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Gary W. Ott
Recorder, Salt Lake County, UT
LANDMARK TITLE
BY: eCASH, DEPUTY - EF 11 P.

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
Real Estate Banking Group (AU #1074)
PO Box 45490
Salt Lake City, UT 84145-0490
Attn: Jessica Perez

Loan No. 1015066

(Space Above For Recorder's Use)

**SUBORDINATION AGREEMENT, ACKNOWLEDGMENT OF LEASE ASSIGNMENT, ESTOPPEL,
ATTORNMEN AND NON-DISTURBANCE AGREEMENT
(Lease to Security Instrument)**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN
THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE
LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION AGREEMENT, ACKNOWLEDGMENT OF LEASE ASSIGNMENT, ESTOPPEL,
ATTORNMEN AND NON-DISTURBANCE AGREEMENT ("**Agreement**") is made September
25, 2015, by and between CAMELOT LAKES WOODLANDS, LLC, a Utah limited liability company,
as owner of the real property hereinafter described ("**Mortgagor**"), WESTERN GOVERNORS
UNIVERSITY, a Utah nonprofit corporation ("**Tenant**"), and WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking association (collectively with its successors or assigns, "**Lender**").

RECITALS

- A. Pursuant to the terms and provisions of that certain Agreement for The Woodlands Business Park Tower IV dated April 16, 2014, as amended by (i) that certain First Amendment to Lease dated July 18, 2014, and (ii) that certain Second Amendment to Lease dated June 25, 2015 (collectively, the "**Lease**"), Mortgagor's predecessor in interest granted to Tenant a leasehold estate in and to a portion of the property described on Exhibit A attached hereto and incorporated herein by this reference (which property, together with all improvements now or hereafter located on the property, is defined as the "**Property**").
- B. Mortgagor has executed, or proposes to execute, that certain Deed of Trust ("**Security Instrument**") securing, among other things, that certain Secured Promissory Note dated September 25, 2015 ("**Note**") in the principal sum of TWELVE MILLION AND NO/100 DOLLARS (\$12,000,000.00), in favor of Lender ("**Loan**"). The Security Instrument is to be recorded concurrently herewith.

- C. As a condition to Lender making the Loan secured by the Security Instrument, Lender requires that the Security Instrument be unconditionally and at all times remain a lien on the Property, prior and superior to all the rights of Tenant under the Lease and that the Tenant specifically and unconditionally subordinate the Lease to the lien of the Security Instrument.
- D. Mortgagor and Tenant have agreed to the subordination, attornment and other agreements herein in favor of Lender.

NOW THEREFORE, for valuable consideration and to induce Lender to make the Loan, Mortgagor and Tenant hereby agree for the benefit of Lender as follows:

1. **SUBORDINATION.** Mortgagor and Tenant hereby agree that:

- 1.1 **Prior Lien.** The Security Instrument securing the Note in favor of Lender, and any modifications, renewals or extensions thereof (including, without limitation, any modifications, renewals or extensions with respect to any additional advances made subject to the Security Instrument), shall unconditionally be and at all times remain a lien on the Property prior and superior to the Lease;
- 1.2 **Subordination.** Lender would not make the Loan without this agreement to subordinate; and
- 1.3 **Whole Agreement.** This Agreement shall be the whole agreement and only agreement with regard to the subordination of the Lease to the lien of the Security Instrument and shall supersede and cancel, but only insofar as would affect the priority between the Security Instrument 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 of the Lease to a deed or deeds of trust or to a mortgage or mortgages.

AND FURTHER, Tenant individually declares, agrees and acknowledges for the benefit of Lender, that:

- 1.4 **Use of Proceeds.** Lender, in making disbursements pursuant to the Note, the Security Instrument or any loan agreements with respect to the Property, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat this agreement to subordinate in whole or in part; and
- 1.5 **Waiver, Relinquishment and Subordination.** Tenant intentionally and unconditionally waives, relinquishes and subordinates all of Tenant's right, title and interest in and to the Property to the lien of the Security Instrument and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Lender and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.
2. **ASSIGNMENT.** Tenant acknowledges and consents to the assignment of the Lease by Mortgagor in favor of Lender.

3. **ESTOPPEL.** Tenant acknowledges and represents that:
- 3.1 **Entire Agreement.** The Lease constitutes the entire agreement between Mortgagor and Tenant with respect to the Property and Tenant claims no rights with respect to the Property other than as set forth in the Lease;
- 3.2 **No Prepaid Rent.** No deposits or prepayments of rent have been made in connection with the Lease, except as follows (if none, state "None"): NONE;
- 3.3 **No Default.** To the best of Tenant's knowledge, as of the date hereof: (i) there exists no breach, default, or event or condition which, with the giving of notice or the passage of time or both, would constitute a breach or default under the Lease; and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the Lease;
- 3.4 **Lease Effective.** The Lease has been duly executed and delivered by Tenant and, subject to the terms and conditions thereof, the Lease is in full force and effect, the obligations of Tenant thereunder are valid and binding and there have been no amendments, modifications or additions to the Lease, written or oral; and
- 3.5 **No Broker Liens.** Neither Tenant nor Mortgagor has incurred any fee or commission with any real estate broker which would give rise to any lien right under state or local law, except as follows (if none, state "None"): NONE;
4. **ADDITIONAL AGREEMENTS.** Tenant covenants and agrees that, during all such times as Lender is the Beneficiary under the Security Instrument:
- 4.1 **Modification, Termination and Cancellation.** Tenant will not consent to any modification, amendment, termination or cancellation of the Lease (in whole or in part) without Lender's prior written consent and will not make any payment to Mortgagor in consideration of any modification, termination or cancellation of the Lease (in whole or in part) without Lender's prior written consent;
- 4.2 **Notice of Default.** Tenant will notify Lender in writing concurrently with any notice given to Mortgagor of any default by Mortgagor under the Lease, and Tenant agrees that Lender has the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below and Tenant will not declare a default of the Lease, as to Lender, if Lender cures such default within fifteen (15) days from and after the expiration of the time period provided in the Lease for the cure thereof by Mortgagor ; provided, however, that if such default cannot with diligence be cured by Lender within such fifteen (15) day period, the commencement of action by Lender within such fifteen (15) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence;
- 4.3 **No Advance Rents.** Tenant will make no payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease;
- 4.4 **Assignment of Rents.** Upon receipt by Tenant of written notice from Lender that Lender has elected to terminate the license granted to Mortgagor to collect rents, as provided in the Security Instrument, and directing the payment of rents by Tenant to Lender, Tenant shall comply with such direction to pay and shall not be required to determine whether Mortgagor is in default under the Loan and/or the Security Instrument.
- 4.5 **Insurance and Condemnation Proceeds.** In the event there is any conflict between the terms in the Security Instrument and the Lease regarding the use of insurance proceeds

- 4.5 **Insurance and Condemnation Proceeds.** In the event there is any conflict between the terms in the Security Instrument and the Lease regarding the use of insurance proceeds or condemnation proceeds with respect to the Property, the provisions of the Security Instrument shall control.
5. **ATTORNMEN T.** In the event of a foreclosure under the Security Instrument, Tenant agrees for the benefit of Lender (including for this purpose any transferee of Lender or any transferee of Mortgagor's title in and to the Property by Lender's exercise of the remedy of sale by foreclosure under the Security Instrument) as follows:
- 5.1 **Payment of Rent.** Tenant shall pay to Lender all rental payments required to be made by Tenant pursuant to the terms of the Lease for the duration of the term of the Lease;
- 5.2 **Continuation of Performance.** Tenant shall be bound to Lender in accordance with all of the provisions of the Lease for the balance of the term thereof, and Tenant hereby attorns to Lender as its landlord, such attornment to be effective and self-operative without the execution of any further instrument immediately upon Lender succeeding to Mortgagor's interest in the Lease and giving written notice thereof to Tenant;
- 5.3 **No Offset.** Lender shall not be liable for, nor subject to, any offsets or defenses which Tenant may have by reason of any act or omission of Mortgagor under the Lease, nor for the return of any sums which Tenant may have paid to Mortgagor under the Lease as and for security deposits, advance rentals or otherwise, except to the extent that such sums are actually delivered by Mortgagor to Lender; and
- 5.4 **Subsequent Transfer.** If Lender, by succeeding to the interest of Mortgagor under the Lease, should become obligated to perform the covenants of Mortgagor thereunder, then, upon any further transfer of Mortgagor's interest by Lender, all of such obligations shall terminate as to Lender.
- 5.5 **Limitation on Lender's Liability.** Tenant agrees to look solely to Lender's interest in the Property and the rent, income or proceeds derived therefrom for the recovery of any judgment against Lender, and in no event shall Lender or any of its affiliates, officers, directors, shareholders, partners, agents, representatives or employees ever be personally liable for any such obligation, liability or judgment.
- 5.6 **No Representation, Warranties or Indemnities.** Lender shall not be liable with respect to any representations, warranties or indemnities from Mortgagor, whether pursuant to the Lease or otherwise, including, but not limited to, any representation, warranty or indemnity related to the use of the Property, compliance with zoning, landlord's title, landlord's authority, habitability or fitness for purposes or commercial suitability, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Property or any portion thereof.
6. **NON-DISTURBANCE.** In the event of a foreclosure under the Security Instrument, so long as there shall then exist no breach, default, or event of default on the part of Tenant under the Lease, Lender agrees for itself and its successors and assigns that the leasehold interest of Tenant under the Lease shall not be extinguished or terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect and Lender shall recognize and accept Tenant as tenant under the Lease subject to the terms and provisions of the Lease except as modified by this Agreement; provided, however, that Tenant and Lender agree that the following provisions of the Lease (if any) shall not be binding on Lender nor its successors and assigns: any option to purchase with respect to the Property; any right of first refusal with respect to the Property; any provision regarding the use of insurance proceeds or condemnation proceeds with respect to the Property which is inconsistent with the terms of the Security Instrument; and any

obligation to construct any improvements on the Property or any obligation to pay or reimburse Tenant for any improvements Tenant constructs on the Property.

7. **MISCELLANEOUS.**

- 7.1 **Remedies Cumulative.** All rights of Lender herein to collect rents on behalf of Mortgagor under the Lease are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Lender and Mortgagor or others.
- 7.2 **NOTICES.** All notices, demands, or other communications under this Agreement and the other Loan Documents shall be in writing and shall be delivered to the appropriate party at the address set forth below (subject to change from time to time by written notice to all other parties to this Agreement). All notices, demands or other communications shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid, except that notice of Default may be sent by certified mail, return receipt requested, charges prepaid. Notices so sent shall be effective three (3) Business Days after mailing, if mailed by first class mail, and otherwise upon delivery or refusal; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. For purposes of notice, the address of the parties shall be:

Mortgagor:	Camelot Lakes Woodlands, LLC 299 South Main Street, Suite 2400 Salt Lake City, Utah 84111 Attention: Mike Nielson
And:	Dell Loy Hansen 595 South Riverwoods Parkway, Suite 400 Logan, Utah 84321
Tenant:	Western Governors University 4001 South 700 East, Suite 700 Salt Lake City, Utah 84107
Lender:	Wells Fargo Bank, National Association Commercial Real Estate (AU #1074) P.O. Box 45490 MAC U1228-063 Salt Lake City, Utah 84145-0490 Attention: J. Brian Duerden Loan #: 1015066
With a copy to:	Wells Fargo Bank, National Association Minneapolis Loan Center 608 2nd Avenue South, 11th Floor Minneapolis, MN 55402 Attention: Kyle Schwanke Loan #: 1015066

And:	Snell & Wilmer L.L.P. Gateway Tower West 15 West South Temple, Suite 1200 Salt Lake City, Utah 84101 Attention: Brian D. Cunningham, Esq.
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Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

- 7.3 **Heirs, Successors and Assigns.** Except as otherwise expressly provided under the terms and conditions herein, the terms of this Agreement shall bind and inure to the benefit of the heirs, executors, administrators, nominees, successors and assigns of the parties hereto.
- 7.4 **Headings.** All article, section or other headings appearing in this Agreement are for convenience of reference only and shall be disregarded in construing this Agreement.
- 7.5 **Counterparts.** To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.
- 7.6 **Exhibits, Schedules and Riders.** All exhibits, schedules, riders and other items attached hereto are incorporated into this Agreement by such attachment for all purposes.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

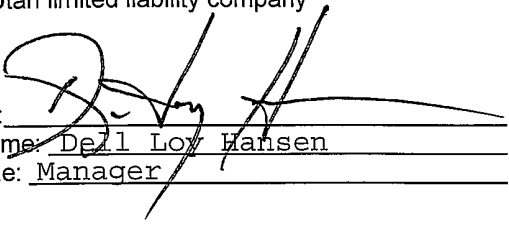
IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

[Remainder of Page Intentionally Left Blank.]

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

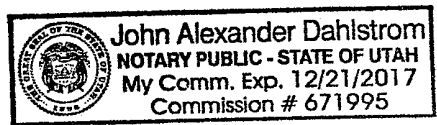
"MORTGAGOR"

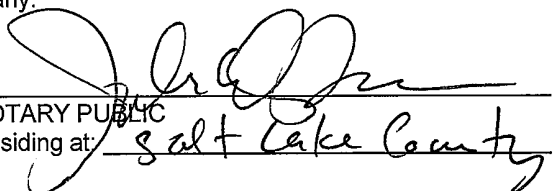
CAMELOT LAKES WOODLANDS, LLC
a Utah limited liability company

By: 
Name: Dell Loy Hansen
Title: Manager

STATE OF UTAH)
) ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 23rd day of September, 2015, by Dell Loy Hansen, as a Manager of CAMELOT LAKES WOODLANDS, LLC, a Utah limited liability company, on behalf of said company.




NOTARY PUBLIC
Residing at: Salt Lake County

My commission expires 12/21/2017

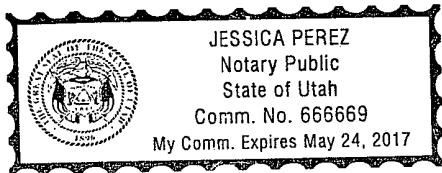
"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION
a national banking association

By: J. Brian Duenden
Name: J. BRIAN DUENDEN
Title: VICE PRESIDENT

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 25th day of SEPTEMBER, 2015, by BRIAN DUENDEN, as VICE PRESIDENT of **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national association, on behalf of said company.



Jessie P
NOTARY PUBLIC
Residing at: SALT LAKE CITY, UT

My commission expires MAY 24, 2017

EXHIBIT A - DESCRIPTION OF PROPERTY

[TO BE ATTACHED]

PARCEL 1:

Beginning at the Southwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence North 0°14'13" East along the East line of 700 East Street 220.97 feet; thence South 89°57'56" East 150.00 feet; thence North 0°13'23" East 65.00 feet; thence South 89°57'38" East 110.00 feet; thence South 0°02'22" West 208.635 feet to a point on a curve to the left, the radius point of which bears South 15°30'15" East 622.03 feet; thence Southwesterly along the arc of said curve 189.008 feet; thence North 89°58'24" West 89.38 feet to the point of beginning.

[FOR REFERENCE ONLY: Tax Parcel No. 16-32-352-011, Tax Parcel No. 16-32-352-012, and Part of Tax Parcel No. 16-32-352-013]

PARCEL 2:

Beginning at a point North 0°14'13" East along the East line of 700 East Street 220.97 feet and South 89°51'36" East 150.00 feet and North 0°13'23" East 65.00 feet and South 89°57'38" East 110.00 feet from the Southwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence South 89°57'38" East 295.26 feet; thence South 0°11'14" West 17.30 feet; thence South 85°34'00" East 220.80 feet; thence South 0°09'59" West 251.59 feet to the Southeast corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, said point also being on a curve to the left, the radius point of which bears South 32°58'02" West 622.03 feet; thence Westerly along the arc of said curve 526.328 feet; thence North 0°02'22" East 208.635 feet to the point of beginning.

[FOR REFERENCE ONLY: Part of Tax Parcel No. 16-32-352-013]

PARCEL 3:

Beginning at a point 221 feet North and 150 feet East from the Southwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence North 30.00 feet; thence West 80.00 feet; thence South 30.00 feet; thence East 80.00 feet to the point of beginning.

[FOR REFERENCE ONLY: Tax Parcel No. 16-32-352-068]

PARCEL 4:

Beginning 221 feet North from the Southwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence East 150 feet; thence North 65.58 feet; thence West 150 feet; thence South 65.58 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM THE FOLLOWING: Beginning at a point 221 feet North and 150 feet East from the Southwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence North 30.00 feet; thence West 80.00 feet; thence South 30.00 feet; thence East 80.00 feet to the point of beginning.

[FOR REFERENCE ONLY: Tax Parcel No. 16-32-352-067]

PARCEL 5:

Beginning 187.1 feet South from the Northwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, and running thence South 100 feet; thence East 282.67 feet; thence North 1°22' West 100 feet, more or less, to a point due East from the point of beginning; thence West 280 feet, more or less, to the point of beginning.

LESS AND EXCEPTING THEREFROM THE FOLLOWING: Beginning on the East line of 700 East Street at a point which is South 0°14'13" West 187.10 feet from the Northwest corner of Lot 9, Block 5, Ten Acre Plat "A", Big Field Survey, said point also lying South 0°14'13" West 220.10 feet and South 89°45'47" East 33.00 feet from the Salt Lake County Brasscap Monument at the intersection of 700 East and 3900 South Streets; and running thence South 89°57'58" East 201.00 feet to the Southeast corner of a parcel of land described in a Warranty Deed recorded as Entry No. 1908986, in Book 5534, at Page 353 in the office of the Salt Lake County Recorder; thence South 0°14'13" West 65.00 feet; thence North 89°57'58" West 201.00 feet to said East line; thence along said East line North 0°14'13" East 65.00 feet to the point of beginning.

[FOR REFERENCE ONLY: Tax Parcel 16-32-352-066]

Exhibit A-1

PARCEL 6:

The non-exclusive easements, that may be appurtenant to PARCELS 1 THROUGH 5 described above, as defined, described and created pursuant to that certain Amended And Restated Declaration Of Covenants, Conditions And Restrictions Of The Woodlands Business Park, recorded October 15, 2010 as Entry No. 11954044, in Book 9869, at Page 862 of the Official Records of the Salt Lake County Recorder, as amended, supplemented or otherwise affected by that certain First Amendment To Amended And Restated Declaration Of Covenants, Conditions And Restrictions Of the Woodlands Business Park, recorded August 29, 2013 as Entry No. 11715461, in Book 10173, at Page 5379 of the Official Records of the Salt Lake County Recorder.

Exhibit A-2