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10312612 12/31/2007 2:07:00 PM \$35.00 Book - 9554 Pg - 860-872 Gary W. Ott Recorder, Salt Lake County, UT US TITLE OF UTAH BY: eCASH, DEPUTY - EF 13 P.

Prepared, Recording requested-by, and after recording, return to:

General Electric Capital Corporation 635 Maryville Centre Drive, Suite 120 St. Louis, Missouri 63141

Loan No.: 6325202-001

## SUBORDINATION, ATTORNMENT AND LESSEE-LESSOR ESTOPPEL AGREEMENT

THIS SUBORDINATION, ATTORNMENT AND LESSEE/LESSOR ESTOPPEL AGREEMENT ("Agreement") is entered into as of December 28, 2007, by and among Grass Valley Holdings, L.P., a Utah Limited Partnership, at address 440 cm 2007 by W. Shring Ville Lessor"). Harward Irrigation Systems, Inc., a Utah Corporation, address 440 cm 2007 Mille ("Lessee"), and GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation, whose address is 635 Maryville Centre Drive, Suite 120, St. Louis, Missouri 63141 ("Lender").

## RECITALS:

- B. Lessee has been advised that the Lease has been or will be assigned by Lessor to Lender as security for a loan (the "Loan") with an original principal balance of \$2,478,570.00 (the "Loan") secured by a Commercial Mortgage/Deed of Trust (the "Security Instrument") to be recorded contemporaneously herewith covering the Leased Premises.
- C. A condition precedent to Lender's disbursement of Loan proceeds is that Lessor obtain this Agreement from Lessee in order to confirm certain matters and to subordinate the Lease and Lessee's interest in the Leased Premises to the lien of the Security Instrument.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- 1. Lessee represents and warrants to Lender as follows:
  - (a) Lessee has accepted possession and is in occupancy of the Leased Premises pursuant to the terms of the Lease, and the Lease is in full force and effect.

- (b) The improvements and space required to be furnished according to the Lease have been completed in all respects, all amounts owing from Lessor to Lessee in connection with delivery and construction of the Leased Premises (including, without limitation, tenant improvement costs, liquidated damages, and charges for construction delays) have been paid, and Lessee hereby waives any and all rights and remedies which Lessee may have against Lessor (including, without limitation, any right to terminate the Lease) as a result of any breach by Lessor of any of its obligations under the Lease relating to the delivery, construction or initial condition of the Leased Premises.
- (c) Lessor has done everything that it promised to do in order to induce Lessee to enter into the Lease. All conditions to the commencement of the Lease have been satisfied. There are no concessions or inducements which have been promised by Lessor or any other party to Lessee other than as set forth in the Lease.

The Lease as described above has not been further modified, altered or amended.

(a)	prepaid except as provided by the Lease terms, except as follows:  (Insert "N/A", if none.)		
(e)	Rental commenced to accrue on, current monthly rent is \$\limits_0\li		
(f)	Lessee has no notice of a currently effective assignment, hypothecation or pledge of rents on the Lease to any party other than Lender and the lender (if any) whose loan is being repaid upon the closing of the Loan.		
(g)	The Lease does not contain, and Lessee does not have, an outstanding option to extend or renew the term of the Lease except as follows: \( \frac{1}{A} \) \( \frac{1}{A} \) options to renew or extend the Lease for successive periods of years each. [Insert "N/A" if none.]		
(h)	Lessee has no claim to or interest in the Leased Premises, legal of equitable, or any contract or option therefor other than as a lessee under the Lease. The Lease does not contain, and Lessee does not otherwish have, an outstanding option to purchase the Leased Premises, except a follows:		
	[Insert "N/A", if none.]		

- (i) Sufficient parking facilities for Lessee's purposes under the Lease are located on the Leased Premises.
- (j) Lessor is not in default of any of its obligations under the Lease, and, to the best of Lessee's knowledge, no event has occurred which, with notice, the passage of time or both, would constitute a default in any of Lessor's obligations under the Lease.

- 2. Lessee shall promptly provide Lender at its address first shown above with a written notice of any default on the part of the Lessor under the Lease. Lender shall have the option to cure such default within the time allotted to Lessor under the Lease plus ten (10) business days in the case of a monetary default and forty-five (45) business days in the case of a non-monetary default. Lessee shall not invoke any of its remedies under this Lease or any other remedies available to Lessee at law or in equity during any period that Lender is proceeding to cure any such default with due diligence or (if possession of the Leased Premises is necessary for such cure to be effectuated) during any period that Lender is taking steps with due diligence to obtain the legal right to enter the Leased Premises and cure any such default.
- 3. Without the prior written consent of Lender, Lessee shall not (a) modify, extend or in any manner alter the terms of the Lease; (b) pay the rent or any other sums becoming due under the terms of the Lease more than one month in advance; (c) accept Lessor's waiver of or release from the performance of any obligation under the Lease; (d) assign the Lease or sublet the Leased Premises; or (e) assign the Lease as collateral security or mortgage or otherwise encumber its leasehold interest; (f) make any structural changes to the Leased Premises; or (g) agree with Lessor to terminate the Lease.
- 4. In the event Lender notifies Lessee in writing that Lessor is in default under the Security Instrument and demands that payment of all future rentals be made directly to Lender, Lessee shall honor such demand and pay the full amount of its rent and all other sums due under the Lease directly to Lender or as otherwise instructed by Lender pursuant to such notice, beginning with the payment next due after such notice of default. Lessor hereby consents to such payment and agrees that Lessee shall not be liable to Lessor for any rental payments actually paid to Lender pursuant to this Section 4.

[OR: DIRECT-PAY DEALS ONLY: Lessee shall make all future rental payments under the Lease directly to Lender until instructed otherwise by Lender. Lessee shall not be liable to Lessor for any rental payments actually paid to Lender pursuant to this <u>Section 4.</u>]

- 5. The Lease and all right, title and interest of Lessee in, to and under the Lease (including, without limitation, all options or rights of first refusal to purchase the Leased Premises) are now, and shall at all times continue to be, unconditionally subject and subordinate in each and every respect, to the Security Instrument and to any and all renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Security Instrument.
- 6. No provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and permitted assigns. Upon recorded satisfaction of the Security Instrument, this Agreement shall become null and void and be of no further effect.
- 7. To the extent that the Lease shall entitle Lessee to notice of any mortgage, this Agreement shall constitute such notice to Lessee with respect to the Security Instrument, and Lessee hereby waives notice of any and all renewals, modifications, extensions, substitutions, replacements, and/or consolidations of the Security Instrument. The terms "mortgagee", as used in the Lease shall be deemed to include Lender, its successors and assigns, including anyone who shall have succeeded to Lessor's interest by, through or under foreclosure of the Security Instrument or deed in lieu of such foreclosure. The term "mortgage" or any similar term, shall be deemed to include the Security Instrument to be recorded contemporaneously herewith.

- 8. This Agreement shall be construed under the laws of the State of Utah applicable to contracts made and to be performed therein (excluding its choice-of-law principles).
- 9. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument, and any of the parties or signatories hereto may execute this Agreement by signing any such counterpart.
- 10. To the extent of any conflict between the provisions of the Security Instrument and the Lease which govern the application and disbursement of insurance and condemnation proceeds, the provisions of the Security Instrument shall control. Notwithstanding anything in the Lease to the contrary, Lessee may not terminate the Lease because of damage to or condemnation of the Leased Premises unless (a) Lessee's use and operation of the Leased Premises is materially impaired by the damage to or condemnation of the Leased Premises, and (b) at least twenty-five percent (25%) of the net rentable area of the Leased Premises (or such larger percentage as may be specified in the Lease) is damaged or condemned. Notwithstanding anything in the Lease to the contrary, Lessee may not terminate the Lease because of any delay in repairing or rebuilding the Leased Premises unless the Leased Premises are not repaired or rebuilt within one hundred eighty (180) days after the date of damage or condemnation.
- 11. In the event suit or action is instituted to enforce or interpret this Agreement, the prevailing party shall be entitled to recover all expenses reasonably incurred at, before or after trial and on appeal, whether or not taxable as costs, or in any bankruptcy proceeding, including, without limitation, attorneys' fees, witness fees (expert and otherwise), deposition costs, copying charges and other expenses.
- 12. Unless Lessee (or any lease guarantor, if applicable) shall be a publicly reporting company under the Securities Exchange Act of 1934, as amended, Lessee shall furnish to Lender annually, within one hundred twenty (120) days of its fiscal year end, a copy of the balance sheet and profit and loss statement for Lessee (and any lease guarantor, if applicable), which shall be prepared in accordance with generally accepted accounting principles and practices consistently applied.
- Lessee shall not use, produce, store, release, dispose of or bring into the Leased Premises any hazardous waste or materials or allow any other entity or person to do so except as incidentally related to the operation and maintenance of the Leased Premises and equipment located therein, such as small amounts of ordinary office supplies, pesticides, insecticides or cleaning supplies used in Lessee's operation of the Leased Premises, which substances shall be stored and used in accordance with applicable laws and regulations and used in a prudent manner. As used herein, the term "hazardous waste or materials" includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) by any federal, state or local statute, regulation, rule or ordinance now or hereafter in effect including, without limitation, petroleum products and by-products, asbestos, polychlorinated biphenyls, chlorinated solvents, and urea formaldehyde. Lessee shall indemnify and hold harmless Lessor and Lender against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, cleanup costs, remedial actions, costs and expenses (including, without limitation, attorneys' fees and disbursements) which may be imposed on, incurred or paid by, or asserted against Lessor and/or Lender directly or indirectly arising from or attributable to any misrepresentation or breach of any warranty, covenant or agreement by Lessee under this section. The provisions of this section shall survive expiration or termination of the Lease.
- 14. Lessee hereby agrees that if Lender elects at any time to have the Lease superior to its Security Instrument and gives notice of its election to Lessee, then the Lease shall be superior to the lien of any such instrument and all renewals, modifications, extensions, substitutions, replacements and/or consolidations thereof, whether the Lease is dated or recorded before or after the Security Instrument. If Lender shall become the owner of the Leased Premises, or if the Leased Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Security

Instrument, or if the Leased Premises shall be transferred by deed in lieu of foreclosure, then at Lender's sole option (i) the Lease shall continue in full force and effect as a direct lease agreement between Lessee and the then owner of the Leased Premises (including Lender or the grantee under any deed given as a result of any foreclosure or in lieu of foreclosure), upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, and (ii) Lessee shall attorn to Lender or any other such owner as its Lessor, said attornment to be effective and self-operative without the execution of any further instruments. From and after Lender's or other such owner's succession to the interest of Lessor under the Lease, Lessee shall have the same remedies against Lender or such other owner for the breach of any covenant contained in the Lease that Lessee might have had under the Lease against Lessor, except that neither Lender nor any other such owner shall be:

- (a) liable for any act or omission of, or for the performance of any obligation of, any prior lessor (including Lessor), including without limitation any obligation to repair, restore or expand any part of the Leased Premises; or
- (b) subject to any offsets or defenses which Lessee might have against any prior lessor (including Lessor); or
- (c) bound by any prepayment of rent or additional rent which Lessee might have paid for more than the current month or by payment of any security deposits to any prior lessor (including Lessor), except such security deposits as have actually been received by Lender or such other owner; or
- (d) bound by any amendment or modification of the Lease or by any waiver or forbearance on the part of any prior lessor (including Lessor) made or given without the written consent of Lender or any subsequent holder of the Security Instrument; or
- (e) bound by any representations or warranties of Lessor under the Lease.
- 15. Lender shall not be bound by any non-disturbance provisions of the Lease. Lender or such other owner shall not be required to recognize the rights of Lessee under the Lease, and the rights of Lessee thereunder (including any options thereunder) shall at the sole election of and upon notice by Lender or such other owner cease and terminate upon acquisition of title to or upon possession of the Leased Premises by Lender, or such owner or their respective successors and assigns, including any purchaser at a foreclosure sale.
- 16. Lessee hereby waives any rights it may have to an award for a taking by eminent domain, except to the extent that the award (a) compensates Lessee for moving expenses, business interruption, or taking of the personal property of Lessee (other than Lessee's leasehold interest), (b) is awarded separately in the eminent domain proceeding, and (c) does not reduce the amount of Lessor's award in the eminent domain proceeding.
- 17. Any option or right of first refusal that Lessee may have to purchase the Leased Premises shall not apply to a sale by foreclosure or a deed in lieu of foreclosure and shall automatically be void and of no further force and effect following such sale by foreclosure or a deed in lieu of foreclosure. Lessee shall execute promptly whatever documents Lender may request from time to time in order to confirm the foregoing.

- If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- Any and all notices, elections, demands, or requests permitted or required to be 19. made under this Agreement shall be in writing, signed by the party giving such notice, election, demand or request, and shall be delivered personally, or sent by registered, certified, or Express United States mail, postage prepaid, or by Federal Express or similar service requiring a receipt, to the other party at the address stated above, or to such other party and at such other address within the United States of America as any party may designate in writing as provided herein. The date of receipt of such notice, election, demand or request shall be the earliest of (i) the date of actual receipt, (ii) three (3) business days after the date of mailing by registered or certified mail, (iii) one (1) business day after the date of mailing by Express Mail or the delivery (for redelivery) to Federal Express or another similar service requiring a receipt, or (iv) the date of personal delivery (or refusal upon presentation for delivery).

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE, AMONG OTHER THINGS, IT AFFECTS THE PRIORITY OF YOUR LEASE AND BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN AGREEMENT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

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

LESSEE:

Harward Irrigation Systems, Inc. a Utah Corporation

LENDER:

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation

- 18. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- Any and all notices, elections, demands, or requests permitted or required to be made under this Agreement shall be in writing, signed by the party giving such notice, election, demand or request, and shall be delivered personally, or sent by registered, certified, or Express United States mail, postage prepaid, or by Federal Express or similar service requiring a receipt, to the other party at the address stated above, or to such other party and at such other address within the United States of America as any party may designate in writing as provided herein. The date of receipt of such notice, election, demand or request shall be the earliest of (i) the date of actual receipt, (ii) three (3) business days after the date of mailing by registered or certified mail, (iii) one (1) business day after the date of mailing by Express Mail or the delivery (for redelivery) to Federal Express or another similar service requiring a receipt, or (iv) the date of personal delivery (or refusal upon presentation for delivery).

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

LESSEE:		
Harward Irrigation Systems, Inc. a Utah Corporation		
Ву:		
Title:		
LENDER:		
GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation		
By: Other Behankan, see		
By: DEMENBOKENTATION SPECIALIST		

**COUNTY OF** LESSEE ACKNOWLEDGMENT 2007 before me, a Notary Public in and for the State of personally appeared personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that is authorized to execute the instrument, and executed this instrument, on oath stated that A is authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_\_\_\_ is authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_\_\_\_ of SR International Logistics Harward the to be the free and voluntary act and deed of said company for the uses and purposes mentioned in Wingout in the instrument. the instrument. IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written. (Print Name) JUNE D. SCHULZE
NOTARY PUBLIC - STATE OF UTAH
308 EAST 4500 SOUTH, SUITE 270
MURRAY, UT 84107
My Comm. Exp. 04/15/2010 NOTARY PUBLIC in and for the residing State of, My appointment expires:

STATE OF MISSOURI	)
	) ss.
COUNTY OF ST. LOUIS	)

## LENDER ACKNOWLEDGMENT

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year

first above written.

ROBYN M. EHRMANN
Notary Public, Notary Seal
State of Missouri
St. Louis County
Commission # 07498269
My Commission Expires October 24, 2011

Robyn M. Ehrmann

(Print Name)

NOTARY PUBLIC in and for the State of Missouri, residing

at: St. Louis County, Missouri

My appointment expires: October 24, 2011

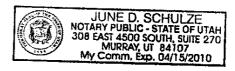
Lessor joins in the execution of t confirming the matters herein set forth.	his document for the purpose of acknowledging and
·	LESSOR:
6 (	Grass Valley Holdings, L.P., a Utah Limited Partnership  Yass Valley Manage Ment Ll. Centres  By: Mandall F. Falward  Fitte: Wash of Clerks
	w aperculine in white of s
STATE OF)	
COUNTY OF) ss.	
LESSOR ACK	NOWLEDGMENT
State of, personally appear personally known to me (or proved to me on the executed this instrument, on oath stated that acknowledged it as the the free and voluntary act and deed of said cor instrument.	, 2007 before me, a Notary Public in and for the red, basis of satisfactory evidence) to be the person who is authorized to execute the instrument, and of SR International LLC to be mpany for the uses and purposes mentioned in the ereunto set my hand and official seal the day and year
( <u>P</u> i	rint Name)
Sta	DTARY PUBLIC in and for the attention and for the attention attention at the attention attention at the atte
Му	appointment expires:
EXHIBITS:	

Exhibit A - Leased Premises

BK 9554 PG 869

On this 28th, day of December, 2007, personally appeared before me Randall R. Harward, Richard M. Harward, Calvin E. Harward, Co-Operating Managers of Grass Valley Management, LC, General Partner of Grass Valley Holdings, LP, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that they are the Co-Operating Managers of Grass Valley Management, LC, General Partner of Grass Valley Holdings, LP and that said document was signed by them in behalf of said Corporation by Authority of its Bylaws, or (Resolution of its Board of Directors), and said Randall R. Harward, Richard M. Harward, Calvin E. Harward, Co-Operating Managers of Grass Valley Management LC, General Partner of Grass Valley Holdings, LP acknowledged to me that said Corporation executed the same.

Notary Public



Loan No.: 6325202001-00

**EXHIBIT A** 

Legal Description:

## Exhibit A

BEGINNING at a point which is North 1608.362 feet East 1424.385 feet from the Northwest Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian: and running thence South 01° 00' 00" East 281.994 feet to a point of tangency with a 80.00 foot radius curve to the left, thence along the arc of said curve a distance of 60.505 feet (chord bears South 22° 40' 00" East 59.073 feet), thence South 44° 20' 00" East 234.704 feet, thence North 81° 56' 39" East 30.00 feet to the west right-of-way line of the D & R.G.W. Railroad right-of-way, thence along said right-of-way North 08° 03' 21" West 171.00 feet, thence North 08° 20' 37" West 337.00 feet, thence South 89° 01' 27" West 148.567 feet to the point of BEGINNING. (above land is located in the east 1/2 of the Southwest Quarter of Section 36, Township 2 South, Range 1 West, Salt Lake Base and Meridian)

TOGETHER WITH and subject to a non-exclusive right-of-way 30 feet in width being more particularly described as follows:

BEGINNING on the easterly line of Sandy Boulevard at a point which is North 00° 02' 25" East 326.883 feet and East 1350.455 feet from the Northwest Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence North 72° 05' 59" East 350.00 feet to a point of tangency with a 64.976 foot radius curve to the left, thence along the arc of said curve a distance of 90.900 feet (chord bears North 32° 01' 19" East 83.667 feet) to the westerly right-of-way line of the D & R. G. W. Railroad, thence along said right-of way line North 08° 03' 21" West 517.185 feet to a point of tangency with a 154.768 foot radius curve to the left, thence along the arc of said curve a distance of 97.993 feet (chord bears North 26° 11' 40" West 96.365 feet), thence North 44° 20' 00" West 234.704 feet to a point of tangency with an 80.00 foot radius curve to the right, thence along the arc of said curve a distance of 60.505 feet (chord bears North 22° 40' 00" West 59.073 feet), thence North 01° 00' 00" West 257.017 feet to a point of tangency with a 55.00 foot radius curve to the left, thence along the arc of said curve a distance of 86.370 feet (chord bears North 45° 59' 16" West 77.765 feet), thence South 89° 01' 27" West 663.540 feet, thence South 00° 28' 40" East 30.001 feet, thence North 89° 01' 27" East 663.801 feet to a point of tangency with a 25.00 foot radius curve to the right, thence along the arc of said curve a distance of 39.259 feet (chord bears South 45° 59' 17" East 35.348 feet), thence South 01° 00' 00" East 257.017 feet to a point of tangency with a 110.00 foot radius curve to the left, thence along the arc of said curve a distance of 83.194 feet (chord bears South 22° 40' 00" East 81.225 feet), thence South 44° 20' 00" East 234.704 feet to a point of tangency with a 124.768 foot radius curve to the right, thence along the arc of said curve a distance of 78.999 feet (chord bears South 26° 11' 40" East 77.686 feet), thence South 08° 03' 21" East 517.185 feet to a point of tangency with a 34.976 foot radius curve to the right, thence along the arc of said curve a distance of 48.931 feet (chord bears South 32° 01' 18" West 45.037 feet), thence South 72° 05' 59" West 347.407 feet to the easterly line of Sandy Boulevard, thence South 12° 57' 35" East 30.112 feet along said easterly line to the point of BEGINNING.

LESS AND EXCEPTING THEREFROM that portion lying within the bounds of the SANDY SUBURBAN IMPROVEMENT DISTRICT property.

TAX ID: 21-36-377-008-4001 & 4002