



W2912722

Recording requested by and
when recorded mail to:

Comerica Bank
Mail Code: 7578
39200 W. Six Mile Road
Livonia, MI 48152

E# 2912722 PG 1 OF 6
Leann H. Kilts, WEBER COUNTY RECORDER
30-Mar-18 0234 PM FEE \$20.00 DEP TN
REC FOR: MOUNTAIN VIEW TITLE - OGDEN
ELECTRONICALLY RECORDED

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION, ATTORNEY AND NON-DISTURBANCE AGREEMENT

NOTICE: THIS SUBORDINATION, ATTORNEY AND NON-DISTURBANCE AGREEMENT RESULTS IN YOUR LEASEHOLD INTEREST BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION, ATTORNEY AND NON-DISTURBANCE AGREEMENT ("Agreement"), dated as of March 30, 2018, between COMERICA BANK ("Beneficiary"), YOUNG H2ORE, LLC, ("Owner") and YOUNG H2O, LLC ("Tenant"), is as follows:

Owner and Tenant have entered into that certain Lease dated March 30, 2018, together with any amendments, modifications, renewals or extensions thereof ("Lease") pursuant to which Owner leased to Tenant and Tenant leased from Owner the premises more particularly described in the Lease ("Premises") and located on the real property described in Exhibit "A" attached hereto (the "Secured Property"). Owner is obtaining financing for the Secured Property to be evidenced by a promissory note in the principal amount of Four Million Eight Hundred Thousand and no/100 Dollars (\$4,800,000.00) ("Note") in favor of Beneficiary, payment of which is secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Financing Statement ("Deed of Trust") encumbering the Secured Property.

In order to establish certain safeguards and priorities with respect to their respective rights in connection with the Premises, Beneficiary has requested that Owner obtain certain warranties and agreements from Tenant as hereinafter set forth. In consideration of the mutual benefits accruing to the parties hereto, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Subordination. The Lease is and at all times shall continue to be subject and subordinate to the Note and the lien of the Deed of Trust and to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof, unless Beneficiary has filed a notice subordinating the lien of its Deed of Trust to the Lease. Beneficiary specifically reserves the right to file such a notice at its sole election. Tenant shall not subordinate the Lease to any lien, claim, mortgage, deed of trust, or other encumbrance of any kind, except as provided in this paragraph, and any such other subordination shall be deemed a default under the Lease and this Agreement. Tenant agrees to execute and deliver to Beneficiary or to any party to whom Tenant hereby agrees to attorn, in form and substance satisfactory to such party, such other instrument as either shall request in order to effectuate the provisions of this Agreement.

2. Limitation on Liability. Nothing herein contained shall impose any obligation upon Beneficiary to perform any of the obligations of Owner under the Lease unless and until Beneficiary shall become an owner or mortgagee in possession of the Premises, and Beneficiary shall have no personal liability to Tenant beyond Beneficiary's interest in the Secured Property.

3. Attornment. In the event of a foreclosure or other acquisition of the Premises (including, without limitation, by deed in lieu of foreclosure), the Lease shall be recognized as a direct lease from the Beneficiary, the purchaser at the foreclosure sale, or any such subsequent owner (collectively referred to as "Purchaser"), except Purchaser shall not be (i) liable for any previous act or omission of Owner under the Lease; (ii) subject to any offset which shall theretofore have accrued to Tenant against Owner; (iii) subject to any obligation with respect to any security deposit under the Lease unless such security deposit has been physically delivered to Purchaser; or (iv) bound by any previous modification or prepayment of rents or other sums due under the Lease greater than one month unless such modification or prepayment shall have been expressly approved in writing by Beneficiary, which approval shall not be unreasonably withheld.

4. Non-disturbance. So long as no default exists, nor any event has continued to exist for such period of time (after notice, if any, required by the Lease) as would entitle Owner under the Lease to terminate the Lease or would cause, without any further action of Owner, the termination of the Lease or would entitle Owner to dispossess Tenant thereunder, the Lease shall not be terminated nor shall Tenant's use, possession, or enjoyment of the Premises be interfered with, nor shall the leasehold estate granted by the Lease be affected in any foreclosure, or in any action or proceeding instituted under or in connection with the Deed of Trust.

5. Payment of Rent on Default. Tenant acknowledges and agrees that the Lease has been assigned to Beneficiary by Owner as security for its obligations under, and secured by, the Note and Deed of Trust. Tenant agrees that, upon receipt of notice from Beneficiary that a default exists under the Note or Deed of Trust, or any instrument or document collateral thereto, Tenant shall make all rental and other payments required pursuant to the Lease, as directed by written instruction from Beneficiary. Tenant may make payments to Beneficiary directly in the event of such a default, for which written notice has been delivered to Tenant, and thereby be properly credited with an offset and credit for such payments as against the rental payments then due under the Lease.

Owner acknowledges and agrees that Beneficiary shall be entitled to collect and receive rents pursuant to the Lease as provided herein and Tenant is authorized and hereby directed to make all such payments of rent to Beneficiary upon receipt of any notice of Owner's default under the Note or deed of trust securing the Note or any notice of sale related to the Secured Property provided that Tenant shall be under no duty or obligation to make further inquiry. Tenant shall continue to make all such payments of rent to Beneficiary unless and until Tenant is otherwise authorized and directed in writing by Beneficiary.

6. Further Documents. Tenant shall execute and deliver to Beneficiary or to any party to whom Tenant hereby agrees to attorn, in form and substance satisfactory to such party, such other instruments as either shall request in order to effectuate the provisions of this Agreement.

7. Subordination. Tenant declares, agrees and acknowledges that it intentionally and unconditionally subordinates the Lease and its leasehold interest in favor of the lien or charge upon the Secured Property of the Deed of Trust in favor of Beneficiary.

8. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns, and the holder from time to time of the Note.

9. Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce any provision of this Agreement, the prevailing party shall be entitled to an award of its actual expenses, including without limitation, expert witness fees, actual attorneys' fees and disbursements.

10. Notices. All notices to Beneficiary shall be by certified mail to the address given at the top of page one of this Agreement. All notices to Tenant shall be by certified mail to 645 N. Main Street, Layton, Utah 84041.

11. Miscellaneous. This Agreement may not be modified other than by an agreement in writing, signed by the parties hereto or by their respective successors in interest. Except as herein modified all of the terms and provisions of the Lease shall remain in full force and effect. In the event of a conflict between the Lease and this Agreement, the terms and provisions of this Agreement shall control. Nothing in this Agreement shall in any way impair or affect the lien created by the Deed of Trust or the other lien rights of Beneficiary.

12. Counterparts. This Agreement may be executed in counterparts which together shall constitute but one and the same original.

[SIGNATURES ON FOLLOWING PAGE]

[SIGNATURE PAGE TO SNDA]

BENEFICIARY:

COMERICA BANK

By: Stan J Engl
Title: VP

OWNER:

YOUNG H2ORE, LLC, a Utah limited liability company

By: Spencer W. Young
Title: Manager

TENANT:

YOUNG H2O, LLC, a Utah limited liability company

By: Seldon O. Young
Title: Manager

OWNER

YOUNG H2ORE, LLC, a Utah Limited
Liability Company

by: Spencer W. Young Manager

by: Seldon O. Young as Trustee of the
Seldon O. Young Inter Vivos Revocable
Trust Dated May 14, 1979, with
Restatement Dated February 20, 2015
Manager

TENANT

YOUNG H2ORE, LLC, a Utah Limited
Liability Company

by: Spencer W. Young Manager

by: Seldon O. Young as Trustee of the
Seldon O. Young Inter Vivos Revocable
Trust Dated May 14, 1979, with
Restatement Dated February 20-2015
Manager

STATE OF UTAH)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____, day of March, 2018 by _____
_____, as _____ of YOUNG H2ORE, LLC, a Utah limited liability
company, on behalf of the company.

WITNESS my hand and official seal.

NOTARY PUBLIC

My commission expires:

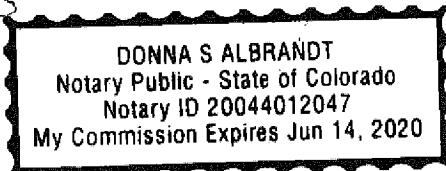
STATE OF Colorado)
COUNTY OF Denver)
) SS.
)

The foregoing instrument was acknowledged before me this 27th day of March, 2018 by Steven
J. Engel, as VP of Comerica Bank, a Texas Bank, on behalf of
the Bank

WITNESS my hand and official seal.

Donna Sallandt
NOTARY PUBLIC

My commission expires: 08-14-2020



STATE OF UTAH)
)
COUNTY OF _____)
) SS.

The foregoing instrument was acknowledged before me this _____, day of March, 2018 by _____
_____, as _____ of YOUNG H2O, LLC, a Utah limited liability
company, on behalf of the company.

WITNESS my hand and official seal.

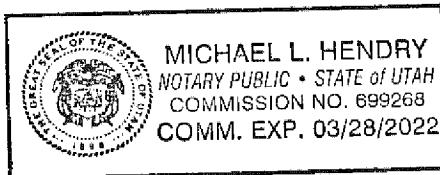
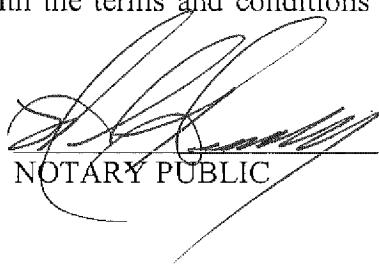
NOTARY PUBLIC

My commission expires:

ACKNOWLEDGMENT

STATE OF UTAH)
ss.
COUNTY OF DAVIS)

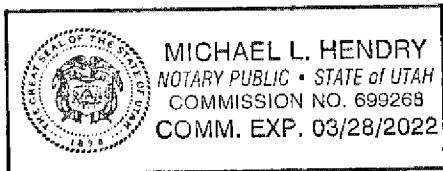
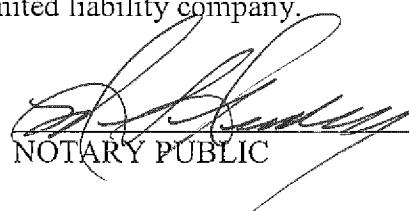
The foregoing instrument was acknowledged before me this 30th day of March 2018, by **Spencer W. Young, as a Manager of Young H2ORE, LLC, a Utah Limited Liability Company**, the signer of this document who duly acknowledged to me that he executed the same in the capacity stated and did so in accordance with the terms and conditions of the operating agreement of the limited liability company.

NOTARY PUBLIC

STATE OF UTAH)
ss.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 30th day of March 2018, by **Seldon O. Young as Trustee of the Seldon O. Young Inter Vivos Revocable Trust Dated May 14, 1979, with Restatement Dated February 20, 2015 as a Manager of Young H2ORE, LLC, a Utah Limited Liability Company**, the signer of this document who duly acknowledged to me that he executed the same in the capacity stated and did so in accordance with the terms and conditions of the operating agreement of the limited liability company.

NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF SECURED PROPERTY

PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT ON THE WEST RIGHT OF WAY (R.O.W.) LINE OF WALL AVENUE, SAID POINT BEING SOUTH $0^{\circ}58'00''$ WEST 33.56 FEET AND NORTH $89^{\circ}02'00''$ WEST 50.00 FEET FROM THE OGDEN CITY SURVEY MONUMENT AT THE INTERSECTION OF 33RD STREET AND WALL AVENUE ; THENCE RUNNING SOUTH $0^{\circ}58'00''$ WEST 320.35 FEET ALONG SAID RIGHT OF WAY LINE; THENCE NORTH $89^{\circ}02'00''$ WEST 329.26 FEET; THENCE NORTH $0^{\circ}52'00''$ WEST 73.39 FEET; THENCE NORTH $89^{\circ}02'01''$ WEST 85.25 FEET; THENCE NORTH $0^{\circ}36'13''$ EAST 98.21 FEET; THENCE SOUTH $89^{\circ}23'47''$ EAST 20.00 FEET; THENCE NORTH $0^{\circ}36'13''$ EAST 145.76 FEET TO THE SOUTH RIGHT OF WAY LINE OF 33RD STREET; THENCE SOUTH $89^{\circ}27'00''$ EAST 398.41 FEET TO THE POINT OF BEGINNING.