Subordination Agreement

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This document is a Subordination Agreement (the “Agreement”) and is effective [DATE],

**BETWEEN: [FIRST PARTY NAME]** (the "Borrower), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

[YOUR COMPLETE ADDRESS]

**AND: [SECOND PARTY NAME]** (the "General Partner"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

**AND: [THIRD PARTY NAME]** (the "Lender"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

WHEREAS [COMPANY NAME] (herein called the “Borrower”) is indebted and may hereafter become further indebted or liable to the undersigned (herein called [SPECIFY]);

WHEREAS concurrently with the execution hereof, [COMPANY NAME] (the “Lender”) and the Borrower did execute a credit agreement bearing formal date of [DATE] (the said agreement, as same may be amended, supplemented or restated at any time and from time to time, will be referred to herein as the “Credit Agreement”);

WHEREAS [COMPANY NAME] is the general partner of the Borrower (the “General Partner”);

WHEREAS it is a condition of the Credit Agreement that [SPECIFY] enter into this Subordination Agreement in favour of the Lender;

WHEREAS the General Partner is a wholly-owned subsidiary of [SPECIFY] it is in the best interests and to the advantage of [SPECIFY] that the Lender agrees to lend to the Borrower an amount up to the Aggregate Commitment on the terms and conditions of the Credit Agreement;

NOW, THEREFORE, in consideration of the Lender making advances to the Borrower pursuant to the Credit Agreement, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, [SPECIFY] covenants and agrees with the Lender as follows:

1. [SPECIFY] hereby acknowledges, agrees and confirms that, subject to Section [NUMBER], any and all present and future Indebtedness and liabilities of the Borrower to [SPECIFY] (all of which present and future Indebtedness and liabilities being herein collectively called “[SPECIFY] Indebtedness” are hereby and will hereafter be junior and subordinate to, and the payment thereof, whether in whole or in part, and whether as to principal, interest, fees or otherwise, and whether at or prior to maturity or upon acceleration of maturity, is postponed to the prior payment in full of, all present and future Indebtedness and liabilities of the Borrower to the Lender under the Credit Agreement (all of which present and future Indebtedness and liabilities being herein collectively called “Lender Indebtedness”); and any and all Liens now or hereafter held by [SPECIFY] for [SPECIFY] Indebtedness or any part thereof (all of which present and future Liens being herein collectively called “[SPECIFY] Liens”),
2. as well as all rights, remedies and recourses which now are or may hereafter be granted by the Borrower to [SPECIFY], whether directly or indirectly, under the terms of the [SPECIFY] Liens are hereby and will hereafter be subject, postponed, and fully and completely subordinated to any and all Liens now or hereafter held by the Lender for Lender Indebtedness or any part thereof including, without limitation, the Liens constituted pursuant to the Security Documents to which the Borrower is a party (all of which present and future Liens being herein collectively called “Lender Liens”), notwithstanding any priorities that might otherwise be established by [YOUR COUNTRY LAW] and resulting either from the nature of the Lien which now is or may hereafter be created under the [SPECIFY] Liens, or from the date of execution, issue, delivery, registration, notification, publication or perfection of any deed, document, instrument or notice, or otherwise howsoever.
3. In order to effectuate this Agreement, subject to Section [NUMBER], [SPECIFY] hereby assigns, transfers and makes over to the Lender any and all [SPECIFY] Indebtedness; and [SPECIFY] hereby authorises the Lender to collect and receive any dividends, distributions or payments which may be payable to [SPECIFY] in the course of any receivership, bankruptcy, liquidation or winding-up of the Borrower or upon realisation of any [SPECIFY] Liens, and in the event of the amount of Lender Indebtedness at such time not being paid in full (in principal, interest, costs and accessories), [SPECIFY] hereby authorises the Lender to apply the amount of the dividends, distributions or payments so collected by the Lender in payment of the balance of the Lender Indebtedness, the surplus, if any, to be paid to [SPECIFY].
4. [SPECIFY] will, upon demand of the Lender, execute all sworn statements of claim, assignments and other documents and do all matters and things which may be necessary or advisable in the opinion of the Lender, acting reasonably, to give effect to this Agreement.
5. Subject to Section [NUMBER], moneys owing and which may hereafter become owing by the Borrower to [SPECIFY] will not be paid to or withdrawn by [SPECIFY], but will hereafter either remain on the books of the Borrower or be paid to the Lender pursuant to this Agreement, unless the Lender’s prior written consent is obtained. Any monies received by [SPECIFY] or by any agent of [SPECIFY] on account of any [SPECIFY] Indebtedness without the prior written consent of the Lender will be held as agent for the Lender and will forthwith be paid to the Lender upon demand.
6. Notwithstanding any provision to the contrary herein contained, unless an Event of Default will have occurred and be continuing, the Borrower may pay to [SPECIFY], without the prior written consent of the Lender:
   1. all out-of-pocket costs, outlays, disbursements and expenditures incurred by [SPECIFY] (including, without limitation, travel expenses, supplies, legal, notarial, accounting and other professional and consultants fees and expenses and commissions, commitment fees and other financing costs) for, *in re*spect of or in connection with the negotiation of the Purchase Agreement, the completion of the acquisition of the Purchased Property by the Borrower, the negotiation, arranging and funding of the credit facilities provided under the Credit Agreement and all other financing for the acquisition of the Purchased Property and the conduct of due diligence and feasibility studies in connection with the acquisition of the Purchased Property, as well as all amounts paid or incurred by [SPECIFY] before [DATE] *in re*spect of the financing and the carrying out of the [PROJECT NAME]; and
   2. all amounts payable to [SPECIFY] for or *in re*spect of real estate consulting services pursuant to a real estate consulting agreement (the “Real Estate Consulting Agreement”) substantially in the form attached hereto as Appendix [SPECIFY] (with such changes thereto as may be approved by the Lender, acting reasonably), including, without limitation, recovery of out-of-pocket costs, outlays, disbursements and expenditures incurred by [SPECIFY] on behalf of or for the benefit of the Borrower thereunder and repayment of advances by [SPECIFY] thereunder with interest thereon as therein provided, but the Borrower will not be entitled to pay to [SPECIFY] any amount on account of management fees prior to the approval by the Lender, acting reasonably, of the documents to be furnished by the Borrower on
   3. or before [DATE] under Section [NUMBER] of the Credit Agreement and then, following such approval, if any, the Borrower will not pay to [SPECIFY] more than [AMOUNT] on account of management fees pursuant to the Real Estate Consulting Agreement for any fiscal year of the Borrower until the Borrower has delivered to the Lender the financial statements and other documents for such fiscal year required to be delivered to the Lender pursuant to Section [NUMBER] of the Credit Agreement and then only to the extent that such financial statements and other documents show that the payment by the Borrower to [SPECIFY] of the balance, if any, of the management fee payable to [SPECIFY] for such fiscal year would not have resulted in a Default under subsection [NUMBER] or subsection [NUMBER] of the Credit Agreement if such payment had been made on the last day of such fiscal year (provided that any portion of such management fees not paid *in re*spect of any fiscal year of the Borrower may be carried over to any subsequent fiscal year of the Borrower and paid to [SPECIFY] in accordance with the provisions of this subsection [NUMBER] as if such portion of such management fees was payable to [SPECIFY] on account of such subsequent fiscal year of the Borrower).
7. Except with the prior written consent of the Lender, [SPECIFY] will not cede, transfer, assign or otherwise dispose of the [SPECIFY] Indebtedness or any part thereof or the [SPECIFY] Liens or any part thereof to any other Person, or ask for or obtain from the Borrower any negotiable paper representing the same.
8. Except as otherwise specified herein, all notices, requests, demands or other communications to or upon the respective parties hereto will be in writing and will be deemed to have been duly given or made to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Agreement, when delivered to such party (by prepaid courier, or by telecopier or hand delivery) at its address and attention set forth with its signature below, or at such other address as any of the parties hereto may hereafter notify the others in writing. Any notice given will be deemed to have been received on the date of transmission or delivery.
9. The covenants and agreements herein contained will extend to and be binding upon and inure to the benefit of the successors and permitted assigns of [SPECIFY], and the successors and assigns of the Lender, respectively.
10. The preamble hereto will form an integral part hereof as if recited herein at length.
11. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original but all such separate counterparts will together constitute but one and the same instrument.
12. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, to the extent permitted by [YOUR COUNTRY LAW], be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction.
13. Unless otherwise defined, all capitalised terms and expressions used herein will have the same meaning as that ascribed to them in the Credit Agreement.
14. This Agreement will remain in full force and effect until the repayment in full of the Lender Indebtedness and the discharge and acquittance of the Lender Liens.
15. This Agreement and the interpretation and enforcement thereof will be governed by and construed in accordance with the [YOUR COUNTRY LAW] of the Province of [STATE/PROVINCE]. The [COMPANY NAME] hereto agree that any legal suit, action or proceeding arising out of or relating to this Agreement or to enforce any judgement  obtained against [SPECIFY] or any of its property *in re*spect of any of the foregoing (a certified or exemplified copy of any final judgement  will be conclusive evidence of the fact and of the amount of any Indebtedness of [SPECIFY] to the Lender therein described or referred to) may be instituted in the Superior Court, District of [STATE/PROVINCE], and by the execution and delivery of this Agreement, [SPECIFY] hereby accepts and irrevocably consents and submits to the non-exclusive jurisdiction of such court and acknowledges its competence; provided, however, that nothing in this Section [NUMBER] will be construed or interpreted to affect or limit the right of the Lender to bring any suit, action or proceeding against [SPECIFY] in the courts of any other jurisdiction.

The undersigned intervenes herein in order to acknowledge receipt of notice in writing of the assignment, postponement and subordination contained in the foregoing Subordination Agreement and hereby accepts same; furthermore, the undersigned agrees to the terms thereof and agrees not to be a party to any negotiable paper representing [SPECIFY] Indebtedness or any part thereof, nor to make any payment to or permit withdrawal by [SPECIFY] except as therein provided and to notify the Lender as and when required thereunder.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# BORROWER GENERAL PARTNER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

# LENDER

Authorised Signature

Print Name and Title