

JR Sawco

Prepared by and return to:  
Robert E. Messick, Esq.  
Icard, Merrill, Cullis, Timm,  
Furen & Ginsburg, P.A.  
2033 Main Street, Suite 600  
Sarasota, FL 34237

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2012030681 9 PGS  
2012 MAR 09 05:03 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
FMILLER Receipt#1477244

Doc Stamp-Mort: 16,275.00  
Intang. Tax: 9,300.00



**FLORIDA DOCUMENTARY STAMP TAXES IN THE AMOUNT OF \$16,275.00 AND FLORIDA INTANGIBLE TAXES IN THE AMOUNT OF \$9,300.00 ARE BEING PAID UPON RECORDATION OF THIS MORTGAGE. SUCH AMOUNT IS BASED UPON THE PRINCIPAL AMOUNT OF \$4,650,000.00, BEING THE MAXIMUM TAXABLE AMOUNT OF THE INDEBTEDNESS SECURED HEREBY.**

**MORTGAGE AND SECURITY AGREEMENT**

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage"), is made March 8, 2012, by and between GONDOLIER PROPERTIES, LLC, a Florida limited liability company (the "Mortgagor"), whose address is c/o P.O. Box 35, Estero, FL 33929, and CAPITAL BANK, N.A. (the "Bank" or "Mortgagee"), whose address is 121 Alhambra Plaza, Suite 1601, Coral Gables, FL 33134.

**WITNESSETH:**

In connection with that certain commercial real estate loan as evidenced by that Commercial Loan Note (the "Note") of even date, in the principal sum of \$4,650,000.00 (the "Loan"), made and executed by Mortgagor and payable to Bank, this Mortgage and the other Loan Documents (as defined in the Note) and any renewals, extensions, novations, or modifications of the foregoing, and to secure payment and performance of all Obligations (as defined in the Note) under and in connection therewith, and in consideration of these premises and for other good and valuable consideration, Mortgagor does hereby mortgage, hypothecate, grant and convey unto Bank, its successors and assigns, all of Mortgagor's right, title and interest now owned or hereafter acquired in and to each of the following (collectively, the "Property"): (i) those certain tract(s) or parcel(s) of land in the County of Sarasota, State of Florida, as described in **EXHIBIT "A"**, attached hereto and made part hereof (collectively the "Land"); (ii) all buildings and improvements now or hereafter erected on the Land; (iii) all fixtures, machinery, equipment and other articles of real, personal or mixed property attached to, situated or installed in or upon, or used in the operation or maintenance of, the Land or any buildings or improvements situated thereon, whether or not such real, personal or mixed property is or shall be affixed to the Land; (iv) all building materials, building machinery and building equipment delivered on site to the Land during the course of, or in connection with, any construction, repair or renovation of the buildings and improvements situated or to be situated thereon; (v) all leases, licenses or occupancy agreements of all or any part of the Land and all extensions, renewals, and modifications thereof, and any options, rights of first refusal or guarantees relating thereto; all rents, income, revenues, security deposits, issues, profits, awards and payments of any kind payable under the leases or otherwise arising from the Land; (vi) all contract rights, accounts receivable and general intangibles relating to the Land or the use, occupancy, maintenance, construction, repair or operation thereof; all management agreements, franchise agreements, utility agreements and deposits; all maps, plans, surveys and specifications; all warranties and guaranties; all permits, licenses and approvals; and all insurance policies; (vii) all estates, rights, tenements, hereditaments, privileges, easements, and appurtenances of any kind benefitting the Land; all means of access to and from the Land, whether public or private; and all water and mineral rights; and (viii) all "Proceeds" of any of the above-described property, which term shall have the meaning given to it in the Uniform Commercial Code of the jurisdiction where this Mortgage is recorded (the "UCC"), whether cash or non-cash, and including insurance proceeds and condemnation awards; and all replacements, substitutions and accessions thereof.

TO HAVE AND TO HOLD the Property and all the estate, right, title and interest, in law and in equity, of Mortgagor's in and to the Property unto Bank, its successors and assigns, forever.

Mortgagor WARRANTS AND REPRESENTS that Mortgagor is lawfully seized of the Property, in fee simple, absolute, that Mortgagor has the legal right to convey and encumber the same, and that the Property is free and clear of all liens and encumbrances, except as otherwise disclosed and as set forth in the Mortgagee Loan Title Insurance Commitment File No. 16-2012-3032, dated December 20, 2011 at 11:00 p.m. (Parcels 1, 2 and 3), as issued by Richard D. Saba, P.A., as issuing agent for Old Republic National Title Insurance Company. Mortgagor further warrants and will forever defend all and singular the Property and title thereto to Bank and Bank's successors and assigns, against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS that if all Obligations are timely paid and performed each and every representation, warranty, agreement, and condition of this Mortgage, the other Loan Documents and any swap agreements, and all obligations thereunder are complied with and abided by, this Mortgage and the estate hereby created shall cease and be null, void and cancelled of record.

To protect the security of this Mortgage, Mortgagor further represents and agrees with Bank as follows:

**Payment of Obligations.** That the Obligations shall be timely paid and performed.

**Future Advances.** This Mortgage is given to secure not only existing Obligations, but also future advances, whether such advances are obligatory or to be made at the option of Bank or otherwise as are made within twenty (20) years from the date hereof, to the same extent as if such future advances are made on the date of the execution of this Mortgage. The principal amount (including any future advances) that may be so secured may decrease or increase from time to time, but the total amount so secured at any one time shall not exceed the maximum principal amount of \$9,300,000.00, plus all interest, costs, reimbursements, fees and expenses due under this Mortgage and secured hereby. Mortgagor shall not execute any document that impairs or otherwise impacts the priority of any future advances secured by this Mortgage.

**Grant of Security Interest in Personal Property.** This Mortgage also constitutes a security agreement under the UCC and shall be deemed to constitute a fixture financing statement. Mortgagor hereby grants a security interest in any personal property included in or located on and affixed to the Property. On request of Bank, Mortgagor will execute one or more Financing Statements in form satisfactory to Bank and will pay all costs and expenses of filing the same in all public filing offices, where filing is deemed desirable by Bank. Bank is authorized to file Financing Statements relating to the Property without Mortgagor's signature where permitted by law. Mortgagor appoints Bank as its attorney-in-fact to execute such documents necessary to perfect Bank's security interest on Mortgagor's behalf. The appointment is coupled with an interest and shall be irrevocable as long as any Obligations remain outstanding.

**Leases, Subleases and Easements.** Mortgagor shall maintain, enforce and cause to be performed all of the terms and conditions under any lease, sublease or easement which may constitute a portion of the Property. Mortgagor shall, at the request of Bank, provide written copies thereof to Bank, including all amendments and/or extensions thereof.

**Required Insurance.** Mortgagor shall maintain with respect to the Property: (i) during construction of any improvements on the Property, "all-risk" builders risk insurance (non-reporting Completed Value with Special Cause of Loss form), in an amount not less than the total value of the improvements under construction, naming Bank as mortgagee and loss payee; (ii) upon completion of construction and at all other times, insurance against loss or damage by fire and other casualties and hazards by insurance written on an "all risks" basis, including, specifically, windstorm and/or hail damage, in an amount not less than the replacement cost thereof, naming Bank as loss payee and mortgagee; (iii) if the Property is required to be insured pursuant to the National Flood Reform Act of 1994, and the regulations promulgated thereunder, flood insurance in an amount at least equal to the lesser of the completed replacement value of the improvements on the Property or the maximum limit of coverage available thereunder, naming Bank as mortgagee and loss payee; and (iv) liability insurance providing coverage in such amount as Bank may require but in no event less

than \$4,650,000.00 combined single limit, naming Bank as an additional insured; and (v) such other insurance as Bank may require from time to time.

All casualty insurance policies shall contain an endorsement or agreement by the insurer in form satisfactory to Bank that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor and the further agreement of the insurer waiving rights of subrogation against Bank, and rights of set-off, counterclaim or deductions against Mortgagor.

All insurance policies shall be in form, provide coverages, be issued by companies and be in amounts satisfactory to Bank. At least thirty (30) days prior to the expiration of each such policy, Mortgagor shall furnish Bank with evidence satisfactory to Bank that such policy has been renewed or replaced or is no longer required hereunder. All such policies shall provide that the policy will not be cancelled or materially amended without at least thirty (30) days prior written notice to Bank. In the event Mortgagor fails to provide, maintain, keep in force, and furnish to Bank the policies of insurance required by this paragraph, Bank may procure such insurance or single-interest insurance in such amounts, at such premium, for such risks and by such means as Bank chooses, at Mortgagor's expense; provided however, Bank shall have no responsibility to obtain any insurance, but if Bank does obtain insurance, Bank shall have no responsibility to assure that the insurance obtained shall be adequate or provide any protection to Mortgagor.

**Insurance Proceeds.** After occurrence of any loss to any of the Property, Mortgagor shall give prompt written notice thereof to Bank.

In the event of such loss all insurance proceeds shall be payable to Bank, and Mortgagor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Bank. Bank is hereby authorized by Mortgagor to settle, adjust or compromise any claims for loss or damage under any policy or policies of insurance and Mortgagor appoints Bank as its attorney-in-fact to receive and endorse any insurance proceeds to Bank, which appointment is coupled with an interest and shall be irrevocable as long as any Obligations remain unsatisfied.

In the event of any damage to or destruction of the Property, Bank shall have the option of applying or paying all or part of the insurance proceeds to (i) the Obligations in such order as Bank may determine, (ii) restoration of the Property, or (iii) Mortgagor. Nothing herein shall be deemed to excuse Mortgagor from restoring, repairing and maintaining the Property as required herein.

**Impositions; Escrow Deposit.** Mortgagor will pay all taxes, levies, assessments and other fees and charges imposed upon or which may become a lien upon the Property under any law or ordinance (all of the foregoing collectively "Impositions") before they become delinquent and in any event in the same calendar year in which they first become due. Upon the written request of Bank, Mortgagor shall add to each periodic payment required under the Notes the amount estimated by Bank to be sufficient to enable Bank to pay, as they come due, all Impositions and insurance premiums which Mortgagor is required to pay hereunder. Payments requested under this provision shall be supplemented or adjusted as required by Bank from time to time. Such funds may be commingled with the general funds of Bank and shall not earn interest. Upon the occurrence of a Default, Bank may apply such funds to pay any of the Obligations.

**Use of Property.** Mortgagor shall use and operate, and require its lessees or licensees to use and operate, the Property in compliance with all applicable laws and ordinances, covenants, and restrictions, and with all applicable requirements of any lease or sublease now or hereafter affecting the Property. Mortgagor shall not permit any unlawful use of the Property or any use that may give rise to a claim of forfeiture of any of the Property. Mortgagor shall not allow changes in the stated use of Property from that disclosed to Bank at the time of execution hereof. Mortgagor shall not initiate or acquiesce to a zoning change of the Property without prior notice to, and written consent of, Bank.

**Maintenance, Repairs and Alterations.** Mortgagor shall keep and maintain the Property in good condition and repair and fully protected from the elements to the satisfaction of Bank. Mortgagor will not remove, demolish or structurally alter any of the buildings or other improvements on the Property (except such alterations as may be required by laws, ordinances or regulations) without the prior written consent of Bank.

Mortgagor shall promptly notify Bank in writing of any material loss, damage or adverse condition affecting the Property.

**Eminent Domain.** Should the Property or any interest therein be taken or damaged by reason of any public use or improvement or condemnation proceeding ("Condemnation"), or should Mortgagor receive any notice or other information regarding such Condemnation, Mortgagor shall give prompt written notice thereof to Bank. Bank shall be entitled to all compensation, awards and other payments or relief granted in connection with such Condemnation and, at its option, may commence, appear in and prosecute in its own name any action or proceedings relating thereto. Bank shall be entitled to make any compromise or settlement in connection with such taking or damage. All compensation, awards, and damages awarded to Mortgagor related to any Condemnation (the "Proceeds") are hereby assigned to Bank and Mortgagor agrees to execute such further assignments of the Proceeds as Bank may require. Bank shall have the option of applying or paying the Proceeds in the same manner as insurance proceeds as provided herein. Mortgagor appoints Bank as its attorney-in-fact to receive and endorse the Proceeds to Bank, which appointment is coupled with an interest and shall be irrevocable as long as any Obligations remain unsatisfied.

**Environmental Condition of Property and Indemnity.** Mortgagor warrants and represents to Bank, except as reported by Mortgagor to Bank in writing, that: (i) Mortgagor has inspected and is familiar with the environmental condition of the Property; (ii) the Property and Mortgagor, and any occupants of the Property, are in compliance with and shall continue to be in compliance with all applicable federal, state and local laws and regulations intended to protect the environment and public health and safety as the same may be amended from time to time ("Environmental Laws"); (iii) the Property is not and has never been used to generate, handle, treat, store or dispose of, in any quantity, oil, petroleum products, hazardous or toxic substances, hazardous waste, regulated substances or hazardous air pollutants ("Hazardous Materials") in violation of any Environmental Laws; and (iv) no Hazardous Materials (including asbestos or lead paint in any form) are located on or under the Property or emanate from the Property. Further, Mortgagor represents to Bank that no portion of the Property is a protected wetland. Mortgagor agrees to notify Bank immediately upon receipt of any citations, warnings, orders, notices, consent agreements, process or claims alleging or relating to violations of any Environmental Laws or to the environmental condition of the Property.

Mortgagor shall indemnify, hold harmless, and defend Bank from and against any and all damages, penalties, fines, claims, suits, liabilities, costs, judgments and expenses, including attorneys', consultants' or experts' fees of every kind and nature incurred, suffered by or asserted against Bank as a direct or indirect result of: (i) representations made by Mortgagor in this Section being or becoming untrue in any material respect; (ii) Mortgagor's violation of or failure to meet the requirements of any Environmental Laws; or (iii) Hazardous Materials which, while the Property is subject to this Mortgage, exist on the Property. Bank shall have the right to arrange for or conduct environmental inspections of the Property from time to time (including the taking of soil, water, air or material samples). The cost of such inspections made after Default or which are required by laws or regulations applicable to Bank shall be borne by Mortgagor. Mortgagor's obligations under this Section shall continue, survive and remain in full force and effect notwithstanding foreclosure, satisfaction of this Mortgage or full satisfaction of the Obligations. However, Mortgagor's indemnity shall not apply to any negligent or intentional act of Bank which takes place after foreclosure or satisfaction of this Mortgage.

**Appraisals.** Mortgagor agrees that Bank may obtain an appraisal of the Property when required by the regulations of the Federal Reserve Board, Federal Deposit Insurance Corporation or any applicable Florida banking regulatory authority or at such other times as Bank may reasonably require. Such appraisals shall be performed by an independent third party appraiser selected by Bank. In the event that there exists an event of Default, as defined herein or in the Loan Documents, that has not been timely cured by Mortgagor or, alternatively in the event Bank reasonably determines itself to be insecure with respect to the indebtedness owed by Borrower to Bank under the Loan Documents and secured by the lien of this Mortgage with respect to the Property, then, the reasonable costs of such appraisals shall be borne and paid by Mortgagor, provided that Mortgagor's repayment obligations to Bank hereunder shall be limited to one appraisal per year during the term of the loan secured hereby. If requested by Bank, Mortgagor shall execute an engagement letter addressed to the appraiser selected by Bank. Mortgagor failure or refusal to sign such an engagement letter,

however, shall not impair Bank's right to obtain such an appraisal. Mortgagor agrees to pay the cost of such appraisal within ten (10) business days after receiving an invoice for such appraisal.

**Inspections.** Bank, or its representatives or agents, are authorized to enter at any reasonable time upon any part of the Property for the purpose of inspecting the Property and for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage.

**Liens and Subrogation.** Mortgagor shall pay and promptly discharge all liens, claims and encumbrances upon the Property. Mortgagor shall have the right to contest in good faith the validity of any such lien, claim or encumbrance, provided: (i) such contest suspends the collection thereof or there is no danger of the Property being sold or forfeited while such contest is pending; (ii) Mortgagor first deposits with Bank a bond or other security satisfactory to Bank in such amounts as Bank shall reasonably require; and (iii) Mortgagor thereafter diligently proceeds to cause such lien, claim or encumbrance to be removed and discharged.

Bank shall be subrogated to any liens, claims and encumbrances against Mortgagor or the Property that are paid or discharged through payment by Bank or with loan proceeds, notwithstanding the record cancellation or satisfaction thereof.

**Waiver of Mortgagor's Rights.** Mortgagor waives any: (i) rights of homestead or other exemption with regard to any of the Property; (ii) rights or claims of equitable or statutory redemption; (iii) rights of appraisal; and (iv) rights to require marshaling of assets.

**Payments by Bank; Cross Default; Indemnification.** In the event of default in the timely payment or performance of any of the Obligations, Bank, at its option and without any duty on its part to determine the validity or necessity thereof, may pay the sums for which Mortgagor is obligated. Additionally, an event of default by Mortgagor with respect to any other obligations of Mortgagor to Bank which shall specifically include Obligations other than those evidenced and set forth in the terms and conditions of the Loan Documents, Bank may, in its option, exercise all rights and remedies in such event of default, including those set forth in this Mortgage and the Loan Documents. Further, Bank may pay such sums as Bank deems appropriate for the protection and maintenance of the Property, including, without limitation, sums to pay Impositions and other levies, assessments or liens, maintain insurance, make repairs, secure the Property, maintain utility service, intervene in any condemnation and pay attorneys' fees and other fees and costs to enforce this Mortgage or protect the lien hereof (including foreclosure) or collect the Obligations, including, without limitation, those incurred in any proceeding including Bankruptcy or arbitration. Any amounts so paid shall bear interest at the default rate stated in the Notes and shall be secured by the lien and encumbrance of the Mortgage and the Loan Documents.

In the event Bank shall become party to any suit or legal proceeding by reason of its status as holder of this Mortgage, Mortgagor shall indemnify and hold harmless Bank and reimburse Bank for any amounts paid or incurred by Bank, including all reasonable costs, charges and attorneys' fees in any such suit or proceeding.

**Due on Sale or Further Encumbrance.** The direct or indirect sale, assignment or the further encumbrance of the Property, including, without limitation, any subordinate mortgage liens and/or encumbrances of the Property, without Bank's prior written consent, shall, at Bank's option, constitute a Default under this Mortgage. In the event Mortgagor is an entity, the transfer of control of or a controlling interest in the Mortgagor shall be deemed a transfer of the Property.

**Remedies of Bank on Default.** Failure of Mortgagor, or any other person liable to timely pay or perform any of the Obligations, including, without limitation, those Obligations under this Mortgage, the Note or the Loan Documents, as well as the Obligations of Mortgagor or any other person liable thereunder with respect to the Permitted Exceptions as to liens and/or encumbrances as to the Property (as such term is defined and as provided in the Loan Documents) is a default ("Default") under this Mortgage. Upon the occurrence of Default the following remedies are available, without limitation, to Bank: (a) Bank may exercise any or all of Bank's remedies under this Mortgage or other Loan Documents or under applicable law,

including, without limitation, acceleration of maturity of all payments and Obligations and the foreclosure of the lien and encumbrance of this Mortgage and the Loan Documents; (b) initiate proceedings to complete foreclosure of the lien of this Mortgage, as well as all other security interests granted in favor of Bank by Borrower or any other party with respect to either the Property or any other security collateral pledged by either Borrower or any other party to secure payment of the Notes or the Obligations as provided herein or in the Loan Documents; (c) Bank may take immediate possession of the Property or any part thereof (which Mortgagor agrees to surrender to Bank) and manage, control or lease the same to such persons and at such rental as it may deem proper and collect and apply Rents to the payment of: (i) the Obligations, together with all costs and reasonable attorneys' fees; (ii) all Impositions and any other levies, assessments or liens which may be prior in lien or payment to the Obligations, and premiums for insurance, with interest on all such items; and (iii) the cost of all alterations, repairs, replacements and expenses incident to taking and retaining possession of the Property and the management and operation thereof; all in such order or priority as Bank, in its sole discretion, may determine. The taking of possession shall not prevent concurrent or later proceedings for the foreclosure sale of the Property. Bank may apply to any court of competent jurisdiction for the appointment of a receiver for all purposes, including, without limitation, to manage and operate the Property or any part thereof, and to apply the Rents therefrom as hereinabove provided. In the event of such application, Mortgagor consents to the appointment of a receiver, and agrees that a receiver may be appointed without notice to Mortgagor, without regard to whether Mortgagor has committed waste or permitted deterioration of the Property, without regard to the adequacy of any security for the Obligations, and without regard to the solvency of Mortgagor or any other person, firm or corporation who or which may be liable for the payment of the Obligations.

**Miscellaneous Provisions.** Mortgagor agrees to the following: (i) All remedies available to Bank with respect to this Mortgage or available at law or in equity shall be cumulative and may be pursued concurrently or successively. No delay by Bank in exercising any remedy shall operate as a waiver of that remedy or of any Default. Any payment by Bank or acceptance by Bank of any partial payment shall not constitute a waiver by Bank of any Default; (ii) The provisions hereof shall be binding upon and inure to the benefit of Mortgagor, its heirs, personal representatives, successors and assigns, including, without limitation, subsequent owners of the Property or any part thereof, and shall be binding upon and inure to the benefit of Bank, its successors and assigns and any future holder of the Notes or other Obligations; (iii) Any notices, demands or requests shall be sufficiently given Mortgagor if in writing and mailed or delivered to the address of Mortgagor shown above or to another address as provided herein and to Bank if in writing and mailed or delivered to Bank's office address shown above, or such other address as Bank may specify from time to time and in the event that either party hereto changes its address at any time prior to the date the Obligations are paid in full, that party shall promptly give written notice of such change of address by registered or certified mail, return receipt requested, all charges prepaid; (iv) This Mortgage may not be changed, terminated or modified orally or in any manner other than by an instrument in writing signed by the parties hereto; (v) The captions or headings at the beginning of each paragraph hereof are for the convenience of the parties and are not a part of this Mortgage; (vi) If the lien of this Mortgage is invalid or unenforceable as to any part of the Obligations, the unsecured portion of the Obligations shall be completely paid (and all payments made shall be deemed to have first been applied to payment of the unsecured portion of the Obligations) prior to payment of the secured portion of the Obligations and if any clause, provision or obligation hereunder is determined invalid or unenforceable the remainder of this Mortgage shall be construed and enforced as if such clause, provision or obligation had not been contained herein; (vii) This Mortgage shall be governed by and construed under the laws of the jurisdiction where this Mortgage is recorded; (viii) Mortgagor by execution and Bank by acceptance of this Mortgage agree to be bound by the terms and provisions hereof.

**WAIVER OF JURY TRIAL.** MORTGAGOR AND BANK HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS MORTGAGE, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS MORTGAGE OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS MORTGAGE, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BANK'S ACCEPTING THIS MORTGAGE FROM MORTGAGOR.

IN WITNESS WHEREOF, in order to secure payment and performance of the obligations made by Mortgagor to Bank, Mortgagor has executed this instrument as of the day and year first above written.

WITNESSES:

MORTGAGOR:

GONDOLIER PROPERTIES, LLC, a Florida limited liability company

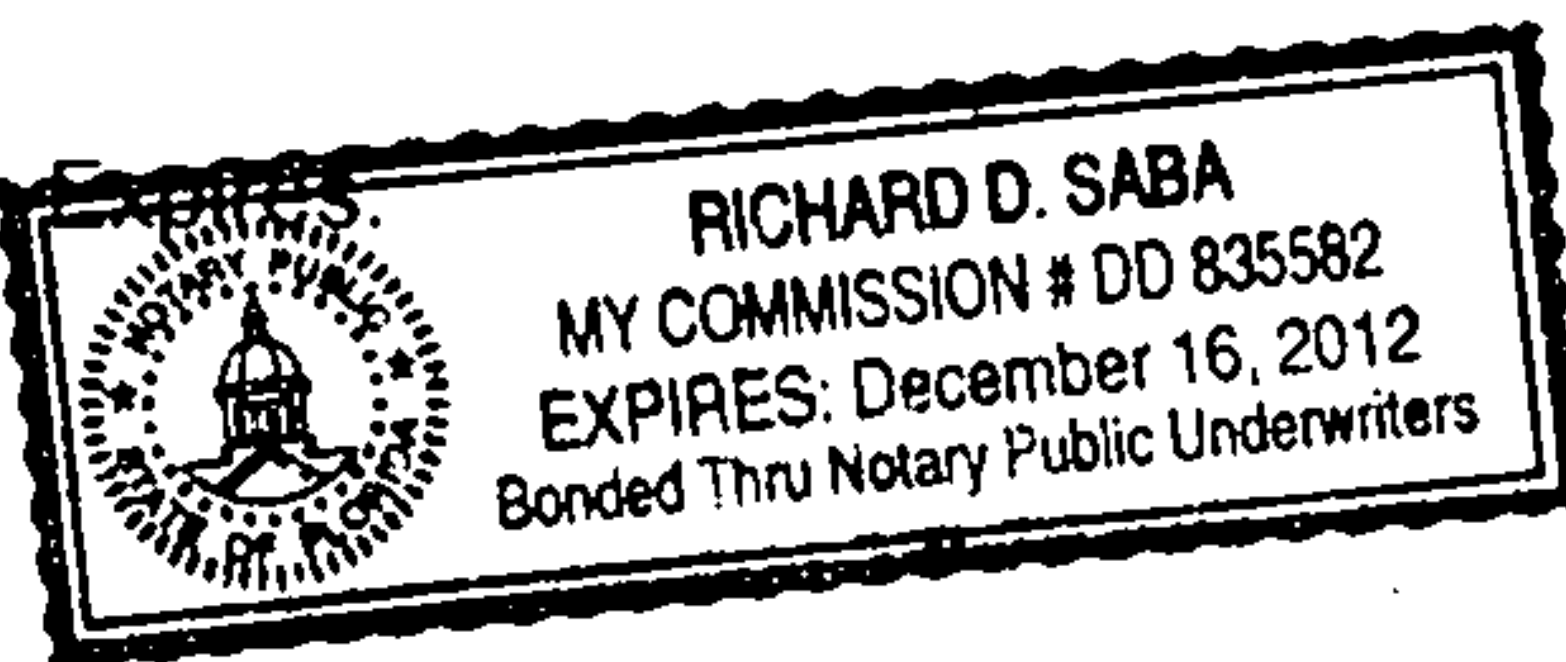
*Joellen C. Tilseth*  
Printed Name: Joellen C. Tilseth  
*Richard D. Saba*  
Printed Name: RICHARD D. SABA  
*Joellen C. Tilseth*  
Printed Name: Joellen C. Tilseth  
*Richard D. Saba*  
Printed Name: RICHARD D. SABA

By: *[Signature]*  
John R. Cassidy, Managing Member  
By: *[Signature]*  
Catherine Anne Fedako, Managing Member

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of March, 2012, by John R. Cassidy, as Managing Member of GONDOLIER PROPERTIES, LLC, a Florida limited liability company, who  is personally known to me or  has produced a Driver's License as identification.

My Commission Expires: 12-16-2012



*Richard D. Saba*  
Notary Public  
Printed Name: RICHARD D. SABA

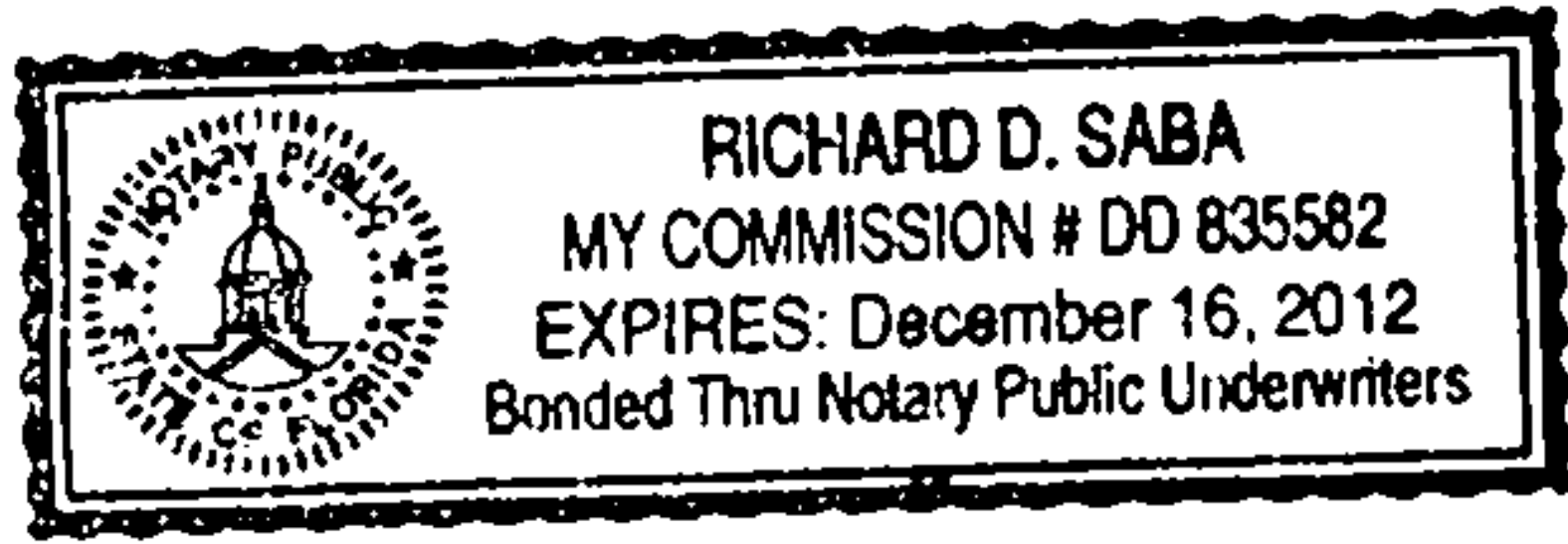
STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of March, 2012, by Catherine Anne Fedako, as Managing Member of GONDOLIER PROPERTIES, LLC, a Florida limited liability company, who  is personally known to me or  has produced a Driver's License as identification.

My Commission Expires: 12-16-2012

*Richard D. Saba*  
Notary Public  
Printed Name: RICHARD D. SABA

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## EXHIBIT "A"

### LEGAL DESCRIPTION

#### Parcel 1:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 28, TOWNSHIP 39 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA; THENCE SOUTH 89°49'57" WEST 397.97 FEET ALONG THE SOUTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 28 TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ENGLEWOOD ROAD, VACATED JULY 6, 1976 AS RECORDED IN O.R. BOOK 972, PAGE 1847 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE; NORTH 32°54'30" WEST 382.51 FEET; THENCE SOUTH 57°04'24" WEST 172.29 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD NO. 45, SAID EASTERLY RIGHT OF WAY LINE BEING 60.00 FEET EASTERLY OF THE CENTERLINE OF SURVEY AS SHOWN ON STATE ROAD DEPARTMENT RIGHT OF WAY MAP SECTION 17010-2503; THENCE NORTH 32°54'30" WEST 134.90 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE; THENCE NORTH 57°05'30" EAST 10.00 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE; THENCE NORTH 32°54'30" WEST 163.86 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE, SAID LINE BEING 70.00 FEET EASTERLY OF THE CENTERLINE OF SURVEY AS SHOWN ON STATE ROAD DEPARTMENT RIGHT OF WAY MAP SECTION 17010-2503 TO A POINT ON A 130.43 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHWEST WHOSE RADIUS POINT BEARS NORTH 16°43'06" WEST; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°40'49" AN ARC DISTANCE OF 44.80 FEET TO A POINT ON A 93.79 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE SOUTH WHOSE RADIUS POINT BEARS SOUTH 33°59'47" EAST; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°23'47" AN ARC DISTANCE OF 56.31 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH 89°31'52" EAST 119.84 FEET; THENCE NORTH 00°00'45" WEST 136.63 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 28; THENCE NORTH 89°41'10" EAST 701.61 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 28; THENCE SOUTH 00°52'22" WEST 660.07 FEET ALONG THE EAST LINE OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 28 TO THE POINT OF BEGINNING.

TOGETHER WITH THE NON-EXCLUSIVE EASEMENTS CREATED IN FAVOR OF THE PROPERTY BY THE RECIPROCAL EASEMENT AGREEMENT RECORDED IN O.R. BOOK 1881, PAGE 1841; RECIPROCAL EASEMENT AGREEMENT FOR INGRESS, EGRESS AND PARKING RECORDED IN O.R. INSTRUMENT #2003099925; AND RECIPROCAL EASEMENT, COVENANT, OPERATION AND RESTRICTION AGREEMENT AND DECLARATION RECORDED IN O.R. INSTRUMENT #2007094433, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

#### Parcel 2:

##### Parcel A (Northwest Parcel)

Commence at the southeast corner of the North one-half (N ½) of the Northeast one-quarter (NE ¼) of the Southwest one-quarter (SW 1/4) of Section 28, Township 39 south, Range 19 East, Sarasota County, Florida; thence North 00 degrees 52'24" East 660.07 feet along the east line of the Southwest one-quarter (SW 1/4) of said Section 28 to the Northeast corner of the Southwest one-quarter (SW 1/4) of said Section 28; thence South 89 degrees 41'10" West 701.61 feet along the north line of said Southwest one-quarter (SW 1/4) to the point of beginning; thence continue South 89 degrees 41'10" West 323.96 feet along said north line to a point on the easterly right of way line of State Road No. 45, said easterly right of way line being 70.00 feet easterly of the centerline of survey as shown on State Road Department Right of Way Map Section 17010-2503; thence South 32 degrees 54'30" East 204.63 feet along said easterly right of way line to a point on a 130.43 foot radius non-tangent curve concave to the northwest whose radius point bears North 16 degrees 43'06" west; thence northeasterly along said curve through a central angle of 19 degrees 40'49" an arc distance of 44.80 feet to a point on a 93.79 foot radius non-tangent curve concave to the south whose radius point bears South 33 degrees 59'47" East, thence easterly along said curve through a central angle of 34 degrees 23'47" an arc distance of 56.31 feet to a point of non-tangency; thence North 89 degrees 31'52" East 119.84 feet;



thence North 00 degrees 00'45" West 136.63 feet to a point on the said north line of the Southwest one-quarter (SW 1/4) of Section 28 to the point of beginning. Said lands situate, lying, and being in Sarasota County, Florida.

TOGETHER WITH THE NON-EXCLUSIVE EASEMENTS CREATED IN FAVOR OF THE PROPERTY BY THE RECIPROCAL EASEMENT AGREEMENT RECORDED IN O.R. BOOK 1881, PAGE 1841; RECIPROCAL EASEMENT AGREEMENT FOR INGRESS, EGRESS AND PARKING RECORDED IN O.R. INSTRUMENT #2003099925; AND RECIPROCAL EASEMENT, COVENANT, OPERATION AND RESTRICTION AGREEMENT AND DECLARATION RECORDED IN O.R. INSTRUMENT #2007094433, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

**Parcel 3:**

**Parcel B**

Commence at the southeast corner of the north one-half ( N 1/2) of the northeast one-quarter (NE 1/4) of the southwest one-quarter (SW 1/4) of Section 28, Township 39 South, Range 19 East, Sarasota County, Florida; thence south 89 degrees 49'57" west 397.97 feet along the south line of said north one-half (N 1/2) of the northeast one quarter (NE 1/4) of the southwest one-quarter (SW 1/4) of Section 28 to a point on the westerly right of way line of Englewood Road, vacated July 6, 1976 as recorded in Official Records Book 972 at Page 1847 of the Public Records of Sarasota County, Florida; thence along said westerly right of way line North 32 degrees 54'30" west 264.22 feet to the point of beginning; thence continue along said westerly right of way line north 32 degrees 54'30" west 118.29 feet; thence departing said westerly right of way line south 57 degrees 04'24" west 172.29 feet to a point on the easterly right of way line of State Road No. 45, said easterly right of way line being 60.00 feet easterly of the centerline of survey as shown on State Road Department Right of Way Map Section 17010-2503; thence south 32 degrees 54'30" east 118.24 feet along said easterly right of way line; thence departing said easterly right of way line north 57 degrees 05'30" east 172.29 feet to the point of beginning.

TOGETHER WITH THE NON-EXCLUSIVE EASEMENTS CREATED IN FAVOR OF THE PROPERTY BY THE RECIPROCAL EASEMENT AGREEMENT RECORDED IN O.R. BOOK 1881, PAGE 1841; RECIPROCAL EASEMENT AGREEMENT FOR INGRESS, EGRESS AND PARKING RECORDED IN O.R. INSTRUMENT #2003099925; AND RECIPROCAL EASEMENT, COVENANT, OPERATION AND RESTRICTION AGREEMENT AND DECLARATION RECORDED IN O.R. INSTRUMENT #2007094433, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.