

COLLATERAL ASSIGNMENT OF MEMBERSHIP INTERESTS

THIS COLLATERAL ASSIGNMENT OF MEMBERSHIP INTERESTS (this "**Agreement**") is made and entered into as of _____, 20____, by and among _____, a _____ and _____, a _____ (individually a "**Pledgor**" and collectively, "**Pledgors**") and _____, a "**Lender**").

RECITALS:

A. Pledgors are all of the members of _____, a _____ ("**Borrower**"). Borrower is receiving from Lender a loan in the principal amount of _____ Dollars (\$_____) (the "**Loan**") evidenced by that certain Secured Promissory Note dated of even date herewith (the "**Note**"). Borrower is also executing and delivering that certain Loan Agreement dated of even date herewith with respect to the Loan (the "**Loan Agreement**") (the Note, the Loan Agreement and the other Loan Documents are sometimes collectively referred to herein as the "**Obligations**").

B. As additional security for the Obligations, Pledgors intend to assign to Lender all of Pledgors' right, title and interest in and to all membership interests (the "**Interests**") held by such Pledgors as members of Borrower, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

1. **Definitions.** Unless the context otherwise requires, the following terms shall have the meanings set forth below (certain other terms are defined elsewhere in this Agreement) or in the Loan Agreement:

"**Borrower**" shall have the meaning ascribed thereto in the Recitals hereto.

"**Collateral**" shall have the meaning ascribed to such term in Section 2 of this Agreement.

"**Event of Default**" shall have the meaning ascribed to such term in Section 11 of this Agreement.

"**Exculpated Parties**" shall have the meaning ascribed to such term in Section 29 of this Agreement.

"**Lender**" shall have the meaning ascribed thereto in the Recitals hereto.

"**Loan**" shall have the meaning ascribed thereto in the Recitals hereto.

“Loan Agreement” shall have the meaning ascribed thereto in the Recitals hereto.

“Loan Documents” shall have the meaning ascribed thereto in the Loan Agreement.

“Management Rights” shall have the meaning ascribed to such term in Section 2 of this Agreement.

“Note” shall have the meaning ascribed thereto in the Recitals hereto.

“Obligations” shall mean and include the payment and performance of Borrower and Pledgors pursuant to the terms of the Note, the Loan Agreement and the other Loan Documents.

“Operating Agreement” shall have the meaning ascribed to such term in Section 8 of this Agreement.

“Person” shall mean any entity, whether an individual, trustee, corporation, partnership, limited liability company, trust, unincorporated organization, governmental agency or otherwise.

“Pledged Interest” shall mean the membership interests owned by Pledgors in Borrower.

“Pledgors” shall have the meaning ascribed thereto in the Recitals hereto.

“Property” shall have the meaning ascribed thereto in the Loan Agreement.

“Reorganization Proceeding” shall mean a case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to any Person, or seeking to adjudicate such Person as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to such Person or such Person’s debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for such Person or for all or any substantial part of such Person’s assets, or the making of a general assignment for the benefit of such Person’s creditors.

“Securities Act” shall have the meaning ascribed to such term in Section 12 of this Agreement.

“UCC” shall have the meaning ascribed to such term in Section 12 of this Agreement.

“UCC Article 8” shall mean California Uniform Commercial Code § 8-101, et seq., and Revised Article 8 - Investment Securities, 1994 Official Text, as approved by The American Law Institute and the National Conference of Commissioners on Uniform State Laws,

as enacted in any relevant jurisdiction, with any non-uniform provisions as enacted in any such jurisdiction, all as amended from time to time.

“UCC Article 8 Matter” shall mean any action, decision, determination or election by Borrower or its members that the membership interests or other equity interests in Borrower, be, or cease to be, a “security” as defined in and governed by UCC Article 8.

All other capitalized terms used herein but not otherwise defined herein shall have the meaning ascribed thereto in the Loan Agreement.

2. **Grant of Security Interest, Etc.**

(a) As continuing collateral security for the full and punctual payment and performance of the Obligations (whether upon stated maturity, by acceleration or otherwise), Pledgors hereby irrevocably grant, pledge and assign, subject to the terms of this Agreement, a continuing first priority lien on and security interest in, and, as a part of such grant, pledge and assignment, hereby assign to Lender as collateral security all of the following (whether now owned or at any time hereafter acquired or now existing or hereafter existing or created): (x) all of Pledgors’ Pledged Interest in Borrower including without limitation: (i) all of Pledgors’ interest in the capital of Borrower and Pledgors’ interest in all profits and distributions to which Pledgors shall at any time be entitled in respect of such Pledged Interest or any other interest in Borrower owned by Pledgors; (ii) all other payments, if any, due or to become due to Pledgors in respect of the Pledged Interest, whether as contractual obligations, damages, insurance proceeds or otherwise; (iii) all of Pledgors’ rights, powers and remedies, as a member of Borrower or arising from Pledgors’ ownership of the Pledged Interest pursuant thereto or any other equity interest in Borrower owned by Pledgors; and (iv) all of Pledgors’ rights as the members of Borrower to manage the affairs (including, without limitation, the power, if any, to sell, mortgage or otherwise deal with the Property), to make determinations, to exercise any election (including, but not limited to, election of remedies, the filing of any petition for reorganization or dissolution of Borrower and the exercise of Borrower’s rights as debtor-in-possession in the event Borrower files a petition under Title 11 of the United States Code) or option or to give or receive any notice, consent, amendment, waiver or approval; together with full power and authority to demand, receive, enforce, execute, endorse or cash any checks or other payments, or other instruments or orders, to file any claims and to take any action that in the opinion of Lender may be necessary or advisable in connection with any of the foregoing (the rights described in these subsections (iii) and (iv) shall be referred to as **“Management Rights”**) and (y) to the extent not otherwise included, additions to, accessions to, substitutions of, products or proceeds of any or all of the foregoing collateral (collectively, (x) and (y) shall be referred to as the **“Collateral”**).

(b) Pledgors hereby acknowledge and consent (i) in the event of a foreclosure hereunder to the transfer and assignment to Lender, its designee, nominee or transferee of the Collateral subject to this Agreement, and (ii) to the exercise on one or more occasions of any rights or remedies by Lender pursuant hereto or as allowed by law.

3. **Rights of Lender.** The security created by this Agreement shall be held by Lender as continuing security for the payment and performance of the Obligations (whether

existing on the date of this Agreement or arising from time to time thereafter). This Agreement, all of the rights, remedies, powers and privileges of Lender hereunder and the security created hereby shall be in addition to, and shall not in any way be prejudiced or affected by, any other collateral or any other security now or at any time or times hereafter held by Lender for all or any part of the Obligations. Each and every right, remedy, power and privilege conferred on or reserved to Lender hereunder shall be cumulative and in addition to, and not in limitation of, each and every right, remedy, power or privilege conferred on or reserved to Lender elsewhere under the Loan Documents. Without limiting the foregoing, Lender may at any time and from time to time, without the consent of or notice to any Pledgor, and without incurring responsibility to any Pledgor and without impairing or releasing the obligations of any Pledgor hereunder or Lender's rights and interests in the Collateral:

(a) exercise or refrain from exercising any rights or remedies against the Pledgors, Borrower or any other Person or otherwise act or refrain from acting (or consent to any such action or inaction);

(b) apply any sums paid by any Pledgor, or otherwise realized with respect to any liability or liabilities of Pledgors or Borrower, to Lender to the Obligations; and

(c) grant releases, compromises and indulgences with respect to, or consent to or waive any breach of, or any act, omission or default under, the Loan Documents, or otherwise amend, modify or supplement the Loan Documents.

Pledgors hereby acknowledge and consent (i) in the event of a foreclosure hereunder to the transfer and assignment to Lender, its designee, nominee or transferee of the Collateral subject to this Agreement and (ii) to the exercise on one or more occasions of any rights or remedies by Lender pursuant hereto or as allowed by law.

4. **Distributions.**

(a) So long as no Event of Default shall have occurred and be continuing, Pledgors shall be entitled to receive, and retain and otherwise deal with any and all distributions paid to Pledgors from proceeds in respect of the Collateral, subject to the terms of the Loan Documents, and upon such receipt such distributions shall be released from the lien of this Agreement and shall no longer constitute Collateral, subject to the terms of the Loan Documents.

(b) Upon the occurrence and during the continuance of an Event of Default:

(i) all rights of Pledgors to receive the distributions and other payments which such Pledgors would otherwise be authorized to receive and retain pursuant to this Section 4 shall cease, and all such rights shall thereupon become vested in the Lender which shall thereupon have the sole right to receive and hold as Collateral such distributions and other payments; and

(ii) all distributions and other payments which are received by Pledgors contrary to the provisions of paragraph (a) of this Section 4 shall be received in trust for the benefit of the Lender, shall be segregated from other funds of Pledgors and

shall be forthwith paid over to the Lender as Collateral in the same form as so received (with any necessary endorsement).

5. **Registration of Pledge.** In the event that at any time after the date hereof the Pledged Interest shall be evidenced by an instrument or a certificate, Pledgors shall or shall cause Borrower to:

(a) promptly deliver any such instrument or certificate, duly endorsed or subscribed by Pledgors or accompanied by appropriate instruments of transfer or assignment duly executed in blank by Pledgor, to the Lender as additional Collateral. Any such instruments or certificates received by any Pledgor shall be held by such Pledgor in trust, as agent for the Lender.

(b) Mark each instrument or certificate with a legend reading as follows:

“THE MEMBERSHIP INTERESTS EVIDENCED HEREBY ARE SUBJECT TO A PLEDGE AND SECURITY AGREEMENT WHICH CONTAINS A GRANT OF IRREVOCABLE PROXY. BY ACCEPTING ANY INTEREST IN SUCH MEMBERSHIP INTERESTS THE PERSON HOLDING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SAID AGREEMENT.”

Pledgors shall cause Borrower to agree that, during the term of this Agreement, it will not remove, and will not permit to be removed (upon registration of transfer, reissuance or otherwise), the legend from any such instrument or certificate and will place or cause to be placed the legend on any new instrument or certificate issued to represent the Pledged Interest theretofore represented an instrument or certificate carrying a legend.

6. **Power of Attorney.** Pledgors hereby irrevocably appoint the Lender, with full power of substitution and revocation by the Lender, as Pledgors' true and lawful attorney-in-fact, for the purpose from time to time upon the occurrence and during the continuance of an Event of Default of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Lender deems necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, to affix to certificates and documents representing any Collateral the endorsements or other instruments of transfer or assignment delivered with respect thereto and to transfer or cause the transfer of the Collateral, or any part thereof, on the books of Borrower. The power of attorney granted pursuant to this Agreement and all authority hereby conferred are granted and conferred solely to protect the Lender's interest in the Collateral and shall not impose any duty upon the Lender to exercise any power. This power of attorney shall be irrevocable as one coupled with an interest until the Obligations have been paid in full.

7. **Representations of Pledgors.** Pledgors represent and warrant to the Lender that as of the date hereof:

(a) Each Pledgor has the power and authority and the legal right to execute, deliver and perform this Agreement and to grant the lien on the Collateral contemplated hereby in favor of the Lender;

(b) the execution, delivery and performance of this Agreement by Pledgors and the granting of the lien on the Collateral contemplated hereby has been duly authorized by all necessary action and does not and will not (i) violate any applicable law, rule or regulation or any provision relating to any Pledgor, (ii) conflict with, result in a breach of, or constitute a default under any provision of any agreement, operating agreement, indenture, mortgage or other agreement or instrument to which any Pledgor is a party or by which it or any of its properties or assets is bound or subject or any license, judgment, order or decree of any governmental authority having jurisdiction over any Pledgor or its activities, properties or assets or (iii) result in or require the creation or imposition of any lien upon or with respect to any properties or assets now or hereafter owned by any Pledgor (other than the liens created hereunder);

(c) this Agreement has been duly executed and delivered by each Pledgor and constitutes a legal, valid and binding obligation of all Pledgors enforceable against the Pledgors in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar laws affecting creditors' rights and remedies generally;

(d) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority and no consent of any other Person is required (i) for the execution, delivery and performance of this Agreement by Pledgor, (ii) for the pledge by Pledgor of the Collateral to the Lender pursuant to this Agreement, or (iii) for the exercise by the Lender of the rights provided for in this Agreement or the remedies in respect of the Collateral pursuant to this Agreement, except such as (A) have been obtained, made or taken and are in full force and effect or (B) may be required under federal or state securities laws in connection with any sale of the Collateral;

(e) each Pledgor is the legal and beneficial owner of, and is not acting as nominee for any Person with respect to, and has good title to the Collateral free and clear of all liens or security interests other than the lien in favor of the Lender created by this Agreement;

(f) Pledgors own 100% of the membership interests in Borrower;

(g) there are no outstanding options, warrants or other agreements with respect to the Collateral;

(h) there are no actions, suits, proceedings or investigations pending or, to the best knowledge of Pledgor, threatened, against or affecting Pledgor or the Collateral that are likely to have a material adverse effect on the validity or enforceability of this Agreement, or on the validity or priority of the liens and security interests granted by Pledgor as provided for herein, before or by any court, arbitrator or governmental authority;

(i) No Pledgor is in default of any of its obligations arising out of its Pledged Interest and no Person has any right to terminate, or any right to foreclose upon, any or all of the Collateral, other than Lender under this Agreement;

(j) No Pledgor has conducted or engaged in any business at any time under any name other than that first set forth above;

(k) Pledgors' principal place of business and the principal place where Pledgors' records concerning the Collateral are kept is located at _____, and Pledgor will neither change the location of its principal place of business nor the state of its organization without giving Lender _____ (____) days prior written notice thereof;

(l) with respect to the Pledged Interests, each Pledgor represents and warrants that Borrower has opted into Article 8 of the UCC; *provided, however*, that the Pledged Interests hereunder shall be deemed "securities" for purposes of UCC compliance only and Pledgor acknowledges and agrees that the act of opting into Article 8 of the UCC alone does not categorize said interests as "securities" under any federal investment company laws or federal or state securities laws; and

(m) Pledgors' names as they appear in the opening paragraph of this Agreement are the exact legal names of such Pledgor on file with the state in which such Pledgor was organized.

8. **Covenants of Pledgors.** Pledgors further represent, warrant and covenant to the Lender that:

(a) They will not sell, transfer, convey or otherwise dispose of any interest in the Collateral except as otherwise permitted pursuant to the Operating Agreement of Borrower, dated as of _____, 20____ (the "**Operating Agreement**"), (and further provided such transfer is otherwise permitted pursuant to the terms of the Loan Documents); *provided, however*, that any such permitted transferee shall execute an agreement identical in form and substance to this Agreement or as otherwise agreed in writing so as to be bound by the terms and conditions of this Agreement.

(b) They will not suffer or permit any lien to exist on or with respect to the Collateral except the lien created under this Agreement.

(c) They will, at Pledgors' own expense, use commercially reasonable efforts to, at any time and from time to time at the request of the Lender, make, procure, execute and deliver all acts, things, writings, assurances and other documents as may be reasonably requested by the Lender to further enhance, preserve, establish, demonstrate, perfect or enforce the Lender's rights, interests and remedies created by, provided in or emanating from this Agreement.

(d) They will defend the Lender's right, title and interest in, to and under the Collateral against the claims and demands of all Persons whomsoever.

(e) They hereby authorize the Lender to file one or more financing or continuation statements and amendments thereto relating to all or part of the Collateral without Pledgors' signature. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement.

(f) They will cause Borrower to execute and deliver to the Lender on the date hereof a letter in substantially the form attached hereto as Exhibit A.

(g) They shall, at their sole cost and expense, perform and observe all of the terms, covenants, conditions and obligations required to be performed or observed by Pledgor as a member of Borrower that do not conflict with or are not inconsistent with Pledgor's obligations under this Agreement.

(h) They shall not consent to any amendment of the Operating Agreement.

(i) They shall not perform, authorize or enter into any transaction for the termination, dissolution or winding up of, any act or failure to act constituting a termination, dissolution or winding up of, or the merger or consolidation with another entity or entities by, Borrower without the prior written consent of the Lender.

9. **Rights of Pledgors.** So long as no Event of Default has occurred and is continuing, Pledgors shall be entitled to vote or consent with respect to the Collateral in any manner not inconsistent with this Agreement. Upon the occurrence and during the continuance of an Event of Default, the Lender shall, after providing written notice to Pledgors, have the exclusive right to vote or give consents with respect to the Collateral.

10. **Additional Rights of the Lender.**

(a) If Pledgors fail to perform any agreement contained herein, the Lender may (but shall not be obligated or required to) perform, or cause the performance, of such agreement.

(b) At any time upon and during the continuance of an Event of Default, the Lender may (but shall not be obligated or required to):

(i) cause the Collateral to be transferred to its name or to the name of its nominee or nominees and thereafter exercise as to such Collateral all of the rights, powers and remedies of an owner;

(ii) ask for, demand, collect, sue for, recover, compromise, receive and give acquittances and receipts for monies due or to become due under or in respect of any of the Collateral and hold the same as part of the Collateral, or apply the same to any of the Obligations in such manner as the Lender may direct in its sole discretion;

(iii) receive, endorse and collect any drafts or other instruments, documents and chattel paper, in connection with clause (ii) above (including, without limitation, all instruments representing dividends, interest payments or other distributions in respect of the Collateral or any part thereof and give full discharge for the same);

(iv) file any claims or take any actions or institute any proceedings that the Lender may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce compliance with the rights of the Lender with respect to any of the Collateral;

(v) enter into any extension, subordination, reorganization, deposit, merger, or consolidation agreement, or any other agreement relating to or affecting the Collateral, and in connection therewith deposit or surrender control of such Collateral thereunder, and accept other property in exchange therefor and hold and apply such property or money so received in accordance with the provisions hereof; and

(vi) discharge any taxes or liens levied on the Collateral or pay for the maintenance and preservation of the Collateral.

All amounts advanced by, or on behalf of, Lender in exercising its rights under this Section 10 (including, but not limited to, reasonable legal expenses and disbursements incurred in connection therewith), together with interest thereon from the date of each such advance at the rate per annum for the Loan as set forth in the Note, shall be deemed made pursuant to contract, shall be payable by Pledgors to Lender on demand and shall be secured by the Collateral.

11. **Events of Default.**

An “**Event of Default**” shall exist if any of the following shall have occurred and be continuing:

(a) Any material representation or warranty made by any Pledgor herein shall prove to have been incorrect in any respect on or as of the date made.

(b) Pledgors shall default in the observance or performance of any covenant or agreement contained in this Agreement and such default continues for more _____ (____) days after notice from Lender, provided that if such default cannot reasonably be cured within such _____ (____) day period and Pledgors shall have commenced to cure such default in a manner acceptable to Lender within such _____ (____) day period and thereafter diligently and expeditiously proceeds to cure the same, such _____ (____) day period shall be extended for so long as it shall require Pledgors in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of _____ (____) days and further provided such failure to provide an immediate cure would not have a material adverse effect on the value of the Collateral, Lender’s security interest therein or the possibility of civil or criminal liability on the part of Lender.

(c) The filing of any Reorganization Proceeding by or against any Pledgor or Borrower, and in the case of any involuntary Reorganization Proceeding against any Pledgor or Borrower, the same shall not have been dismissed within _____ (____) days.

(d) An “Event of Default” as defined in the Loan Agreement or in any of the other Loan Documents.

12. **Remedies.** Upon and during the continuance of an Event of Default:

(a) The Lender shall have all the rights and remedies of a secured party under the California Uniform Commercial Code (the “**UCC**”). In addition, the Lender shall have the right, without demand of performance or other demand, advertisement or notice of any kind, except as specified below, to or upon any Pledgor or any other Person (all and each of which demands, advertisements and/or notices are hereby expressly waived to the extent permitted by law), to proceed forthwith to collect, receive, appropriate and realize upon the Collateral, or any part thereof and to proceed forthwith to sell, assign, give an option or options to purchase, contract to sell, or otherwise dispose of and deliver the Collateral or any part thereof in one or more parcels at public or private sale or sales at any stock exchange, broker’s board or at any of the Lender’s offices or elsewhere at such prices and on such terms and restrictions (including, without limitation, a requirement that any purchaser of all or any part of the Collateral shall be required to purchase any securities constituting the Collateral solely for investment and without any intention to make a distribution thereof) as the Lender may deem appropriate without any liability for any loss due to decrease in the market value of the Collateral during the period held. If any notification to Pledgors of the intended disposition of the Collateral is required by law, such notification shall be deemed reasonable and properly given if hand delivered or made by telecopy at least _____ (____) Business Days’ prior to such disposition to the address of Pledgors indicated herein. Any disposition of the Collateral or any part thereof may be for cash or on credit or for future delivery without assumption of any credit risk, with the right to the Lender to purchase all or any part of the Collateral so sold at any such sale or sales, free of any equity or right of redemption, which right or equity is, to the extent permitted by applicable law, hereby expressly waived and released by Pledgors.

(b) All of the Lender’s rights and remedies under this Agreement and under applicable law, including but not limited to the foregoing, shall be cumulative and not exclusive and shall be enforceable alternatively, successively or concurrently as the Lender may deem expedient.

(c) The Lender may elect to obtain the advice of any independent nationally-known investment banking firm, including any such firm affiliated with Lender, with respect to the method and manner of sale or other disposition of any of the Collateral, the best price reasonably obtainable therefor, the consideration of cash and/or credit terms, or any other details concerning such sale or disposition.

(d) Pledgors recognize that the Lender may be unable to effect a public sale of all or a part of the Collateral by reason of certain prohibitions contained in the Securities Act of 1933, as amended (the “**Securities Act**”), or other relevant securities laws in any jurisdiction, but may be compelled to resort to one or more private sales to a restricted group of purchasers who will be obligated to agree, among other things, to acquire the Collateral for their own account, for investment and not with a view to the distribution or resale thereof. Pledgors agree that private sales so made may be at prices and on other terms less favorable to the seller than if the Collateral were sold at public sale, and that the Lender has no obligation to delay the sale of any Collateral for the period of time necessary to permit the registration of the Collateral for public sale under the Securities Act or other relevant securities laws in any jurisdictions. Pledgors agree

that a private sale or sales made under the foregoing circumstances shall not be deemed to be commercially unreasonable by virtue of such circumstances.

(e) If any consent, approval or authorization of, or filing with, any governmental authority or any other Person shall be necessary to effectuate any sale or other disposition of the Collateral, or any partial disposition of the Collateral, including, without limitation, under any federal or state securities laws, Pledgors agree to execute all such applications, registrations and other documents and instruments as may be required in connection with securing any such consent, approval or authorization, and will otherwise use commercially reasonable efforts to secure the same. Each Pledgor further agree to use its best efforts to effectuate such sale, or other disposition of the Collateral, as the Lender may deem necessary or desirable pursuant to the terms of this Agreement.

(f) Upon any sale or other disposition, the Lender shall have the right to deliver, endorse, assign and transfer to the purchaser thereof the Collateral so sold or disposed of. Each purchaser at any such sale or other disposition, including the Lender, shall hold the Collateral free from any claim or right of whatever kind, including any equity or right of redemption. Each Pledgor specifically waives, to the extent permitted by applicable law, all rights of stay or appraisal which such Pledgor had or may have under any rule of law or statute now existing or hereafter adopted.

(g) The Lender shall not be obligated to make any sale or other disposition unless the terms thereof shall be satisfactory to it. The Lender may, without notice or publication, adjourn any private or public sale, and, upon _____ (____) Business Days' prior notice to Pledgors, hold such sale at any time or place to which the same may be so adjourned. In case of any sale of all or any part of the Collateral on credit or future delivery, the Collateral so sold may be retained by the Lender until the selling price is paid by the purchaser thereof, but the Lender shall incur no liability in case of the failure of such purchaser to take up and pay for the property so sold and, in case of any such failure, such property may again be sold as herein provided.

(h) If Lender conducts a secured party sale under the UCC or elects to retain all or any of the Collateral in satisfaction of any of Pledgors' obligations under this Agreement, the Person acquiring the Pledged Interest at such sale or upon such retention may exercise all Management Rights, and at such Person's sole option, be admitted as a member of Borrower in full place of Pledgors. Such acquisition of the Pledged Interest shall not, to the extent permitted by law, effectuate a dissolution or winding up of Borrower. Each Pledgor agrees and acknowledges that none of the Obligations of such Pledgor shall be or deemed to be paid, discharged or satisfied by reason of Lender's exercise of any rights or remedies under this Agreement, or the UCC, except to the extent of cash proceeds actually received by Lender on account of its exercise of any of its rights or remedies under this Agreement.

13. **Disposition of Proceeds.** The proceeds of any sale or disposition of all or any part of the Collateral shall be applied (after payment of any amounts payable to the Lender pursuant to Section 15 hereof) by the Lender to the payment of the Obligations in such order as the Lender may elect. Any surplus thereafter remaining shall be paid to Pledgors, subject to the rights of any holder of a lien on the Collateral of which the Lender has actual notice.

14. **Duration and Scope.** This Agreement shall:

- (a) Create a continuing security interest in the Collateral.
- (b) Remain in full force and effect for so long as any of the Obligations are outstanding.
- (c) Be binding upon each Pledgor and such Pledgor's respective permitted successors and assigns.
- (d) Inure to the benefit of the Lender and its successors, transferees and assigns.

Without limiting the foregoing, the Lender may assign or otherwise transfer the Loans, or any portion thereof, held by it to any other Person in accordance with the terms of the Loan Documents, and such other Person shall thereupon become vested with all the benefits in respect thereof granted herein or otherwise. Except as set forth herein or in the Loan Agreement, Pledgors may not assign their rights or delegate their obligations under this Agreement without the prior written consent of the Lender.

15. **Expenses of the Lender.** All expenses (including, without limitation, reasonable attorneys' fees and disbursements and specifically including, but not limited to, reasonable legal expenses and disbursements in the event of any Reorganization Proceeding filed by or against Borrower or any Pledgor, which legal expenses shall be allowed to Lender in addition to any claim of Lender arising out of the Obligations, pursuant to 11 U.S.C. § 506 (b) or any analogous provision applicable in any other Reorganization Proceeding) actually incurred by the Lender in connection with the failure by any Pledgor to perform or observe any provision of this Agreement, the exercise or enforcement of any rights of the Lender under this Agreement and the custody or preservation of any of the Collateral and any actual or attempted sale or exchange of, or any enforcement, collection, compromise or settlement respecting, the Collateral, or any other action taken by the Lender hereunder whether directly or as attorney-in-fact pursuant to a power of attorney or other authorization herein conferred, shall be deemed an obligation of Pledgors and shall be deemed an Obligation for all purposes of this Agreement and the Lender may apply the Collateral to payment of or reimbursement of itself for such liability.

16. **Lender's Lack of Duty.** The Lender shall not be required to take any action hereunder in respect of an Event of Default. The Lender shall not be liable for any acts, omissions, errors of judgment or mistakes of fact or law including, without limitation, acts, omissions, errors or mistakes with respect to the Collateral, except for those arising out of or in connection with the Lender's gross negligence or willful misconduct. The Lender shall be under no obligation to take any steps necessary to preserve rights in the Collateral against any prior parties but may do so at its option, and all expenses incurred in connection therewith shall be for the account of Pledgors, and shall be added to the Obligations secured hereby and shall be repaid in accordance with the last paragraph of Section 10(b) of this Agreement.

17. **Survival and Continuation of Obligations.**

(a) No failure on the part of the Lender to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Lender of any right, power or remedy hereunder preclude any other or future exercise thereof, or the exercise of any other right, power or remedy. The representations, covenants and agreements of Pledgors herein contained shall survive the date hereof.

(b) No amendment or waiver of any provision of this Agreement nor consent to any departure by Pledgors herefrom nor release of all or any part of the Collateral shall in any event be effective unless the same shall be in writing, signed by the Lender and Pledgors. Any such waiver or consent or release shall be effective only in the specific instance and for the specific purpose for which it is given.

(c) The obligations of Pledgors under this Agreement shall remain in full force and effect without regard to, and shall not be impaired or affected by:

(i) any amendment or modification or addition or supplement to any Loan Document, any document or instrument delivered in connection therewith or any assignment or transfer thereof;

(ii) any exercise, non-exercise or waiver by the Lender of any right, remedy, power or privilege under or in respect of, or any release of any guaranty or collateral provided pursuant to any Loan Document;

(iii) any waiver, consent, extension, indulgence or other action or inaction in respect of any Loan Document or any assignment or transfer of any thereof; or

(iv) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like, of any Pledgor, any other pledgor or any other Person;

in all cases, whether or not such Pledgor shall have notice or knowledge of any of the foregoing.

18. **Notices.** All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery or refusal of delivery, if delivered in person, (ii) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Pledgors:

Attention:

Fax No.:

If to Lender:

Attention:

Fax No.:

or addressed as such party may from time to time designate by written notice to the other parties. Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

19. **Limitation of Lender's Liability.** Except upon the giving of the notice referred to in Section 9 hereof or the acquisition by Lender of any Pledged Interest pursuant to Section 12, nothing herein shall be construed to make Lender liable as a member of Borrower. Neither this Agreement, the giving of the notice referred to in Section 9 nor the acquisition by Lender, or any other Person purchasing all or any portion of the Collateral pursuant to Lender's exercise of its rights and remedies after the occurrence of an Event of Default, shall render Lender or such Person personally liable for any debt, obligation or liability of any kind of Pledgors or Borrower. Further, Lender, by virtue of this Agreement or otherwise (except as expressly set forth in Section 12 hereof) shall not have any of the duties, obligations or liabilities of a member of Borrower.

20. **Severability; Automatic Reformation.**

(a) All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable. If 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 provisions hereof, but the balance of this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been included.

(b) If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, such provision shall be automatically reformed and construed so as to be valid, operative and enforceable to the maximum extent permitted by the law while most nearly preserving its original intent. The invalidity of any part of this Agreement shall not render invalid the remainder of the Agreement.

21. **Further Assurances.** Pledgors shall, at Pledgors' cost and expense, at any time and from time to time after the execution and delivery of this Agreement, within _____ (____) days after request by Lender, execute, acknowledge and deliver such further conveyances, assignments, agreements and instruments of further assurances and other documents and do such further acts and things as Lender may reasonably request and are reasonably necessary in order to carry into effect the purposes of this Agreement or to further assure and confirm unto Lender its rights, powers and remedies hereunder. Pledgors hereby agree to sign and deliver to Lender financing statements, in form acceptable to Lender, as Lender

may from time to time reasonably request and are reasonably necessary to establish and maintain a valid and perfected security interest in the Collateral and to pay any filing fees relative thereto. Pledgors also authorize Lender to file such financing statements without the signatures of such Pledgor if lawful.

22. **Governing Law; Integration.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California. This Agreement, together with the Loan Documents, sets forth the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, relating thereto.

23. **Indemnification.** Pledgors shall indemnify and hold Lender harmless from and against any and all losses, expenses, liabilities and claims arising from any breach by Pledgor of its obligations hereunder. Pledgors shall also reimburse Lender for all costs and expenses (including reasonable counsel fees) incurred by or on behalf of Lender in enforcing the obligations of Pledgors hereunder (other than any such costs or expenses arising from the gross negligence or willful misconduct of Lender).

24. **WAIVER OF TRIAL BY JURY. THE PLEDGORS HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM, OR COUNTERCLAIM, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, WITH RESPECT TO, IN CONNECTION WITH OR ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, THE LOAN DOCUMENTS OR THE NOTE OR ANY OTHER DOCUMENT DELIVERED IN CONNECTION HERewith OR THEREWITH.**

25. **Jurisdiction.** Pledgors and Lender hereby irrevocably submit to the jurisdiction of any court of the State of California or federal court sitting in the County of _____ and State of California in any action or proceeding arising out of or relating to this Agreement or any other Loan Document which is stated to be governed by the laws of the State of California. Pledgors and Lender hereby irrevocably agree that all claims in respect of such action or proceeding must be heard and determined in such court of the State of California or, to the extent permitted by law, in such federal court. Pledgors hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

26. **Transfer/Securitization.** In connection with any sale, transfer or securitization of the Loan by Lender, Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in securities or any rating agency rating such securities (all of the foregoing entities collectively referred to as the “**Investor**”) and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Obligations, Pledgors and the property given as security for the Obligations, whether furnished by Pledgors or otherwise, as Lender determines necessary or desirable. Pledgors agree to cooperate with Lender in connection with any transfer made or any securities created pursuant to this Section, including, without limitation, the delivery of such other documents as may be reasonably requested by Lender.

The Note, the Loan Agreement, the other Loan Documents, the Obligations and this Agreement may, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be split or divided into two or more notes and two or more Loan Agreements, each of which shall cover all or a portion of the Obligations to be more particularly described therein. To that end, Pledgors, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered to Lender and/or its designee or designees substitute security instruments containing the same terms, provisions and clauses contained herein, and such other documents and instruments as may be reasonably required by Lender.

27. **Counterparts; Section Headings.**

(a) This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

(b) The section headings in this Agreement are for convenience of reference only and shall not affect the interpretation thereof.

28. **Consents.**

(a) Pledgors consent to the transfer of Management Rights to Lender, or any Person purchasing all or any portion of the Collateral pursuant to Lender's exercise of its rights and remedies after occurrence of an Event of Default, pursuant to the terms hereof.

(b) Pledgors consent and agree to the terms of the other Loan Documents.

29. **Limited Recourse.**

(a) **Exculpation.** Notwithstanding anything to the contrary contained in this Agreement or any other Loan Document, Lender shall not enforce the liability and obligation of Pledgors to perform and observe the obligations contained in this Agreement by any action or proceeding wherein a money judgment shall be sought against any Pledgor or any direct or indirect member, partner or principal of any Pledgor, or any of Pledgors' Affiliates, or any of the direct or indirect members, partners, principals, officers, directors, managers, employees, agents or representatives of any of the foregoing (collectively, the "**Exculpated Parties**") except that Lender may bring a foreclosure action, action for specific performance or other appropriate action or proceeding solely to enable Lender to enforce and realize upon this Agreement, any of the other Loan Documents, and the interest in the Collateral and any other collateral given to Lender created by any other pledge agreement entered into in connection with and pursuant to the Loan Documents, and any of the other Loan Documents; provided, however, that any judgment in any action or proceeding shall be enforceable against any Exculpated Party only to the extent of such Exculpated Party's respective interest in the Collateral and in any other collateral given to Lender. Lender, by accepting the Note and this Agreement, agrees that it shall not, sue for, seek or demand any deficiency judgment against any Exculpated Party in any action or proceeding, under or by reason of or under or in connection with this Agreement.

(b) **Reservation of Certain Rights.** The provisions of Section 29(a) shall not (i) waive, release or impair the validity of the principal amount of the Obligations, (ii) impair the right of Lender to name any Exculpated Party as a party defendant in any action or suit for foreclosure, judicial or otherwise, under this Agreement or any other pledge agreement entered into in connection with and pursuant to the Loan Documents, (iii) in any way affect or impair any lien granted pursuant to this Agreement or any other Loan Documents, or (iv) in any way affect or impair the right of the Lender to foreclose this Agreement, any other pledge agreements entered into in connection with and pursuant to the Loan Documents, or enforce any other Loan Documents pursuant to the terms thereof.

(c) **Bankruptcy Claims.** Nothing herein shall be deemed to be a waiver of any right which Lender may have under Sections 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Obligations secured by this Agreement, or to require that all Collateral shall continue to secure all of the Obligations owing to Lender in accordance with the Note, this Agreement, any other pledge agreement entered into in connection with and pursuant to the Loan Documents and the other Loan Documents.

30. **Irrevocable Proxy.** Solely with respect to UCC Article 8 Matters, Pledgors hereby irrevocably grant and appoint Lender, from the date of this Agreement until the termination of this Agreement in accordance with its terms, as Pledgors' true and lawful proxy, for and in Pledgors' name, place and stead to vote the Pledged Interest in Borrower by Pledgors, whether directly or indirectly, beneficially or of record, now owned or hereafter acquired, with respect to such UCC Article 8 Matters. The proxy granted and appointed in this Section 30 shall include the right to sign Pledgors' name (as a member of Borrower) to any consent, certificate or other document relating to an UCC Article 8 Matter and the Pledged Interest that applicable law may permit or require, to cause the Pledged Interest to be voted in accordance with the preceding sentence. Pledgors hereby represent and warrant that there are no other proxies and powers of attorney with respect to an UCC Article 8 Matter and the Pledged Interest that any Pledgor may have granted or appointed. Pledgors will not give a subsequent proxy or power of attorney or enter into any other voting agreement with respect to the Pledged Interest with respect to any UCC Article 8 Matter and any attempt to do so with respect to an UCC Article 8 Matter shall be void and of no effect.

THE PROXIES AND POWERS GRANTED BY PLEDGORS PURSUANT TO THIS AGREEMENT ARE COUPLED WITH AN INTEREST AND ARE GIVEN TO SECURE THE PERFORMANCE OF THE PLEDGORS' OBLIGATIONS UNDER THIS AGREEMENT.

31. **Article 8 Opt-In.** Pledgors, as the sole members of Borrower, hereby elect, pursuant to UCC Article 8-103(c), that Pledgors' membership in Borrower is a "security" governed by UCC Article 8, and that any certificate evidencing Pledgors' limited liability interest in Borrower is a "certificated security" within the meaning of UCC Article 8-102(a)(4). The Operating Agreement of Borrower and any related organizational documents shall be and are hereby deemed amended in effectuation hereof, and Pledgors hereby waive any and all preconditions, formalities, or other provisions of the Operating Agreement which would operate to limit or prevent the effectiveness of the foregoing amendment to the Operating Agreement and any such related organizational documents.

32. **California Waivers.** Under California law, in the absence of waivers and agreements to the contrary, if a creditor forecloses by trustee's sale on a deed of trust securing a loan, the creditor cannot thereafter enforce the debtor's liability for the unpaid balance of the loan. This results because the trustee's sale would eliminate debtor's right of subrogation, and therefore such debtor would be unable to obtain reimbursement from another obligor. Pledgors hereby waive the right to assert the defense described in the two immediately preceding sentences, and Pledgors agree that Pledgors shall remain liable for any part of the Obligations remaining unpaid after a trustee's sale, although Pledgors would not become subrogated to any part of the Obligations that Pledgors have paid and would therefore be unable to obtain reimbursement for those payments from another obligor. Pledgors may therefore incur a partially or totally unreimbursable liability under the Agreement. Pledgors hereby waive all benefits under California Civil Code sections 2808, 2809, 2810, 2819, 2845, 2846, 2849, 2850, and 2855, and California Code of Civil Procedure sections 580a, 580b, and 580d.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE TO FOLLOW]**

(Signature Page of Collateral Assignment of Membership Interests)

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

PLEDGORS:

By: _____

Title: _____

By: _____

Title: _____

By: _____

Title: _____

LENDER:

By: _____

Title: _____

EXHIBIT A

_____, California _____

_____, 20____

_____, California _____

Ladies and Gentlemen:

Reference is made to the Collateral Assignment of Membership Interests dated as of the date hereof (the “**Collateral Assignment**”) given by Pledgors in favor of you, as Lender. Capitalized terms used but not defined herein have the meanings provided in the Collateral Assignment.

In connection with the pledge of the Collateral to you by Pledgors, the undersigned hereby represents, warrants and agrees with you as follows:

(i) In accordance with Pledgors’ instructions, the undersigned has registered on its books and records your security interest in the Pledged Interest; no other lien on such Pledged Interest is registered on the books and records of the undersigned;

(ii) The undersigned shall deliver directly to you at your address set forth in the Collateral Assignment, any and all instruments and/or certificates evidencing any right, option or warrant, and all new, additional or substituted securities issued to, or to be received by, Pledgors’ by virtue of their ownership of the Pledged Interest issued by the undersigned or upon exercise by any Pledgor of any option, warrant or right attached to such Pledged Interest;

(iii) The undersigned will not issue any additional membership interests or securities without the prior written consent of Lender (which shall not be unreasonably withheld, provided, among other matters, that the proposed member pledges its interest in the undersigned to Lender as security for the Obligations pursuant to a pledge agreement substantially in the form of the Pledge Agreement);

(iv) After the occurrence of an Event of Default, the undersigned shall pay directly to you any and all cash distributions which might be declared and payable (including any unpaid distributions accrued prior to the date hereof) on any of the Pledged Interests or any of the other Collateral issued by the undersigned;

(v) At any time upon and during the continuance of an Event of Default, upon your written instructions, the undersigned shall register the transfer of such Pledged Interests to you or your nominee, as applicable;

(vi) The Pledged Interest has been duly authorized and validly issued and is not subject to, nor will the undersigned at any time permit it to become subject to, any restrictions governing its issuance, transfer, ownership or control other than those currently set forth in its operating agreement; and

(vii) The undersigned will comply with your instructions relating to the Pledged Interest without the need for further consent from Pledgors.

(viii) The undersigned agrees that, if at any time you shall determine to exercise your right to sell all or any of the Collateral issued by the undersigned, the undersigned will, upon your request and at Pledgors' expense:

(a) provide you with such other information and projections as may be necessary or, in your opinion, advisable to enable you to effect the sale of such Collateral;

(b) do or cause to be done all such other acts and things as may be necessary to make the sale of such Collateral or any part thereof valid and binding and in compliance with applicable law; and

(c) do or cause to be done all such other acts and things as may be necessary to constitute you or your designees or transferees a member of the undersigned.

You are hereby authorized, in connection with any sale of the Collateral issued by the undersigned, to deliver or otherwise disclose to any prospective purchaser of such Collateral (i) any information and projections provided to you pursuant to subsection (a) above and (ii) any other information in your possession relating to the undersigned or such Collateral.

This letter agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

Very truly yours,

By: _____

Title: _____