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Gary W. Ott
Recorder, Salt Lake County, UT
FOUNDERS TITLE
BY: eCASH, DEPUTY - EF 12 P.

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

Cinemark USA, Inc.
3900 Dallas Parkway
Suite 500
Plano, Texas 75093
Attn: Paul A. Ledbetter

**SUBORDINATION, NON-DISTURBANCE AND
ATTORNMEN T AGREEMENT**

This **SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT** (the "Agreement") has been executed and delivered on January 6, 2017, effective on January 11, 2017, by and between the following:

MUTUAL OF OMAHA BANK, a federal savings bank ("Lender"), with an address of 520 Post Oak Blvd., Suite 700, Houston, Texas 77027, Attention: Todd M. Fuller;

FPA SANDY MALL ASSOCIATES, LLC, a Delaware limited liability company ("Landlord"), with an address of 2082 Michelson Dr., 4th Floor, Irvine, California 92612, Attention: Gregory A. Fowler; and

CINEMARK USA, INC., a Texas corporation ("Tenant"), with an address of 3900 Dallas Parkway, Suite 500, Plano, Texas 75093.

Recitations

A. Lender is now or anticipates that it will promptly become the owner and holder of a Deed of Trust, Mortgage, Security Agreement, Assignment of Leases and/or Financing Statement (hereinafter called the "Mortgage") encumbering the real property described in Exhibit "A" attached hereto and made a part hereof for all purposes, and the buildings and improvements thereon (collectively, the "Premises") securing the payment of a promissory note payable to the order of Lender (the "Note");

B. Landlord has leased a portion of the Premises to Cinemark USA, Inc., a Texas corporation, pursuant to that certain agreement captioned "Lease", dated December 10, 1987, executed by and between Landlord's predecessor in interest, Sandy Development Partners, and Tenant's predecessor in interest, Cinemark Corporation, as amended from time to time (the "Lease"); and

C. Landlord, Tenant and Lender desire to confirm their understanding with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the premises, the covenants, conditions, provisions and agreements set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, Lender, Tenant and Landlord do hereby mutually represent, acknowledge, covenant and agree as follows:

1. **Subordination**. Tenant hereby subordinates in all respects and at all times its interests in the Premises under and pursuant to the Lease to the lien of the Mortgage and all renewals, modifications and extensions thereof, subject to the terms and conditions set forth in this Agreement. The terms and provisions of the Mortgage are deemed to be amended to fully incorporate all terms and provisions of this Agreement.

2. **Non-disturbance**. So long as Tenant is not in default (beyond any period(s) provided under the Lease to Tenant to cure such default) in: (i) the payment of any monetary

obligation under the Lease, or (ii) the performance of any other terms, covenants or conditions with which Tenant is obligated to comply pursuant to the Lease, then:

(a) Tenant's sole right of possession to the property that is the subject of the Lease and non-exclusive rights to common areas of the Premises shall not be terminated, affected or disturbed by Lender or any purchaser or subsequent purchaser of the Premises in the exercise of any of Lender's rights under the Mortgage or the Note; nor shall Tenant be named as a party defendant to any foreclosure of the lien of the Mortgage, nor in any other way be deprived of its rights under the Lease except in accordance with the terms of the Lease, or as required by applicable law.

(b) In the event Lender succeeds to the interest of Landlord under the Lease, the Lease shall not be terminated or affected thereby, and any sale or other transfer of the Premises by Lender or pursuant to the judgment of any court in an action to enforce the remedies provided for in the Mortgage shall be made subject to the Lease and the rights of Tenant thereunder.

(c) To the extent required under the Lease, all casualty insurance proceeds and condemnation and eminent domain awards pertaining to the Premises shall be promptly utilized for repairing, restoring and rebuilding the Premises.

3. **Recognition and Attornment.** If Lender succeeds to the interest of Landlord under the Lease, the Lease and all terms therein and the rights and obligations of Tenant thereunder shall continue in full force and effect and shall not thereby be altered, terminated, disaffirmed or disturbed. Tenant and Lender shall be bound to each other under all of the terms, covenants and conditions of the Lease for the balance of the term, including all renewal terms (the "Term") of the Lease with the same force and effect as if Lender were the landlord under the Lease. In such event, Tenant shall attorn to Lender as its landlord immediately upon Lender succeeding to the interest of Landlord under the Lease, and providing Tenant with written notice thereof. Such attornment shall be effective and self-operative without the execution of any other instruments on the part of Lender or Tenant. However, Tenant shall be under no obligation to pay any monetary obligation or perform any other duty set forth in the Lease to Lender unless and until Tenant receives written notice from Lender that Lender has succeeded to the interest and assumed the future obligations of Landlord under the Lease. Upon receipt by Tenant of such notice from Lender, Tenant shall make all payments due by Tenant under the Lease to Lender or as Lender may in writing direct and Tenant shall thereafter be relieved from any further obligations to remit rental or any other monetary sum to Landlord. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then-remaining balance of the Term, shall be and are the same as are then set forth in the Lease between Tenant and Landlord.

4. **Rights Under the Lease.** If Lender shall: (i) succeed to the interests of Landlord in and to the Premises or under the Lease, or (ii) enter into possession of the Premises under circumstances described in Section 5 below, Lender shall be bound to the Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after Lender's succession to the interests of Landlord in and to the Premises or under the Lease or entry into possession of the Premises, as the case may be, have the same remedies against Lender as Landlord for the breach of any provision contained in the Lease that Tenant might have had under the Lease against Landlord if Lender had not succeeded to the interests of Landlord in and to the Premises or under the Lease or entered into possession of the Premises, as the case may be; provided further, however, that Lender shall not be:

(a) liable for any acts or omissions of any prior landlord (including, but not limited to, Landlord) except that Lender shall be required to cure any continuing defaults, such as failure to maintain parking areas or make necessary repairs, etc.;

(b) subject to any offsets, deductions or defenses which Tenant might have arising out of acts or omissions of any prior landlord (including, but not limited to, Landlord) except for the right to recapture from rent any reasonable amounts expended by Tenant to cure a default of Landlord for which Lender had received a copy of notice

pursuant to the terms hereof and would have been required to cure upon succeeding to the interest of Landlord;

(c) liable to Tenant for any security deposit under the Lease not actually transferred and paid over to Lender; or

(d) obligated to give Tenant a credit for and/or acknowledge any rent or other charges which Tenant has paid to Landlord or any prior landlord which is in excess of two months' rent and other charges preceding the effective date of the notice from Lender issued to Tenant regarding Lender's succeeding to the Landlord's interest under the Lease unless such payment is provided for in the Lease as presently existing or as amended in accordance with this Agreement.

(e) bound by any amendment or modification to the term or economic obligations under the Lease made without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

Additionally, in the event of Lender's succession to Landlord's interests in and to the Premises or under the Lease, or entry into possession of the Premises as provided in Section 5 below, Tenant shall be bound to Lender, as Landlord, under all of the terms, covenants and conditions of the Lease, and Lender, as Landlord, shall, from and after Lender's succession to the interest of Landlord under the Lease or entry into possession of the Premises, as the case may be, have the same rights and remedies against Tenant for the breach of any provision contained in the Lease that Landlord might have had under the Lease against Tenant if Lender had not succeeded to the interests of Landlord in and to the Premises or under the Lease or entered into possession of the Premises, as the case may be.

5. **Collection of Rents and/or Possession of the Premises by Lender.** The Mortgage provides that, under certain conditions, Lender shall be entitled to collect, receive and demand payment of any and all rents due on and under the Lease. Upon receipt by Tenant of a notice from Lender that Lender, in accordance with the terms and conditions of the Mortgage, is entitled to collect, receive and demand payment of any and all rents due on and under the Lease, Tenant shall make all payments of monetary obligations due by Tenant under the Lease to Lender or as Lender may in writing direct, and Tenant shall thereafter be relieved from any further obligations to remit rental or any other sums to Landlord. Additionally, in the event that Lender, acting either in its own behalf or by and through an agent, shall enter into possession of the Premises as a mortgagee-in-possession or otherwise in accordance with its rights under the Mortgage, but has not at such time as it enters into possession of the Premises acquired the interest of the Landlord in and to the Premises or under the Lease, the Lease and all terms therein, and the rights of Tenant thereunder, shall continue in full force and effect and shall not be altered, terminated or disturbed, except in accordance with the terms of the Lease, and Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the Term with the same force and effect as if Lender were the landlord under the Lease. In such event, Tenant shall attorn to Lender as its landlord, such attornment to be effected and self-operative without the execution of any other instruments on the part of Lender or Tenant, immediately upon Lender entering into possession of the Premises and providing Tenant with written notice thereof. However, Tenant shall be under no obligation (to pay any monetary obligations or perform any other duty set forth in the Lease) to Lender unless and until Tenant receives written notice from Lender that Lender has entered into possession of the Premises, and Lender indemnifies Tenant from any and all sums and amounts paid by Tenant to Lender pursuant to the Lease and in accordance with written notice received from Lender with respect to claims and causes of action for such sums and amounts asserted by Landlord and its successors and assigns. Upon receipt by Tenant of such notice from Lender, Tenant shall make all payments and monetary obligations due by Tenant under the Lease to Lender or as Lender may in writing direct and Tenant shall thereafter be relieved from any further obligations to remit rental or any other sums to Landlord. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the Term, shall be and are the same as are then in existence as set forth in the Lease. The provisions of this Section 5 with respect to entry of Lender into possession of the Premises shall apply only to Lender or

any other holder of the Mortgage who has given prior written notice to Tenant of its ownership of the Mortgage and its mailing address.

6. **Notice and Opportunity to Cure Landlord Default.** Tenant shall notify Lender in writing of the occurrence of any default by Landlord and shall permit Lender a period of thirty (30) days from the date of such notice (the "Cure Period") in which to cure such default prior to proceeding to exercise any of the rights or remedies of Tenant under the Lease, including: (i) termination of the Lease, (ii) abatement of rental payments due thereunder, or (iii) performance of Landlord's covenants or obligations which Tenant asserts to be in default; provided however, that the Cure Period granted to Lender herein: (a) shall be extended by any period of time during which Lender is diligently pursuing the cure of a default which cannot reasonably be expected to be cured within the initial thirty (30) day Cure Period, and (b) shall not be deemed to commence until after any period of time during which Lender is pursuing acquisition of title to the Premises through foreclosure or otherwise, such period to include, without limitation, any period of time (i) during which Lender's acquisition of title to the Premises is stayed by any proceeding in bankruptcy, any injunction or other judicial process, and (ii) after acquisition of title by Lender during which Landlord or any other party is contesting the validity of the acquisition or Lender's title to the Premises, provided that in no event shall Tenant be required to forbear from executing its remedies for a period in excess of sixty (60) days.

7. **Persons Other Than Lender.** The recognition, non-disturbance and other covenants herein made by Lender for the benefit of Tenant shall be binding upon all persons and entities other than Lender who may acquire the interest of Landlord in the Premises and/or the Lease as a result of foreclosure of the Mortgage, or any other proceeding(s) to enforce the rights of Lender including any sale, assignment or transfer of the Premises and/or the Lease after Lender has succeeded to the interest of Landlord under the Lease, and Lender shall cause any such person, by acceptance of a deed to the Premises and/or an assignment of the Lease, to expressly assume such covenants. Any such person acquiring the Premises and/or the Lease, whether by foreclosure, other enforcement of the rights of Lender or by sale or assignment after Lender has succeeded to the interest of Landlord under the Lease, shall be entitled to and shall succeed to all right, powers, benefits and remedies of Lender under this Agreement, and Tenant shall be obligated to any such party to the same extent it would have been obligated to Lender hereunder if Lender had retained its interest in the Premises and/or the Lease. Tenant shall attorn to any such party acquiring the interest of Landlord in the Premises and/or the Lease from Lender as its landlord which attornment shall have the same force and effect as the attornment to be made by Tenant to Lender pursuant to the terms and conditions of Section 3 above. Lender shall not be liable as Landlord under the Lease unless and until Lender succeeds to the interest of Landlord in and to the Premises or under the Lease, and in such event Lender shall not be liable under the Lease, or for any acts or omissions of any subsequent landlord, after the conveyance of Lender's interest as Landlord to another person or entity expressly assuming Lender's obligations (as Landlord).

8. **Succession in Interest.** For purposes of this Agreement, Lender will be deemed to have succeeded to the interest of Landlord under the Lease upon: (i) the transfer of title to the Premises to Lender, whether by virtue of foreclosure, sale or transfer in lieu of foreclosure, or pursuant to the exercise of any rights and remedies under the Mortgage or otherwise, or (ii) the occurrence of any other event as a result of which Lender may acquire the right, title and interest of Landlord in and to the Lease or the Premises.

9. **Incorporation of Lease.** For purposes of this Agreement, the term "Lease" shall mean and include the Lease, together with all valid present and future addenda, supplements, modifications and amendments to the Lease, and all rights, privileges and options granted therein or pursuant thereto. The Lease is incorporated into this Agreement for all purposes.

10. **Notices.** Any and all notices, demands or other communications ("Notice") required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if sent via Federal Express or other nationally recognized courier delivery service or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested to Lender, Landlord or Tenant, as the case may be, at the addresses listed on Page 1 of this Agreement. Any Notice provided for herein shall be deemed to be received on

the day of its receipt or first refusal of receipt. Any party may, by proper written notice hereunder to the other parties, change the individual address to which such Notice shall thereafter be sent to such party.

11. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns as well as all subsequent owners of the Premises. For purposes of this Agreement, all references herein to "Lender" shall be deemed to also include any subsequent holder of the Mortgage who has given written notice to Tenant of its ownership of the Mortgage and has furnished to Tenant its mailing address and/or any other person succeeding to title to the Premises and/or the Lease encumbered by the Mortgage or any part thereof and who claims by, through or under Lender, whether by virtue of foreclosure, or sale or transfer in lieu of foreclosure, or pursuant to the exercise of any rights and remedies under the Mortgage or otherwise.

12. **Attorneys Fees.** In the event any legal action or proceeding is commenced to interpret or enforce the terms of or obligations arising out of this Agreement, or to recover damages for the breach thereof, the party prevailing in any such action or proceeding shall be entitled to recover from the non-prevailing party all reasonable attorneys fees, costs and expenses incurred by the prevailing party as shall be pled and proven by such party and awarded by a court of competent jurisdiction.

13. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14. **Headings.** The headings of the Agreement are for convenience of reference only.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above-written.

LANDLORD:

FPA SANDY MALL ASSOCIATES, LLC,
a Delaware limited liability company

By: GF Sandy Mall, LLC, its Manager

By: 

Name: _____

Title: Michael B. Earl

Manager

LENDER:

MUTUAL OF OMAHA BANK,
a federal savings bank

By: 

Name: Todd M. Fuller

Title: Senior Vice President

TENANT:

CINEMARK USA, INC.,
a Texas corporation

By: 

Name: Paul A. Ledbetter

Title: Vice President - Real Estate Counsel

the day of its receipt or first refusal of receipt. Any party may, by proper written notice hereunder to the other parties, change the individual address to which such Notice shall thereafter be sent to such party.

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LANDLORD:

FPA SANDY MALL ASSOCIATES, LLC,
a Delaware limited liability company

By: GF Sandy Mall, LLC, its Manager

By: _____
Name: _____
Title: _____

LENDER:

MUTUAL OF OMAHA BANK,
a federal savings bank

By: Todd M. Fuller
Name: Todd M. Fuller
Title: Senior Vice President

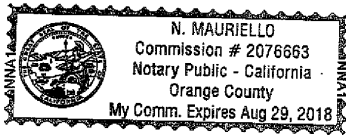
TENANT:

CINEMARK USA, INC.,
a Texas corporation

By: Paul A. Ledbetter
Name: Paul A. Ledbetter
Title: Vice President – Real Estate Counsel

STATE OF CALIFORNIA
COUNTY OF ORANGE

This instrument was acknowledged before me on the 6 day of JANUARY, 2017, by Michael E. Earl, MANAGER OF EBE Sandy Mall (a) as MGR of EBA Sandy Mall a Associates, LLC ("Sandy Mall"), on behalf of said Sandy Mall



[Signature]
Notary Public
Printed Name of Notary:

STATE OF TEXAS
COUNTY OF HARRIS

This instrument was acknowledged before me on the 9 day of JANUARY, 2017, by TODD M. FULLER, SENIOR VICE PRESIDENT OF MUTUAL OF OMAHA BANK a BANK, on behalf of said BANK

My Commission Expires:

12/5/2018

[Signature]
Notary Public
Printed Name of Notary:

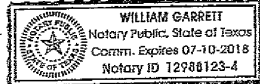
SONJA MAHONEY



STATE OF TEXAS
COUNTY OF COLLIN

I, William Garrett, a Notary Public in and for said county in said state, hereby certify that Paul A. Ledbetter, whose name as Vice President - Real Estate Counsel of Cinemark USA, Inc., a Texas corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on behalf of said corporation.

Given under my hand and seal of office this 6 day of January, A.D. 2017.



My Commission Expires:

7-10-2018

[Signature]
Notary Public
Printed Name of Notary:

William Garrett

Exhibit "A"

The Premises

ALTA/NSPS LAND TITLE SURVEY dated 12/15/16 attached.

Legal Description

1. Lots 1 and 8 of Sandy Mall Subdivision, according to the official plat recorded May 23, 2016 as Entry No. 12284382 in Book 2016P of Plats at Page 113, of the Official Records of Salt Lake County Utah.

TAX ID No. 28-08-101-063 (LOT 1)

TAX ID No. 28-08-101-070 (LOT 8)

