RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

____
____
____
____

____

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

This Subordination, Non-Disturbance, and Attornment Agreement is dated _______________________, 20__, and is between __________________ (“**Tenant**”), ________________ (“**Landlord**” or “**Borrower**”), and ____________________ (“**Lender**”).

A. Tenant is the tenant and Borrower is the landlord under that certain __________________________________, dated _______________, 20__ (the “**Lease**”).

B. Lender is the holder of indebtedness secured by _______________________ (“**Trust Deed**”) against the property wherein the premises (the “**Premises**”) are located, which property is described more fully in **Exhibit A** attached hereto (the “**Property**”).

C. Tenant has requested that Lender agree not to disturb Tenant’s possessory rights under the Lease in the event that Lender should foreclose on the Mortgage, provided that Tenant is not in default of the Lease.

For good and valuable consideration, the parties agree as follows:

1. **Subordination**. Tenant and Lender hereby agree that the Lease is and shall always be subject and subordinate in all respects to the lien of the Trust Deed, all renewals, modifications, extensions, substitutions, rearrangements or replacements thereof, and all voluntary and involuntary advances made thereunder.

2. **Nondisturbance**. Provided Tenant is not in default beyond any applicable notice and cure period expressly provided in the Lease, Tenant’s possession of the Premises and Tenant’s rights and privileges under the Lease, including any extension, renewal, expansion, purchase, signage, parking, access, exclusivity, use, self-help, offset, audit, assignment, sublease, or other rights expressly granted to Tenant under the Lease, shall not be diminished, impaired, terminated, or interfered with by Lender in the exercise of any rights under the Trust Deed. Lender shall not name Tenant as a party defendant in any foreclosure or other enforcement proceeding for the purpose of terminating Tenant’s interest under the Lease; provided, however, Lender may name Tenant as a party solely to the extent required by applicable law to complete the foreclosure or other enforcement proceeding, and then only if the judgment or order preserves Tenant’s rights under this Agreement.

3. Attornment. If any proceedings are brought for the foreclosure of the Trust Deed or if the Property is sold pursuant to a trustee's sale under the Trust Deed, or upon a transfer of the Property by conveyance in lieu of foreclosure, Tenant shall attorn to the purchaser upon any such foreclosure sale or trustee's sale or transfer in lieu thereof and shall recognize such purchaser as the landlord under the Lease. Such attornment shall be effective and self-operative without the execution of any further instrument on the part of any of the parties hereto; however, Tenant shall execute and deliver any commercially reasonable instrument or certificate reasonably necessary to evidence such attornment, provided that such instrument or certificate is consistent with this Agreement and does not modify the Lease or impose any additional obligation on Tenant. Tenant's attornment shall not waive any right or remedy Tenant may have under the Lease or applicable law except to the extent expressly set forth in this Agreement.

4. Foreclosure and Sale. From and after attornment by Tenant, Lender or such purchaser shall be bound to Tenant under all of the terms, covenants, and conditions of the Lease, and Tenant shall, from and after the succession to the interest of Landlord under the Lease, and Tenant shall have the same remedies against Lender or such purchaser for breach of the Lease that Tenant would have had against Landlord if Lender or such purchaser had not succeeded to Landlord's interest, subject only to the following express limitations:

a. liable for any act or omission of any prior landlord (including Landlord), except to the extent the act or omission is continuing after Lender or such purchaser succeeds to Landlord's interest, Lender had notice of the act or omission before succession and failed to cure it after a reasonable opportunity to do so, the act or omission affects Tenant's possession or use of the Premises, or the Lease expressly gives Tenant a continuing remedy for the act or omission; or

b. subject to any offsets, abatements, credits, deductions, defenses, claims, or counterclaims which Tenant may have against any prior landlord (including Landlord), to the extent such offsets, abatements, credits, deductions, defenses, claims, or counterclaims arise under the Lease, have been disclosed to Lender before Lender or such purchaser succeeds to Landlord's interest, relate to a continuing default, or are necessary to protect Tenant's possession, use, or rights under the Lease; or

c. bound by rent or additional rent which Tenant paid to any prior landlord (including Landlord) for more than the current month, and by any security deposit, cleaning deposit, letter of credit, prepaid charge, or other deposit paid or delivered by Tenant to any prior landlord (including Landlord), to the extent Lender received notice of such payment or deposit before succeeding to Landlord's interest, the payment or deposit is reflected in the Lease or Landlord's records, or Lender or such purchaser actually received the payment, deposit, letter of credit, or credit for the same; or

d. bound by and liable for any obligation of the landlord to pay any sums of money to or for the benefit of Tenant, including concessions, inducements, tenant improvement allowances, leasing commissions payable for Tenant's benefit, reimbursements, credits, abatements, construction obligations, restoration obligations, or other monetary obligations expressly set forth in the Lease or disclosed to Lender before Lender or such purchaser succeeds to Landlord's interest; or

e. bound by any amendment, modification, renewal, extension, expansion, assignment, sublease, consent, waiver, estoppel, or other agreement affecting the Lease made without Lender's consent if the same is expressly permitted by the Lease, does not materially increase Landlord's obligations or materially impair Lender's security, is entered into in the ordinary course of the landlord-tenant relationship, or is approved or deemed approved by Lender after written request from Tenant.

5. **Notices**. Tenant, from and after the date Lender provides Tenant with written notice of Lender's address for notices, shall send a copy of any written notice of default under the Lease to Lender at the same time such notice is sent to Landlord under the Lease. Tenant's failure to deliver a copy of such notice to Lender shall not invalidate the notice to Landlord or limit Tenant's rights or remedies under the Lease unless Lender is materially prejudiced by the failure and Tenant fails to cure the failure within a reasonable time after written notice from Lender. Such notices shall be delivered to Lender at the following address:

____
____
____
____

6. **Notices of Default/Tenant's Right to Cure**. Lender shall give Tenant written notice of any default by Landlord under the Trust Deed or any other loan document secured by the Property before Lender exercises any remedy that would terminate, disturb, or otherwise adversely affect Tenant's rights under the Lease or Tenant's possession of the Premises. Tenant shall have the right, but not the obligation, to cure such default within the same period, if any, afforded to Landlord under the Trust Deed or other applicable loan document after Tenant's receipt of such notice; provided, however, that if such default cannot reasonably be cured within that period, Tenant shall have such additional time as may be reasonably necessary to cure the default so long as Tenant commences such cure within the applicable period and thereafter diligently prosecutes such cure to completion. Lender shall not exercise any remedy that would terminate, disturb, or otherwise adversely affect Tenant's rights under the Lease or Tenant's possession of the Premises unless Lender has first given Tenant the notice and cure opportunity required by this Section. Any cure by Tenant shall be credited against Tenant's obligations under the Lease to the extent the Lease or applicable law permits, and shall not make Tenant liable for Landlord's obligations under the Trust Deed or any loan document.

7. **Agreement to Release Proceeds or Awards**. If the Premises or the Property are damaged or destroyed by fire or other casualty, or if all or any portion of the Premises or the Property is taken or threatened to be taken by eminent domain or other public taking, Lender shall release, disburse, or otherwise make available any insurance proceeds, condemnation awards, or similar proceeds received or controlled by Lender to the extent necessary to permit restoration, repair, replacement, or reconstruction of the Premises or the Property in accordance with the Lease, or to permit payment to Tenant of any portion of such proceeds or awards to which Tenant is entitled under the Lease. Lender shall not apply any such proceeds or awards to the indebtedness secured by the Trust Deed in a manner that would prevent restoration, repair, replacement, or reconstruction required or permitted under the Lease, extend the period during which Tenant is unable to use the Premises, impair Tenant's abatement, termination, restoration, or relocation rights under the Lease, or impair Tenant's rights to receive any proceeds or awards payable to

Tenant under the Lease, except to the extent expressly required by applicable law or agreed to in writing by Tenant.

8. Modification/Successors. This Agreement may be modified only by a written agreement signed by Tenant, Landlord, Lender, and their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

9. Governing Law. This Agreement shall be governed by and construed under the laws of the State where the Premises are located.

10. Attorney Fees. If any action or proceeding is brought by any party against any other party under this Agreement, the prevailing party shall be entitled to recover for the fees of its attorneys in such action or proceeding in such amount as the court may adjudge reasonable, including any fees incurred on appeal.

[*Signatures Appear on the Following Pages*]

///

///

///

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

TENANT

____

____
By:
Its:

ACKNOWLEDGMENT

[INSERT APPLICABLE STATE'S NOTARY ACKNOWLEDGMENT]

BORROWER

____

____

By:

Its:

ACKNOWLEDGMENT

[INSERT APPLICABLE STATE'S NOTARY ACKNOWLEDGMENT]

LENDER

____

____

By:
Its:

ACKNOWLEDGMENT

[INSERT APPLICABLE STATE'S NOTARY ACKNOWLEDGMENT]

EXHIBIT A
Legal Description