



### SUBORDINATION AGREEMENT

THIS AGREEMENT is dated for reference July 2, 2013, and is between Metzco, LLC, owner of the land described in the Deeds of Trust referenced below ("Owner"), Great Western Bank ("Lender"), and the SMALL BUSINESS ADMINISTRATION, an agency duly created under and by virtue of an Act of Congress, having its principal office in Washington, in the District of Columbia, and a Commercial Loan Servicing Center at 801 R Street, Suite 101, Fresno, California 93721-2365 (hereinafter called "SBA").

Owner holds fee simple title to the real estate legally described as follows:

*No*  
*K. CRECO*  
Unit 5, King's Crossing Condominium a condominium, Lincoln, Lancaster County, Nebraska, according to Condominium Declaration dated August 10, 2009, recorded August 10, 2009 as Inst. No. 2009044540; amended by First Amendment to Condominium Declaration dated February 14, 2011, recorded February 15, 2011 Inst. No. 2011008039; amended by Second Amendment to Condominium Declaration dated March 7, 2011, recorded March 31, 2011 Inst. No. 2011014661 in the records of Lancaster County, Nebraska

SBA is the present holder and beneficiary of that certain Deed of Trust, dated November 14, 2011, to secure a Note in the sum of \$386,000.00 ("SBA Deed of Trust"). The SBA Deed of Trust was recorded on November 21, 2011 as Instrument Number 2011051641, in the Lancaster County Official Records.

SBA is the present holder of that certain UCC Financing Statement recorded with the register of deeds, to secure the above referenced Note ("SBA Fixture Filing"). The SBA Fixture Filing was recorded on November 21, 2011 as Instrument Number 2011051645, in the Lancaster County Official Records.

SBA is the present holder of that certain UCC Financing Statement filed with the secretary of state, to secure the above referenced Note ("SBA Financing Statement") The SBA Financing Statement was filed on November 17, 2011 as Financing Statement No. 9811602155-3, with the Nebraska Secretary of State

Owner has also executed, or is about to execute, a Deed of Trust securing a Note in a sum not to exceed \$453,666.52 dated June 21, 2013, in favor of Lender ("Lender's Deed of Trust"). Lender's Deed of Trust shall be recorded concurrently herewith in the Lancaster County Official Records

Lender may be recording a UCC Financing Statement with the register of deeds, to secure the

*NECO - EWO*

above referenced Note ("Lender's Fixture Filing"). The Lender's Fixture Filing may be recorded concurrently herewith in the Lancaster County Official Records.

Lender is about to file a certain UCC Financing statement with the secretary of state, to secure the above referenced Note ("Lender's Financing Statement"). The Lender's Financing Statement will be filed with the Nebraska Secretary of State.

Lender has requested that the SBA Deed of Trust, SBA Fixture Filing, and SBA Financing Statement be subordinated to the Lender's Deed of Trust, Lender's Fixture Filing and Lender's Financing Statement. SBA is willing to subordinate the liens of the SBA Deed of Trust, SBA Financing Statement and SBA Fixture Filing provided it retains its lien priority with regard to all other legal and equitable interests in the property.

In consideration of the mutual benefits to the parties and to induce Lender to make a loan to Owner, it is hereby agreed as follows:

- (1) Lender's Deed of Trust, Lender's Fixture Filing, and Lender's Financing Statement and any renewals or extensions thereof, shall be a lien on the property prior to the lien of the SBA Deed of Trust, SBA Financing Statement, and SBA Fixture Filing
- (2) Lender would not make its loan without this Subordination Agreement.
- (3) Except as expressly provided herein, this agreement shall not operate or be construed to alter the priority of the SBA Deed of Trust, SBA Fixture Filing, or SBA Financing Statement with regard to any legal or equitable interest in the property. Owner and Lender shall hold SBA harmless from any impairment of its lien (with regard to any third party) which is occasioned by this subordination.
- (4) All proceeds of Lender's loan, if a refinance, shall be applied to satisfy debt secured by a lien(s) presently superior to the lien of the SBA Deed of Trust, SBA Fixture Filing and SBA Financing Statement and the following described uses, if any, N/A, plus customary closing costs. Any other use of proceeds not described herein shall void this agreement
- (5) This Subordination Agreement is void if not duly executed by Owner, Lender, SBA, the SBA Borrower(s) and all Guarantors of the SBA loan.
- (6) Compliance with 504 Loan Program Requirements. Lender confirms that the note evidencing the Lender Loan, any lien instruments securing the Lender Loan, and all other documents executed in connection with the Lender Loan ("Lender's Loan Documents") (a) have no open-ended features and allow reasonable future advances only for the costs of collection the obligor is liable for under the Lender's Loan Documents, maintaining collateral, and/or protecting the lien(s) securing the Lender Loan, (b) are not cross-collateralized with any other financing now or hereafter to be provided by Lender, (c) have no early call features, (d) are not payable on demand unless the Lender Loan is in default, (e) have a term that at least equals, and do not require a balloon payment prior to, the term of the previous Third Party Lender Loan unless SBA has approved a shorter term, (f) have a reasonable interest rate that does not, and will not, exceed the maximum interest rate for a Third Party Loan as published by SBA and in effect as of the date of this Agreement, and (g) do not establish a preference in favor of Lender, as compared to CDC and SBA, related to making, servicing, or liquidating the Lender Loan (including but not limited to, with respect to repayment, collateral, guarantees, control, maintenance of a compensating balance, purchase of a certificate of deposit, or acceptance of a separate or companion loan) other

than Lender's senior lien position(s) on the Collateral. Lender agrees that if Lender's Loan Documents or any provision therein does not comply with these requirements, then Lender waives its right to enforce any such noncomplying document or provision unless Lender has obtained the prior written consent of CDC and/or SBA permitting such enforcement.

(7) Subordination of Default Charges. "Default Charges" mean any prepayment penalties, fees, or charges incurred in prepaying the Lender Loan, in whole or in part, prior to the stated maturity; any late fees or charges due in connection with the Lender Loan, any escalated, increased, or default interest charged in excess of the rate of interest in Lender's note absent a default, event of default, or other delinquency; and any other default charges, penalties, or fees of any nature whatsoever due because of a default, event of default, or other delinquency in connection with the Lender Loan. Lender hereby subordinates the collection of any Default Charges to the collection by CDC and/or SBA of the 504 Loan and, to the extent that Lender's Loan Documents secure any Default Charges, Lender hereby subordinates such lien(s) to the lien(s) securing the 504 Loan.

(8) Notice of Default Under the Lender Loan. If any default, event of default or delinquency, upon which Lender intends to take action, occurs under the Lender's Loan Documents, then Lender agrees to give CDC and SBA written notice of such default, event of default or delinquency and the opportunity to cure the default, event of default, or delinquency and bring the Lender Loan current or to purchase Lender's note, provided that the amount to bring the Lender Loan current or to purchase Lender's note will be net of all amounts attributable to Default Charges. Lender further agrees that if Lender receives from CDC or SBA any amounts attributable to Default Charges, then Lender will immediately remit such amounts to SBA. Notice hereunder must be given within thirty (30) days after the default, event of default or delinquency upon which Lender intends to take action and at least sixty (60) days prior to the date of any proposed sale of Collateral and Lender will not sell all or any portion of the Collateral without giving CDC and the SBA such notice. A default in the obligation secured by the Lender's Mortgage may be cured (including purchase of the property at foreclosure sale) by the SBA via cash, certified funds, or a United States Treasury check, at the option of the SBA. Notice under this Agreement shall be deemed to have been given when sent by certified or registered mail, return receipt requested, addressed, as the case may be, to (CDC) at , Attention: Servicing, and also to the SBA at 801 R Street, Suite 101, Fresno, California 93721-2365.

(9) Collection and Liquidation. In the event that either the Lender Loan or the 504 Loan is declared in default; Lender, CDC and SBA agree to cooperate in liquidating and/or selling the Collateral. Lender agrees (a) to accept cash, certified funds or a U.S. Treasury check(s) in connection with any purchase of Lender's note or any foreclosure or liquidation bid by CDC or SBA; (b) to provide CDC and SBA with the loan payment status, loan payment history, and an itemized payoff statement of the Lender Loan; (c) to provide CDC and SBA with copies of any appraisals, environmental investigations, or title examinations or searches of the Collateral conducted by or for Lender; and (d) to provide any other information about Borrower or the Lender Loan requested by CDC and/or SBA in writing.

(10) No Implied Third Party Beneficiaries. Except to the extent stated in this Agreement, this Agreement does not modify or affect otherwise any other agreement that either party may have with third parties, including but not limited to, Borrower. This Agreement also does not grant any right, benefit, priority, or interest to any third parties, including but not limited to, Borrower.

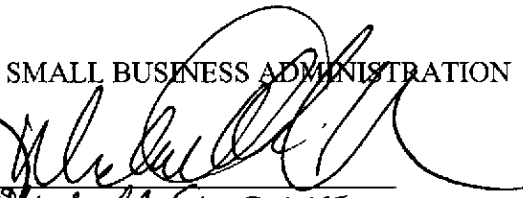
(11) Successors and Assigns. This Agreement shall inure to the benefit of and bind the respective parties to this Agreement and their respective heirs, successors and assigns, including

any party acquiring the Lender Loan or Lender's Loan Documents by sale, assignment, or other transfer

(12) Federal Law. When SBA is the holder of the note evidencing the 504 Loan, this Agreement and all documents evidencing or securing the 504 Loan will be construed in accordance with federal law CDC or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax, or liability. No Borrower or guarantor of the 504 Loan may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to the 504 Loan.

(13) Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument.

U.S. SMALL BUSINESS ADMINISTRATION

GNG  
By:   
APPROVED Michelle Serano  
Supervisor Specialist

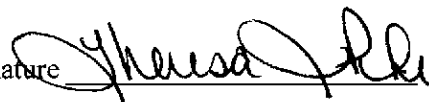
State of California  
County of Fresno

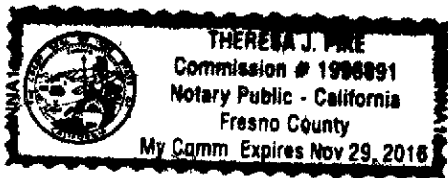
On July 2, 2013 before me, THERESA J PIKE, notary public, personally

appeared MICHELLE SERANO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



**Metzo, LLC, a Nebraska Limited Liability Company, Member Manager**

By: [Signature] Metcalf Coffee, Inc., a Nebraska Corporation  
By: [Signature]  
Jason M. Metcalf, President  
By: [Signature]  
Rita J. Metcalf, Secretary

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Jason M Metcalf, as President, and Rita J. Metcalf, as Secretary, of Metcalf Coffee, Inc., on behalf of the Corporation.



[Signature]  
Notary

**Great Western Bank**  
By: [Signature], VP  
Name, Title

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of August, 2013 by Nathan S. McKown, as VP, of Great Western Bank, on behalf of Great Western Bank.



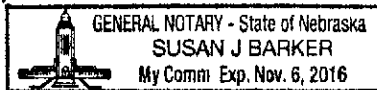
[Signature]  
Notary

The undersigned Guarantor(s)/Borrower(s) hereby consent to all terms above and acknowledge their liability for the above referenced SBA loan is in no manner diminished by this agreement.

[Signature]  
Jason M. Metcalf, Personally

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Jason M. Metcalf, Personally.



[Signature]  
Notary

~~Metcalf Coffee, Inc., a Nebraska Corporation~~

By:

[Signature]  
Name, Title

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Jason Metcalf, as President, of Metcalf Coffee, Inc, on behalf of the Corporation

[Signature]  
Notary

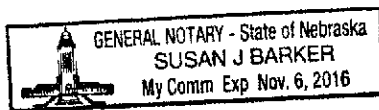
**Scooters Village Gardens, LLC, a  
Nebraska Limited Liability Company**

By:

[Signature]  
Sam Manzitto, Sr., Member Manager

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Sam Manzitto, Sr., as Member Manager, of Scooters Village Gardens, LLC, on behalf of the Company.

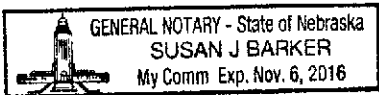


[Signature]  
Notary

Nancy J. Metcalf  
Nancy J. Metcalf, Personally

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Nancy J. Metcalf, Personally.

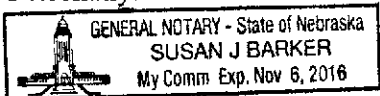


Susan J. Barker  
Notary

Rita J. Metcalf  
Rita J. Metcalf, Personally

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Rita J. Metcalf, Personally.

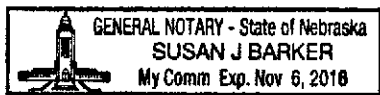


Susan J. Barker  
Notary

Sam Manzitta Sr.  
Sam Manzitta Sr., Personally

STATE OF NEBRASKA )  
 ) ss  
COUNTY OF Lancaster )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2013 by Sam Manzitta Jr., Personally.



Susan J. Barker  
Notary