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Book - 10399 Pg - 6673-6681
Gary W. Ott
Recorder, Salt Lake County, UT
FIRST AMERICAN NCS
BY: eCASH, DEPUTY - EF 9 P.

Recording Requested By,
And After Recording, Return To:
WELLS FARGO BANK,
NATIONAL ASSOCIATION
MAC C7300-033
1700 Lincoln St, 3rd FL
Denver, CO 80203
Attn: Loan Documentation

NCS-735047

SUBORDINATION, NON-DISTURBANCE,
ATTORNTMENT AND ESTOPPEL AGREEMENT

THIS AGREEMENT is entered into as of December 15, 2015, by and between HONEYVILLE, INC., ("Lessee"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank").

RECITALS

A. Bank has extended credit or may hereafter extend credit to INTERCON INCORPORATED ("Borrower" or "Lessor") secured, in whole or in part, by a deed of trust (the "Deed of Trust") covering that certain real property situated in SALT LAKE County, Utah, and described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Lessee leases all or a portion of the Property pursuant to a lease dated as of May 10, 2001, as modified by that First Amendment to Lease dated October 26, 2007, by that Second Amendment to Lease dated December 22, 2009, by that Third Amendment to Lease dated December 31, 2013, by that Fourth Amendment to Lease dated December 15, 2015, and by that Fifth Amendment to Lease dated to be effective January 1, 2016 (collectively, the "Lease"), which Lease has not been recorded. It is a condition of Bank's agreement to extend or continue credit to Borrower secured by the Property that the security of the Deed of Trust be and at all times remain a lien or charge on the Property prior and superior to the rights of Lessee under the Lease.

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

1. SUBORDINATION.

(a) Subordination of Lease. The Deed of Trust and any and all extensions, renewals, modifications or replacements thereof shall be and at all times remain a lien or charge on the Property prior and superior to the Lease. Lessee intentionally and unconditionally waives, relinquishes and subordinates the priority and superiority of the Lease and Lessee's right and interest to the Property thereunder to the lien or charge of the Deed of Trust, and any and all extensions, renewals, modifications or replacements thereof.

(b) Reliance. Lessee acknowledges that Bank, in extending or continuing to extend credit to Borrower secured by the Property is doing so in material reliance on this Agreement.

(c) Acknowledgments of Lessee. Lessee acknowledges that it has such information as Lessee deems necessary in order to grant this subordination. Lessee further agrees that Bank is under no obligation or duty to, nor has Bank represented that it has or will, see to the application of the proceeds of any such credit by any person or entity, and any application or use of any such proceeds for purposes other than those for which they were intended shall not defeat this subordination.

(d) Entire Subordination Agreement. This Agreement constitutes the whole and only agreement between the parties hereto with regard to the subordination of the Lease to the lien or charge of the Deed of Trust; there are no agreements (written or oral) outside or separate from this Agreement with respect to the subject matter hereof; and all prior negotiations with respect thereto, if any, are merged into this Agreement. This Agreement shall supersede and cancel, but only insofar as would affect the priority between the Deed of Trust and the Lease, any prior agreements as to such subordination, including without limitation those provisions, if any, contained in the Lease which provide for the subordination thereof to the lien of a deed of trust or mortgage affecting all or any portion of the Property.

2. LEASE. Lessee hereby covenants and agrees that, so long as the Deed of Trust remains in force and effect:

(a) No Modification, Termination or Cancellation. Lessee shall not consent to any modification, termination or cancellation of the Lease without Bank's prior written consent.

(b) Notice of Default. Lessee shall notify Bank in writing concurrently with any notice given to Lessor of any breach of or default by Lessor under the Lease. Lessee agrees that Bank shall have the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below, and Lessee shall not declare a default of the Lease, as to Bank, if Bank cures such breach or default within thirty (30) days after the expiration of the time period provided in the Lease for the cure thereof by Lessor; provided however, that if such breach or default cannot with diligence be cured by Bank within such thirty (30) day period, the commencement of action by Bank within such thirty (30) day period to remedy the same shall be deemed sufficient so long as Bank pursues such cure with diligence.

(c) No Advance Rents. Lessee shall not make any payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease.

(d) Assignment of Rents. Upon receipt by Lessee of written notice from Bank that Bank has elected to terminate the license granted to Lessor to collect rents, as provided in the Deed of Trust, and directing Lessee to make payment thereof to Bank, Lessee shall comply with such direction to pay and shall not be required to determine whether Lessor or Borrower is in default under any obligations to Bank. By signing below, Lessor acknowledges and consents to Lessee complying with the provisions of this subsection.

3. ATTORNMEN T. If Bank or any other transferee acquires Lessor's right, title and interest in and to the Property pursuant to a judicial or non-judicial foreclosure of the Deed of Trust or a deed in lieu thereof or in any other manner whereby Bank or such transferee succeeds to the interest of Lessor under the Lease, Lessee agrees as follows for the benefit of Bank or such transferee:

(a) Payment of Rent. Lessee shall pay to Bank or such transferee all rental payments required to be made by Lessee pursuant to the terms of the Lease for the remaining term thereof.

(b) Continuation of Performance. Lessee shall be bound to Bank or other transferee in accordance with all of the terms of the Lease for the remaining term thereof, and Lessee hereby attorns to Bank or such transferee as its landlord, such attornment to be effective and self-operative without the

execution of any further instrument immediately upon Bank or such transferee succeeding to Lessor's interest in the Lease and giving written notice thereof to Lessee.

(c) No Offset. Neither Bank nor such transferee shall be liable for, or subject to, any offsets or defenses which Lessee may have by reason of any act or omission of Lessor as the prior lessor under the Lease which have accrued prior to the date on which the transferee shall become the owner of the Property (but shall be liable for, or subject to, any offsets or defenses which lessee may have by reason of any act or omission of Lessor that continues following transferee's succession to the interest of Lessor), nor for the return of any sums which Lessee may have paid to Lessor as the prior lessor under the Lease as, advance rentals paid more than one month in advance, except to the extent that such sums are actually delivered by Lessor to Bank or such transferee.

(d) Subsequent Transfer. If Bank or such transferee, by succeeding to Lessor's interest under the Lease, becomes obligated to perform the covenants of a lessor thereunder, then, upon any further transfer by Bank or such transferee of its interest as a lessor under the Lease, all of such obligations shall terminate as to Bank or other transferee if such transfer is made subject to all rights of Lessee under the Lease.

4. NON-DISTURBANCE. In the event of a foreclosure of the Deed of Trust, or a transfer of the Property in lieu thereof or in any other manner whereby Bank or such transferee succeeds to the interest of Lessor under the Lease, so long as there shall then exist no breach, default or event of default by Lessee under the Lease, (a) the leasehold interest of Lessee shall not be extinguished or terminated by reason of such foreclosure, (b) the Lease shall continue in full force and effect, (c) Bank and its successors-in-interest shall recognize and accept Lessee as the tenant under the Lease, subject to the terms and conditions of the Lease as modified by this Agreement and (d) Lessee shall not be named as a party therein unless such joinder shall be required by law, provided, however, such joinder shall not result in the termination of the Lease or disturb the Lessee's possession or use of the premises demised thereunder, and the sale of the Property in any such action or proceeding shall be made subject to all rights of Lessee under the Lease except as expressly set forth in Section 3 above.

5. ESTOPPEL. Lessee acknowledges and represents that:

(a) Lease Effective. The Lease has been duly executed and delivered by Lessee and, subject to the terms and conditions thereof, the Lease is in full force and effect, the obligations of Lessee thereunder are valid and binding, and there have been no amendments, modifications or additions to the Lease (written or oral), other than those included in the Lease definition set forth above. The Lease constitutes the entire agreement between Lessor and Lessee with respect to the Property, and Lessee claims no rights to the Property other than as set forth in the Lease.

(b) No Default. As of the date hereof and to the best of Lessee's knowledge, (i) there exists no breach of or default under the Lease, nor any condition, act or event which with the giving of notice or the passage of time, or both, would constitute such a breach or default, and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the terms of the Lease.

(c) No Prepaid Rent. No deposits or prepayments of rent have been made in connection with the Lease, except as follows: Security deposit of \$17,150.00.

6. MISCELLANEOUS.

(a) Remedies Cumulative. All remedies provided herein are cumulative, not exclusive, and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Bank and Borrower, Lessor or any other person or entity.

(b) Costs, Expenses and Attorneys' Fees. If any party hereto institutes any judicial or administrative action or proceeding to enforce any rights or obligations under this Agreement, or seeking damages or any other judicial or administrative remedy, the prevailing party shall be entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the prevailing party's in-house counsel), whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Lessee.

(c) Notices. All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the address set forth below its signature, or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid; and (iii) if sent by telecopy, upon receipt.

(d) Further Assurances. At the request of any party hereto, each other party shall execute, acknowledge and deliver such other documents and/or instruments as may be reasonably required by the requesting party in order to carry out the purpose of this Agreement, provided that no such document or instrument shall modify the rights and obligations of the parties set forth herein.

(e) Borrower; Lessor. If Borrower and Lessor are the same, each reference in this Agreement to Borrower or Lessor shall be deemed a reference to said person or entity in its respective capacity.

(f) Successors, Assigns; Governing Law. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, legal representatives, successors, assigns and other transferees of the parties hereto, and shall be governed by and construed in accordance with the laws of the State of Utah.

(g) Conflicts. In the event of any inconsistency between the terms of this Agreement and the Lease, the terms of this Agreement shall control.

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be construed as one and the same instrument.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

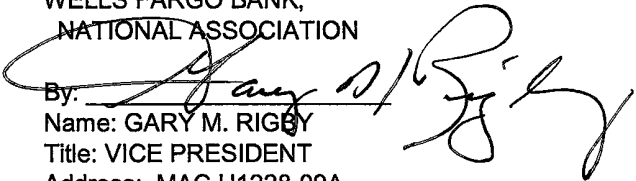
LESSEE :

BANK:

HONEYVILLE, INC.

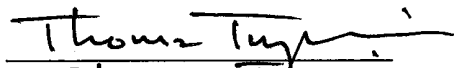
WELLS FARGO BANK,
NATIONAL ASSOCIATION

By: 
Name: Scott Burton
Title: CFO
Address: 1080 N Main St #101
Brigham City, UT 84302

By: 
Name: GARY M. RIGBY
Title: VICE PRESIDENT
Address: MAC U1228-09A
299 S Main St, 9th FL
Salt Lake City, UT 84111

ACKNOWLEDGE AND AGREED

INTERCON INCORPORATED

By: 
Name: Thomas Turpin
Title: President
Address: _____

OBTAIN NOTARY ACKNOWLEDGMENTS

EXHIBIT A
TO
SUBORDINATION, NON-DISTURBANCE,
ATTORNMEN AND ESTOPPEL AGREEMENT

Legal Description of Property:

File No.: **NCS-735047-SLC1 (ami)**
Property: **635 North Billy Mitchell Road, Salt Lake City, UT 84116**

PARCEL 1: (Tax parcel No. 07-36-201-005-0000)

LOT 2B OF THE AMENDED LOT 2, AMEDED PLAT 5 SLAT LAKE INTERNATIONAL CENTER, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED AS ENTRY NO. 6677291 IN BOOK 97-6P AT PAGE 185 OF OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDERS OFFICE, SALT LAKE COUNTY, STATE OF UTAH.

PARCEL 2:

TOGETHER WITH NONEXCLUSIVE RIGHT OF MOTORIZED VEHICLE TRAFFIC FOR INGRESS AND EGRESS AS CONTAINED IN A DECLARATION OF RECIPROCAL ACCESS AND DRIVEWAY EASEMENT, RECORDED ON JULY 9, 1997 AS ENTRY NO. 6686578 IN BOOK 7707 AT PAGE 1316 OF OFFICIAL RECORDS.

PARCEL 3:

TOGETHER WITH A NONEXCLUSIVE RIGHT FOR FIRELINE AS CONTAINED IN A RECIPROCAL FIRELINE EASEMENT AND MAINTENANCE AGREEMENT RECORDED ON SEPTEMBER 6, 2000 AS ENTRY NO. 7713272 IN BOOK 8386 AT PAGE 339 OF OFFICIAL RECORDS.

A.P.N. 07-36-201-005-0000

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Riverside

On 1-11-2016 before me, Zina Bakoo, Notary Public
(Here insert name and title of the officer)

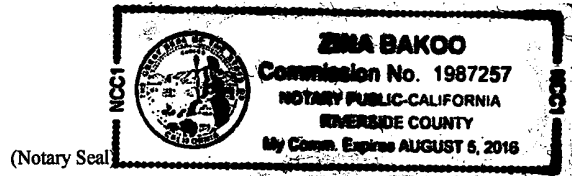
personally appeared Scott L. Burton

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.

Zina Bakoo
 Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Subordination, NonDisturbance
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, ~~is /are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

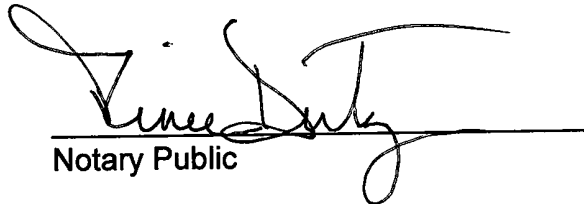
Notary Acknowledgment

State of Utah

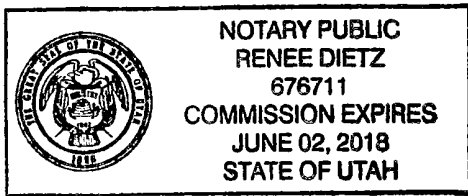
County of Salt Lake

On this 19th day of January, 2016, before me Renee Dietz, personally appeared Thomas Turpin, personally known to me (or 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 she/he executed the same in her/his authorized capacity, and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.



Notary Public



My commission expires: 06/02/2018

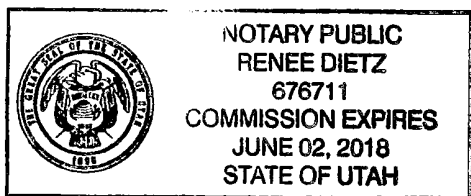
Notary Acknowledgment

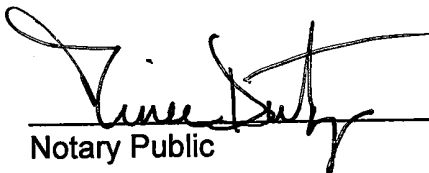
State of Utah

County of Salt Lake

On this 19th day of January, 2016, before me Renee Dietz, personally appeared Gary Rigby, personally known to me (or 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 she/he executed the same in her/his authorized capacity, and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.





Notary Public

My commission expires: 06/02/2018