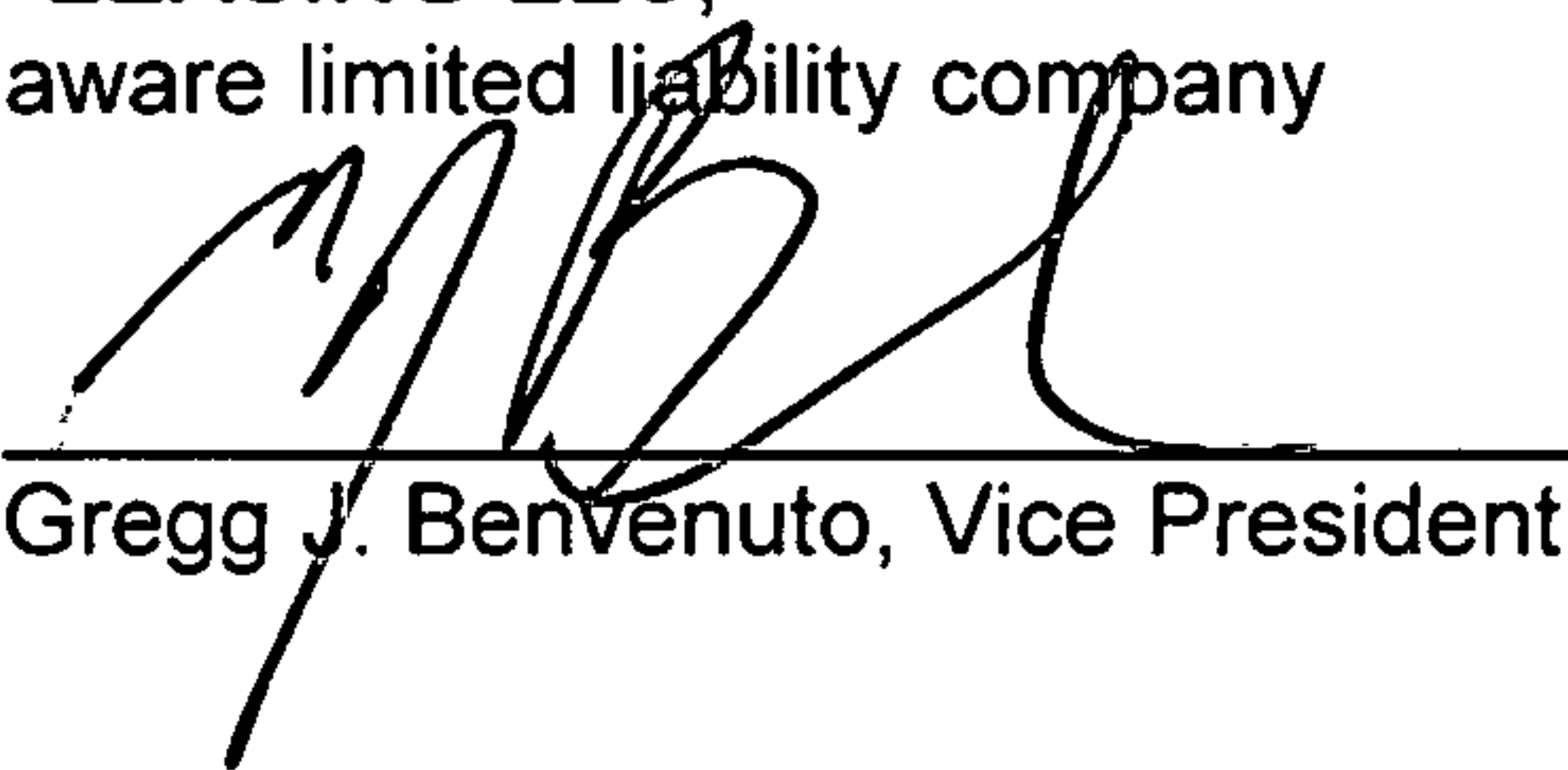
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Signatures immediately follow this page.

20190620000220680 06/20/2019 03:55:31 PM SUBAGREM
SIGNATURE AND ACKNOWLEDGMENT OF TENANT

TENANT:

IHOP LEASING LLC,
a Delaware limited liability company

By: 
Gregg J. Benvenuto, Vice President

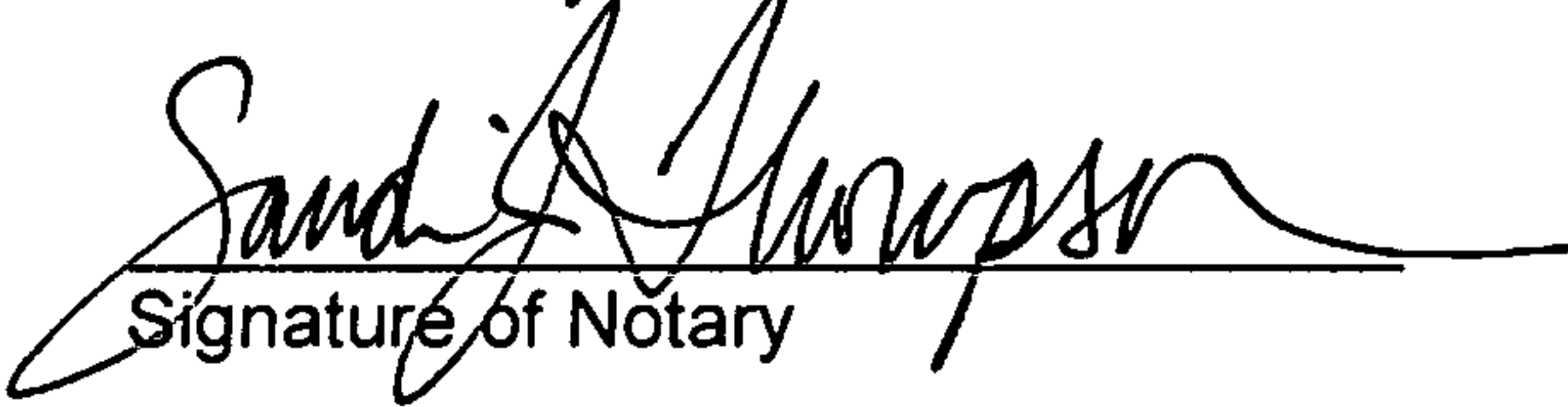
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

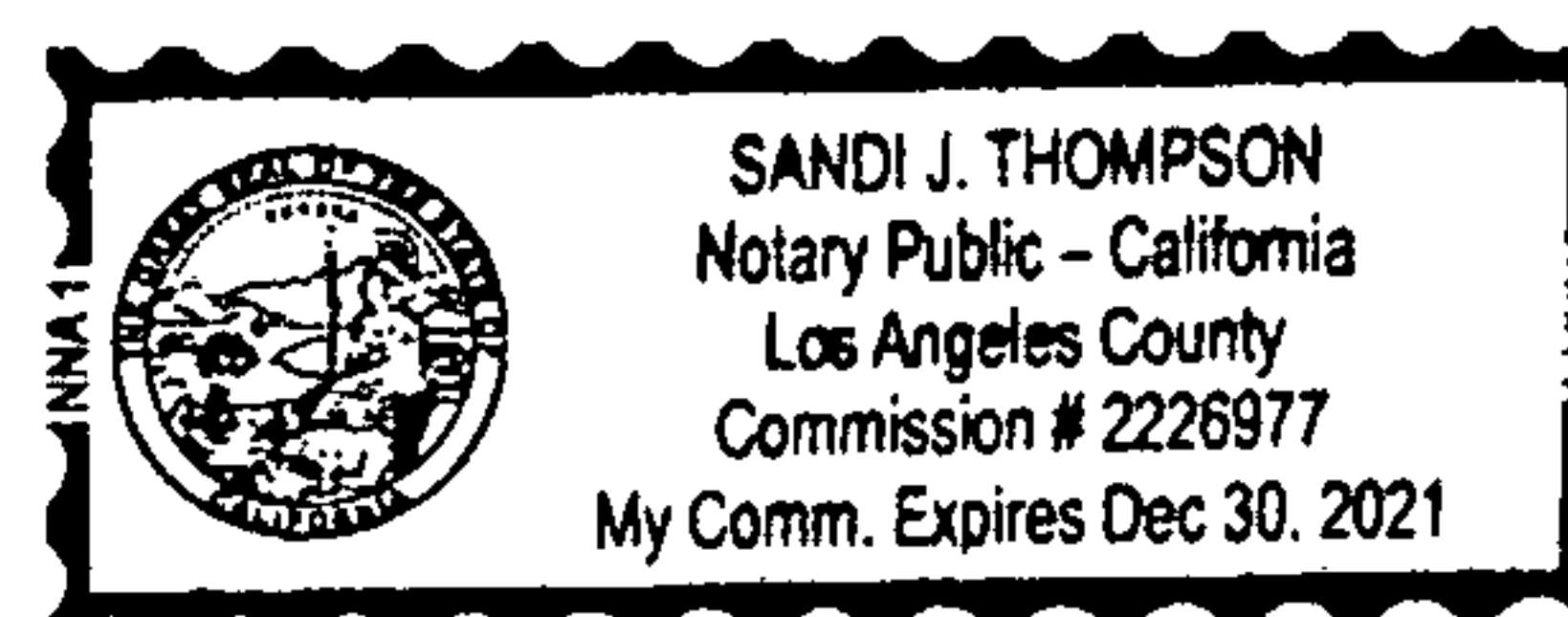
State of California }
County of Los Angeles } ss

On December 17, 2018 before me, Sandi J. Thompson, Notary Public, personally appeared Gregg J. Benvenuto, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 of Notary



(Seal)

LENDER:

BANK OF HEMET,

a _____

By: _____

Name: _____

Title: _____

See attached

STATE OF _____ }
COUNTY OF _____ } ss

On the _____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____ Notary Public

LANDLORD:

THE SALVADORE S. SANCHEZ 2008
TRUST DATED AUGUST 27, 2008

By: _____

Name: _____

Title: _____

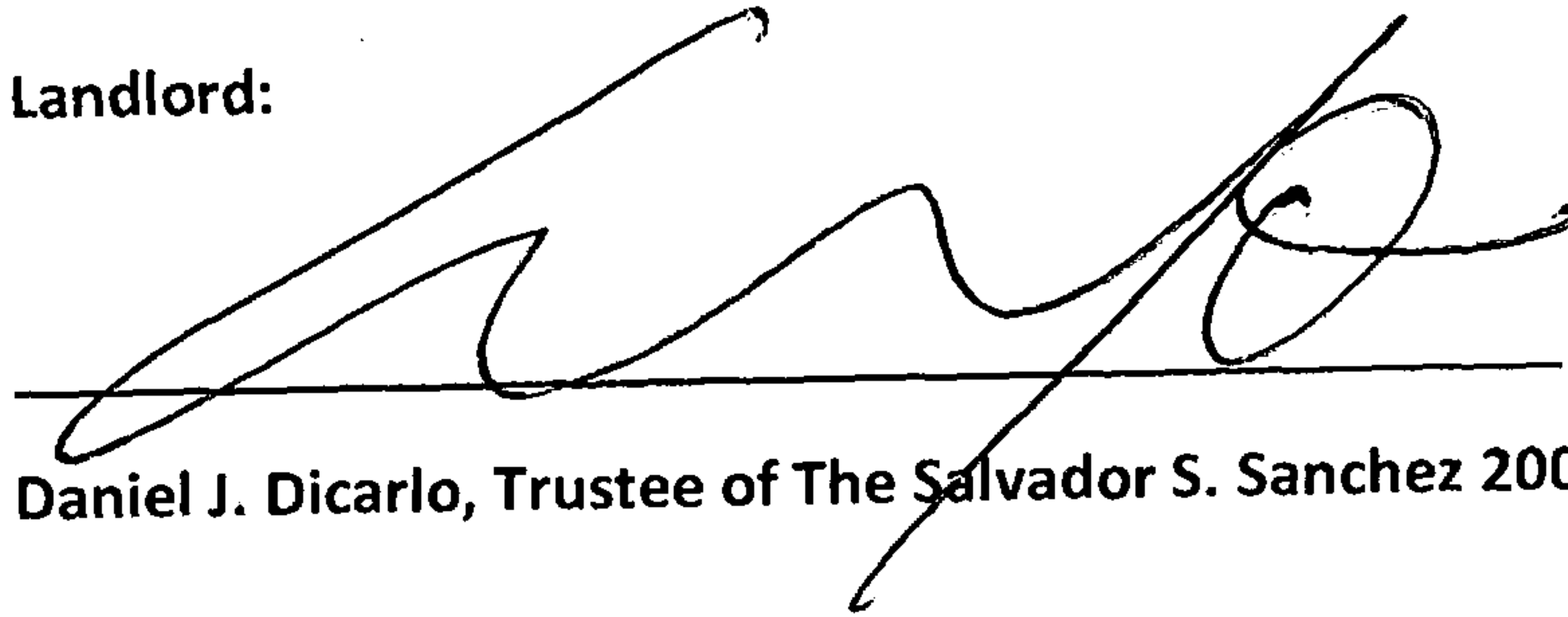
See attached

STATE OF _____ }
COUNTY OF _____ } ss

On the _____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____ Notary Public

Landlord:

A handwritten signature in black ink, appearing to read 'Daniel J. Dicarlo', is written over a horizontal line. The signature is stylized with a large initial 'D' and a cursive 'J'.

Daniel J. Dicarlo, Trustee of The Salvador S. Sanchez 2008 Trust

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of SAN DIEGO)

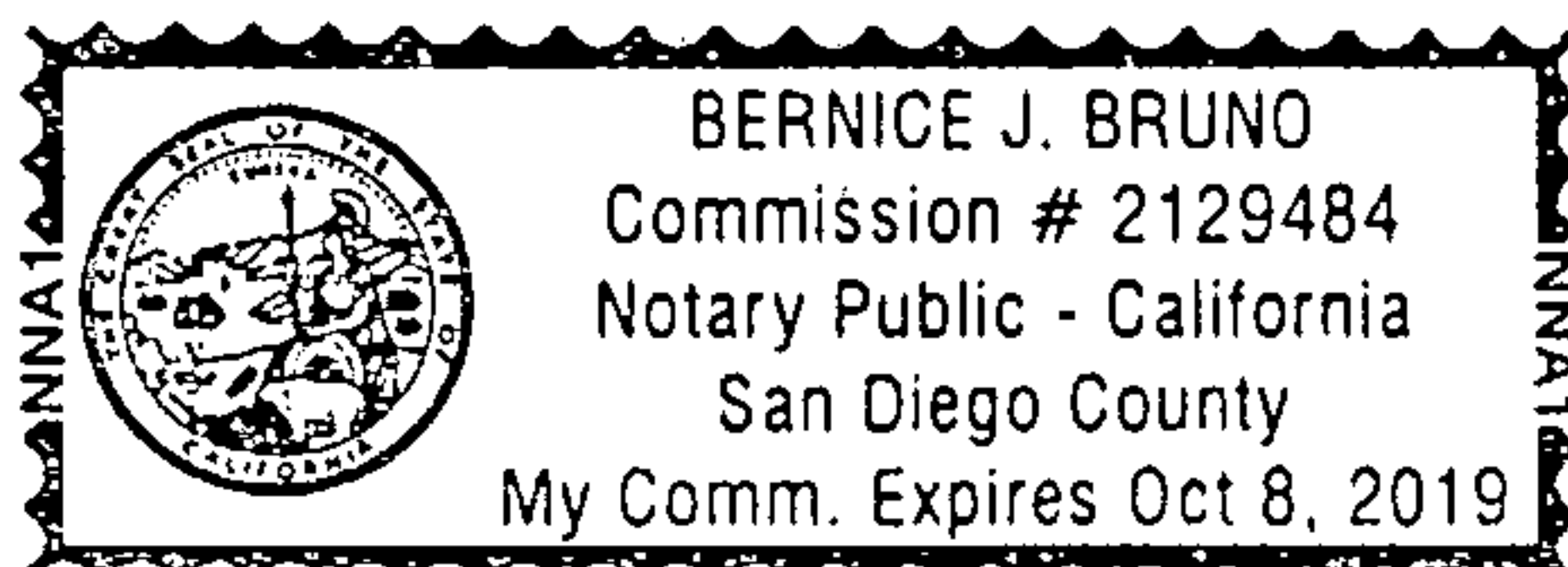
On 10/31/18 before me, BERNICE J. BRUNO, A NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared DANIEL J. DICARLO
Name(s) of Signer(s)

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 Bernice J. Bruno
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

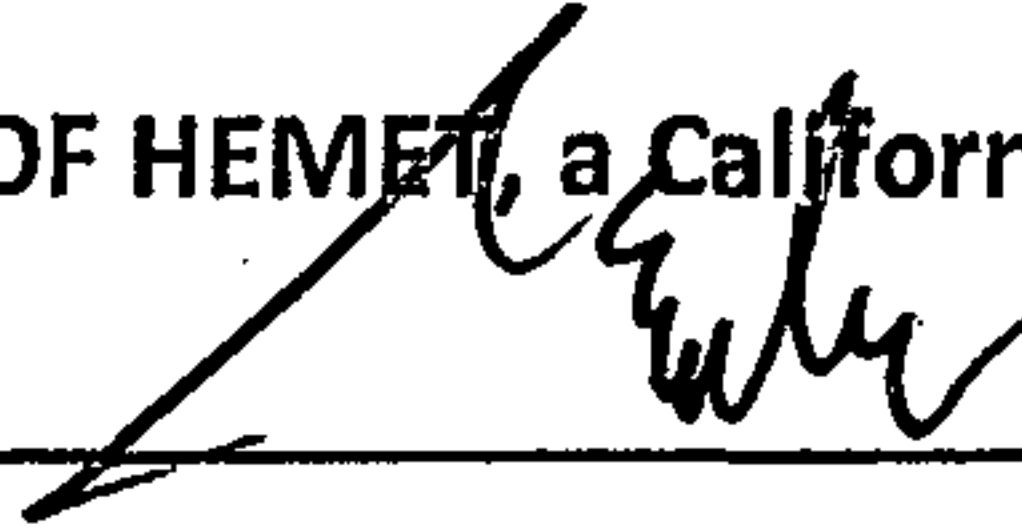
Signer Is Representing: _____

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10/12

SIGNATURE AND ACKNOWLEDGMENT OF LENDER

LENDER:

BANK OF HEMET, a California corporation

By:  _____

Jason Esser, Vice President

SUBORDINATION, ATTORNMENT, NON-DISTURBANCE AND WAIVER AND PARTIAL
RELEASE AGREEMENT

LENDER ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On January 16, 2019, before me, Karen Datuin, Notary Public, personally appeared **Jason Esser**, 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.



A handwritten signature in black ink, appearing to read 'Karen Datuin', written over a horizontal line.

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

That certain real property situate and being in the City of Birmingham, County of Shelby, State of Alabama, described as follows:

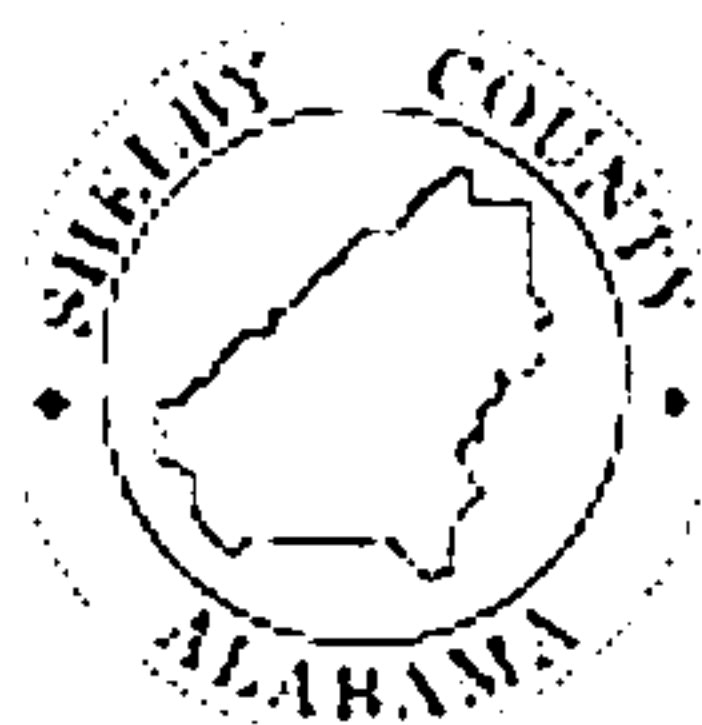
Parcel 1

Lot 2B, according to the Map and Survey of Brook Highland Plaza Resurvey, recorded in Map Book 18, Page 99, in the Office of the Judge of Probate of Shelby County, Alabama.

Parcel 2

(a) Perpetual, non-exclusive easements, appurtenant to Parcel 1, for vehicular and pedestrian ingress and egress, vehicular parking, utility lines and facilities, and stormwater drainage, over, under and across certain portions of that certain adjoining property, as set forth and described in that certain Easement Agreement dated December 30, 1994, by and between Brook Highland Limited Partnership, a Georgia limited partnership, and Developers Diversified of Alabama, Inc., an Alabama corporation, recorded in Instrument No. 1995-27233, in the Office of the Judge of Probate of Shelby County, Alabama, as affected by that certain Agreement Re Access Easement dated Nov. 13, 1998, by and between Brook Highland Limited Partnership, a Georgia limited partnership, and IHOP Realty Corp., a Delaware corporation, recorded in Instrument No. 46413, in the aforesaid office.

(b) Perpetual, non-exclusive easement, appurtenant to Parcel 1, for utility lines, over, under and across certain portions of that certain adjoining property, as set forth and described in that certain Reciprocal Easement Agreement dated August 9, 1988, by and among Billy D. Eddelman and Douglas D. Eddelman, Eddelman & Associates, an Alabama general partnership, and AmSouth Bank, N.A., as Ancillary Trustee for NCB National Bank of North Carolina, as Trustee of the Public Employees Retirement System of Ohio, recorded in Real Volume No. 199, Page 18, in the Office of the Judge of Probate of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
06/20/2019 03:55:31 PM
\$48.00 JESSICA
20190620000220680

Allen S. Bayl